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CONTENTS

HIGHLIGHTS

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President Nominates David Hughes, Assistant Attorney General of Texas, as Member of FERC

On 6/27/80 President Carter forwarded to the Senate the nomination of David Hughes, presently an assistant attorney general of Texas, as a member of the FERC for a term expiring in October 1983. He would fill a post which has been vacant for over a year since the resignation of former Commissioner Don S. Smith in June 1979.

Mr. Hughes' appointment to the FERC was previously announced by Senator Bentsen (D-Tex.) last April. The White House declined to confirm the appointment at that time. (See REPORT NO. 1257, p1.)

A native of Lubbock, Texas, Mr. Hughes received a B.A. degree from the University of Texas and a law degree from American University in Washington, D.C. Following nine years in general practice with a Lubbock law firm, he was appointed in 1974 as a Texas assistant attorney general. In 1979, Mr. Hughes was named chief of the energy division in the Attorney General's Office. In that capacity, he reportedly participated in litigation initiated by the States of Texas, Oklahoma and Louisiana in the U.S. District Court for Western Oklahoma challenging the constitutionality of the Natural Gas Policy Act.

Congress Passes Synthetic Fuels Development Bill

On 6/26/80 the House approved the Conference version of S.932 -- the Energy Security Act -- by a 317-93 vote. The House action followed Senate passage by a 78-12 vote the previous week. The President signed the bill on 6/30/80.

The legislation, among other things, creates an independent, federal entity (the United States Synthetic Fuels Corp.) authorized to provide financial assistance up to $88 billion (in two phases) for commercial production of synthetic fuel by the private sector; establishes national goals for synthetic fuels production in the U.S. of at least 500,000 b/d equivalent of crude oil by 1987, increasing to 2 million b/d by 1992; amends the Defense Production Act of 1950 to authorize interim federal financial assistance up to $3 billion for synthetic fuel development to meet national defense needs until such time as the Synthetic Fuels Corp. becomes operational; establishes a comprehensive biomass and alcohol fuels development program; authorizes subsidized loans and other programs to promote residential and commercial energy conservation and installation of solar applications; provides for geothermal reservoir development and construction; and directs the Federal Government to resume filling the Strategic Petroleum Reserve at a minimum average rate of 100,000 b/d, with oil from Naval Petroleum Reserve No. 1 (Elk Hills) to be used for this purpose if the specified fill rate is not otherwise met.

The conference bill -- which includes eight titles and exceeds 400 pages in length -- is the result of several months of negotiation by a 58-member conference committee, reportedly the largest in Congressional history. (The House appointed 23 members, mostly from the Banking and Commerce committees, while the Senate appointed 35 members constituting the entire Energy and Banking committees.) The final Conference version resolves numerous differences between a relatively modest House bill (H.R. 3930) passed on 6/26/79 and a much more comprehensive bill passed by the Senate on 11/18/79. The House bill, sponsored by Rep. William Moorhead (D-Pa.) as an amendment to the Defense Production Act of 1950, authorized federal expenditure of up to $3 billion to subsidize synthetic fuel production, set synthetic fuel production goals at the equivalent of 500,000 b/d by 1985 and 2 million b/d by 1990, authorized the President to contract for purchases of synthetic fuels and

synthetic chemical feedstocks for resale or use conducive to U.S. defense needs (or for domestic use) at prices higher than those established by ceilings or in the prevailing market, authorized formation of government corporations for achieving the specified production goals (subject to Congressional veto), and directed expedited action by all federal agencies on issuance of permits for synthetic fuels facilities. A greatly expanded bill authorizing much higher federal expenditures and additionally covering development of solar energy systems, geothermal resources, biomass projects, renewable energy resources and energy conservation systems was subsequently passed by the Senate. (See REPORT NOS. 1251, p1; 1235, pp1-4; 1264, pp1-4.)

Title I of the final legislation establishes a Synthetic Fuels Corporation (SFC) with a 7-member Board of Directors to be appointed by the President (subject to Senate confirmation) for 7-year staggered terms. The Chairman of the Board must be full-time, while the other 6 directors may serve part-time. The SFC may employ up to 300 full-time professional employees and will have an annual authorization of $35 million for administrative expenses and $10 million for contract studies. The bill also establishes a 6-member Advisory Committee composed of the Secretaries of Energy, Interior, Defense and Treasury, the Chairman of the Energy Mobilization Board, and the Administrator of the Environmental Protection Agency.

The purpose of the SFC is to provide various forms of financial assistance to private industry to promote projects for commercial production of synthetic fuel obtained from coal (including lignite and peat), shale, and tar sands (including heavy oil) which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks). Facilities used solely to produce mixtures of coal and petroleum for direct fuel use and for commercial production of hydrogen from water, among others, are also eligible for financial assistance. "Synthetic fuel projects" are defined to include any necessarily related transportation or other facilities (such as an electric power plant or electric transmission line) exclusively for the use of but incidental to the project. Any facility transporting synthetic fuel away from the project may provide transportation only to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

Initially, the SFC will focus on awards of financial assistance (through the means described below) to achieve a diversity of technological processes, methods and techniques offering significant potential for use as a synthetic fuel feedstock, as well as to support specific projects with a significant potential for meeting the national synthetic fuel production goals of 500,000 b/d equivalent of crude oil from domestic resources by 1987 and 2 million b/d equivalent by 1992. A total of $20 billion is authorized for this purpose. Within four years from enactment, the SFC must develop and submit to Congress a comprehensive strategy for achieving these synthetic fuel production goals. This comprehensive strategy -- which must be approved by Congress prior to any further authorization of appropriations -- must emphasize private sector efforts, describe specific limitations on any proposed Federal involvement, include a financial or investment prospectus justifying requested appropriations, and consider the feasibility of meeting national defense fuel requirements using synthetic fuel produced by SFC-assisted projects. Congress is required to approve the comprehensive strategy by joint resolution, under expedited procedures. The joint resolution will also approve a level of additional authorization for further SFC activities -- up to a maximum of $68 billion. The SFC may not enter into any obligations for financial assistance which could expose the Federal government to a greater liability than $20 billion prior to Congressional approval of the comprehensive strategy and appropriation of the necessary funds.

Financial assistance may be provided by the SFC in the following forms: (1) loan guarantees up to 75% of total project costs, plus additional guarantees up to 50% of cost overruns not exceeding 100% of the initial total estimated cost and up to 40% of additional cost overruns (subject to notification to Congress in the event that the revised estimated total project cost exceeds the initial estimated total cost by 250% or more); (2) loans up to 75% of the initial estimated project cost (but subject to a limit based on the lesser of 49% of such cost or not more than a minority financial position in the project, unless the borrower demonstrates that such limits would prevent financial viability of the project), plus up to 50% of cost overruns not exceeding 100% of the initial estimated cost and 40% of additional overruns (with notification required to Congress in the event of revised estimated costs exceeding initial estimated costs by more than 250%); (3) price guarantees for all or part of the production from a synthetic fuel project at a specified sales price established at the level determined by the Board to provide an adequate incentive in light of projected prices of competing fuels (such price may not be based on any "cost plus" arrangement guaranteeing a profit to the project firm); (4) purchase guarantees for all or part of the production from a synthetic fuel project at the estimated prevailing market price on the date of delivery, unless the Board determines that a higher price is necessary to insure synthetic fuel production; and (5) participation in joint ventures for synthetic fuel project "modules" -- i.e., demonstration projects smaller in size than synthetic fuel projects which can eventually be expanded into full scale commercial projects -- up to a 60% equity interest, with such interest to be sold to private entity participants if the venture proves successful. The joint venture form of assistance may only be provided prior to Congressional approval of the comprehensive strategy. It is also intended to be used only if other forms of financing incentives are deemed insufficient to attract private sector participation.

In awarding financial assistance, the SFC must give consideration to promoting competition and any specific tax credit directly associated with a project. Also, before awarding loans or equity in joint ventures, the Board must determine that purchase agreements, price guarantees and loan guarantees will not afford adequate support. To the maximum extent feasible, all awards of financial assistance shall be on the basis of competitive bids.

In addition, the bill authorizes "corporation construction projects" -- which would be government-owned but contractor constructed and operated (so-called GOCO projects) -- but only before Congressional approval of the comprehensive strategy, only for one-of-a-kind facilities which employ technologies using significant domestic resources, and only if no participant is willing to proceed under one or more of the other specified forms of financial assistance. Up to three such projects may be authorized on a "last resort" basis. No such project may be authorized once the comprehensive strategy is approved by Congress.

Any synthetic fuels acquired by the SFC through purchase agreements, joint ventures or construction projects must be offered first to the Department of Defense for national defense needs and then to other federal agencies and the private sector.

The bill further authorizes financial assistance to not more than two synthetic fuel projects located in the Western Hemisphere (outside the U.S.) if (1) a class of resources will be used that is located in the U.S. but will not be subject to timely commercial production; (2) the synthetic fuel will be available on equitable terms to users in the U.S.; (3) all technology, patents and trade secrets developed are available to citizens in the U.S.; (4) the host country will also provide financial assistance. This authority is available only before approval of the comprehensive strategy, is subject to a one-House Congressional veto, and is limited to 10% of SFC's available obligation authority.

The authority of the SFC to obligate funds will cease after 9/30/92, and it must terminate its affairs by 9/30/97.

As noted, before the SFC is fully operational, S.932 authorizes the President to offer (through the Defense Department and other federal agencies) purchase agreements, loans and loan guarantees to stimulate synthetic fuels development to meet national defense needs. Up to $3 billion is available for such activities. Once the SFC is established, these authorities would convert to a standby basis.

Title II of S.932 -- the so-called Biomass Energy Act of 1980 -- requires the Departments of Energy and Agriculture, within six months of enactment, to prepare an overall federal plan for biomass energy development designed to maximize production of such energy and achieve an alcohol production level of 60,000 b/d by the end of 1982. Also, both agencies must submit by 1/1/82 a comprehensive strategy for the period 1982-1990 to achieve an alcohol production level of not less than 10% of estimated gasoline consumption in 1990.

The USDA will have jurisdiction over all projects estimated to produce less than 15 million gallons annually of ethanol (or its energy equivalent) of alcohol fuels or biomass energy. Both USDA and DOE (subject to concurrence of the other) are authorized to initiate projects producing over 15 million gallons per year using forestry resources and projects (owned and operated by cooperatives) producing over 15 million gallons per year using agricultural resources. DOE alone will have jurisdiction over all other alcohol and biomass projects which produce over 15 million gallons per year.

Priority for financial assistance is to be given to projects which use a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy, solar energy, and cogeneration facilities, or which apply new technologies to expand possible resources. However, projects using more traditional fuels or technologies will not be excluded from financial assistance. Such assistance may take the form of insured loans (up to $1 million per project for construction of small-scale biomass energy projects), loan guarantees (up to 90% of the estimated construction cost), purchase agreements, or price guarantees based on a specified sales price determined at the date of execution of the price guarantee. No price guarantee may be based on a cost-plus arrangement which guarantees a profit to the owner or operator involved. (Cost of service pricing mechanisms are specifically stated not to be cost-plus arrangements for purposes of this provision.) Also, no financial assistance shall be available for a biomass energy project if DOE or USDA finds that the Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will exceed the Btu content of the biomass fuel produced in the facility.

For purposes of determining natural gas subject to the agricultural use curtailment priority under Section 401 of the NGPA, the bill specifies that the term "essential agricultural use" shall include natural gas used (1) in sugar refining for production of alcohol; (2) for agricultural production on set-aside acreage or acreage diverted from the production of one commodity to the production of another commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and (3) in distillation of fuel-grade alcohol from food grains or other biomass. The third use is limited to a five-year period and to existing plans which do not have the installed capability to burn coal lawfully.

(See RGD. NO. 1268) pp 4-5.)

Additionally, Title II creates a new Office of Energy from Municipal Waste within DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization. In consultation with other federal agencies, DOE shall prepare and submit to Congress within 90 days a comprehensive plan for municipal waste energy development, including funding requirements for each program element and activity and the expected contribution from non-federal participants in the program. The Secretary of DOE must submit another report to Congress by 1/1/82 describing financial, institutional, environmental and social barriers to the development and application of technologies for the recovery of energy from municipal waste. In order to expedite commercialization of waste-to- energy technologies, DOE is granted authority to award construction loans (up to 80% of the total estimated project construction cost), construction loan guarantees (up to 90% of the loan principal and interest), price support loans for operation of either new or existing projects (in the case of existing facilities, such loans are limited to a period of 5 years, with the amount of the loan to be reduced 20% each year), and price guarantees for operation of new projects (with no repayment of principal and interest). In general, criteria to be considered in awarding commercial financial assistance will include commercialization of technologies which can displace oil or gas, types of assistance tending to minimize potential liability of the Federal government, and technical and economic feasibility.

Authorizations to implement Title II for fiscal years 1981 and 1982 total $1.2 billion for comprehensive biomass and alcohol fuels activities and $250 million for urban waste activities.

Title III of S.932 requires the President to prepare and submit to Congress energy targets for net imports, domestic production, and end-use consumption (after considering conservation) for the years 1985, 1990, 1995, and 2000 (together with supporting data and a statement of all assumptions). The purpose of this Title is to establish a process for Congress to debate, and the President to approve, a comprehensive and internally consistent set of energy targets during the first session of the 97th and 98th Congresses. During the 97th Congress only, special procedures are established to ensure that a vote on the initial targets is obtained in each house. The energy targets shall be considered as goals but are not binding on the Congress, any of its Committees or the Executive Branch.

Title IV establishes incentives to promote the use of renewable energy resources and conservation through various new programs and amendments to existing law. Among other things, the bill directs DOE to develop and implement a 3-year energy self-sufficiency program, with a $10 million authorization in fiscal year 1981, to demonstrate energy self-sufficiency through the use of renewable energy resources in one or more states in U.S.

Title V provides for the establishment of a Solar Energy and Energy Conservation Bank in the Department of Housing and Urban Development (HUD) to provide subsidized loans to persons who make energy conservation improvements or install solar applications in residential or commercial buildings. The Bank will exist until 9/30/87 and have the same corporate powers as the Government National Mortgage Association. Authorizations for the Solar Bank include $2.5 billion in fiscal years 1981-1984 for conservation purposes, and $525 million in fiscal years 1981-1983 for solar purposes. In addition, Title V establishes a grant program for residential energy conservation measures (with the amount of assistance geared to income); authorizes a DOE program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas; amends existing laws relating to utility residential conservation programs in several

respects, including removal of the present Federal prohibition on the financing of residential energy conservation measures by utilities and modification of the Federal prohibition on utility supply or installation of residential energy conservation measures; amends the current low-income weatherization assistance program authorized by Title IV of the Energy Production and Conservation Act by raising the unit limits, among other things; and authorizes acceleration of research, development and demonstration of industrial energy conservation projects.

Title VI establishes financial assistance programs in DOE to promote exploration and confirmation of geothermal reservoirs, and provides funding for feasibility studies and construction of specific geothermal projects. A total of $85 million in Federal loans and loan guarantees for geothermal reservoir confirmation is authorized for fiscal years 1981 through 1985, plus another $5 million for feasibility studies in fiscal 1981.

Title VII establishes an interagency task force to conduct a comprehensive 10-year research program to identify the causes and effects of acid precipitation.

Finally, Title VIII directs the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day. If this specified fill rate is not achieved, then any production from Naval Petroleum Reserve No. 1 (Elk Hills) must be sold or exchanged so as to be stored in the SPR, subject to certain exceptions. This title also removes the one year contract limitation on sales of associated gas from the Naval Petroleum Reserves.

During floor debate on the above-described conference bill, relatively little opposition was expressed either in the House or the Senate -- although somewhat more in the House. A few Senators, e.g. Senator Proxmire (D-Wis.) and Armstrong (R-Col.), questioned the need for two synthetic fuels programs (the SFC and the transitional program before it becomes operative) and the authority provided for government ownership of synthetic fuels plants. Various House members protested that Congress and the Executive Branch was ill-equipped to decide where and how $88 billion of taxpayer funds should be spent on synthetic fuels development, that basic decisionmaking should be left to the marketplace, that incentive for synthetic fuels development could be better provided through tax incentives than creation of a massive new federal bureaucracy, and that the total level of authorized federal assistance was excessive.

Rep. Clarence Brown (R-Ohio), for example, described the bill as "a lengthy collection of nonsensical, expensive, unworkable so-called energy initiatives. The conferees on this bill took a 14-page House bill designed to stimulate private industry through $3 billion of purchase agreements, Federal loans, and Federal guarantees, and made it into a 412-page legislative Christmas tree consisting of 8 titles." While sympathetic with the view that a vote for this "Christmas tree" is "better than doing nothing," Rep. Brown asserted that the conference bill epitomizes a "meritorious idea gone totally awry" and "is destined to become a textbook example of how Congress, with more political ambition than economic or entrepreneural common sense, converts worthy objectives into bureaucratic nightmares."

House Votes to Recommit Energy Mobilization Board Bill to Conference Committee

On 6/27/80 the House voted 232 - 131 to recommit to the Conference Committee the compromise version of S.1308 -- the so-called "fast track" bill to establish an Energy Mobilization Board (EMB) for the purpose of expediting federal, state and local decisions on nonnuclear energy projects designated as "priority energy projects." The most frequently stated reason during floor debate in favor of recommittal was concern over the extent of authority granted to the EMB to suspend or amend federal, state and local laws and regulations. A number of House members also described the bill as a procedural "nightmare" or "monster" which would only increase, rather than decrease, the amount of bureaucratic redtape and complications thwarting development of needed energy projects.

Senate and House conferees reached final agreement on a compromise version of S.1308 in early June after several months of negotiations.1/ The Senate passed the bill on 10/4/79, while the House approved a companion measure (H.R.4985) on 11/1/79. The Senate and House bills differed with respect to, among other things, the size of the EMB; procedures for establishing and enforcing project decision deadlines; the extent to which the EMB could waive federal, state and local substantive laws and regulations; and procedures for judicial review. (See REPORT NOS. 1230, pp1-7; 1234, pp1-5.)

The conference report provided for creation of an Energy Mobilization Board consisting of three full-time members to be appointed by the President, subject to Senate confirmation, for two-year terms. Authority of the Board would terminate eight years after enactment of the legislation. The House bill would have created a five-member full-time Board, while the Senate bill would have established a four-member Board with three members serving on a part-time basis.

The major functions of the EMB would be to designate priority energy projects and to establish Project Decision Schedules for each such project. The conference bill provided that applications for priority project designations could be submitted by any person, or by any federal or non-federal agency. The EMB would be required to publish notice of each application, provide 45 days for public comment, and either grant or deny the requested designation not later than 45 days after expiration of the public comment period. The conference bill listed numerous factors to be considered by EMB in making these determinations, including, among others, the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources; the magnitude of any economic, social, and environmental impacts and costs of the energy project in relation to the impacts and costs of alternatives; the extent to which the energy project would make use of renewable resources, conserve energy, and contribute to the development of new production or conservation technologies and techniques; the time normally required to obtain all necessary agency decisions and actions; any adverse impacts that would result from grant or denial of the requested priority designation; the effect on regions of the country most directly affected; the availability of significant economic, environmental, or technical data; and the anticipated effects upon competition in the energy industry. Denial of an application for a priority energy project designation would not preclude submission of another application for such designation of the same project.

1/ The conference report is published in the Congressional Record dated 6/21/80.

For each project designated as a priority energy project, the EMB -- after consultation with appropriate agencies and governors of affected states, with an opportunity for hearing if requested -- would be required to establish a Project Decision Schedule specifying deadlines for all agency decisions and actions relating to such project. These deadlines could be modified or extended if the EMB determined that continued adherence to the Project Decision Schedule would be impractical or would not be in the public interest. In general, the Project Decision Schedule would seek to achieve all final agency decisions within twelve months. The EMB would monitor compliance with the Project Decision Schedule and could terminate the priority designation for any project which was found not to exercise due diligence either in seeking to comply with the schedule or in complying with applicable laws governing agency decisions subject to the schedule.

The EMB could require that federal agencies (except independent regulatory agencies) adopt certain changes in procedures to apply to priority energy projects, and could recommend -- but not require -- that similar types of procedural changes be adopted by non-federal agencies.

For purposes of compliance with NEPA, the conference report would require the Council on Environmental Quality to determine whether an environmental impact statement is necessary and, if so, to designate a lead agency for its preparation. The EMB could order consolidation of proceedings by affected agencies and, under certain circumstances, use of the federal statement by any or all non-federal agencies as a substitute for any comparable statement required by state or local law.

In the event of failure (or likely failure) of any Federal or non-Federal agency to comply with any deadline on the Project Decision Schedule, the conference bill would authorize the EMB -- after notifying the agency in question of contemplated court action and conducting an informal public hearing -- to seek enforcement by a U.S. district court. Further, if any Federal or non-Federal agency failed to comply with a deadline for final agency decision or action, the EMB could make the decision or take the action in lieu of that agency. Any such decision by the EMB in lieu of an agency would have to be consistent with applicable Federal, state or local law.

The conference bill provided the EMB with certain authority to (1) suspend or modify Federal, state and local statutes, rules, regulations and standards adopted or promulgated after enactment of the instant legislation in the case of priority energy projects which commenced contruction before that time, or after commencement of construction of the priority energy project (or the date of application for a priority designation) in the case of projects which commenced construction after enactment of this legislation; and (2) recommend to the President, who could in turn recommend to Congress, suspension or modification of any Federal statutes, rules, regulations and standards adopted or promulgated before enactment of the EMB bill in the case of projects which commenced construction before that time, or before the date of commencement of construction (or the date of application for a priority designation, if earlier) in the case of projects which commenced construction after enactment of the instant legislation. Prior to ordering or recommending waiver, the EMB would be required to determine that the statute or regulation in question presented a "substantial impediment" to implementation of a priority project. Any suspension or waiver would apply only until the date of initial commercial operation of the project.

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MONDAY, JUNE 30, 1980 THE DAILY N 2

'Fast Track' Proposal Rejected by the House

By S. Lawrence Paulson
Oil Daily Staff Writer

WASHINGTON — The House delivered a major setback to President Carter Friday by sending back to conference one of the key pieces of his energy plan.

The 232-131 vote to recommit the compromise energy mobilization board bill surprised almost everyone, including the White House, which had already sent out invitations to a signing ceremony for the bill this week.

House Democratic Leader Jim Wright, D-Texas, warned colleagues on the floor that recommittal would mean the bill was dead for this session, and key staffers agreed after the vote that there was little chance for a new conference on the measure, especially since the bill was recommitted without instructions.

The fast track bill was derailed by a coalition of Republicans, liberal Democrats and states-rights advocates. Republicans opposed the measure by a 125-9 vote, while only a bare majority of Democrats supported it.

Effort to Embarass

Some observers speculated that many Republicans voted to recommit less out of opposition to the bill itself than from a desire to embarass the president, who had planned a gala ceremony to sign both the fast track bill and the synthetic fuels legislation given final congressional approval by the House Thursday.

Rep. Clarence Brown, R-Ohio, one of the few Republicans to back the legislation, told colleagues they were making a mistake if they were opposing the measure because of partisanship.

Rep. Philip Sharp, D-Ind., argued that "this is not a bill to be loved, but a bill to be passed."

But Rep. Tom Evans, R-Del., said the bill "tramples all over" the rights guaranteed to the states by the Constitution. "Even the Wizard of Oz didn't have that kind of power," Evans said.

And Rep. Robert Bauman, R-Md., referring to the House vote on synthetic fuels said, "If we voted for Frankenstein yesterday, today we're voting for the bride of Frankenstein."

Fast track bills were passed by both the House and Senate last year, but there were substantial differences between the two bills, and it took four months of negotiations to produce the compromise that the

(Continued on page 2)

House Recommits 'Fast Track' Compromise Bill

(Continued from page 1)

House tossed back Friday.

Under the compromise bill, the board would consist of three members appointed by the president and subject to Senate confirmation. The chairman would sit at the pleasure of the president, but the other two members would have staggered two-year terms.

The board, after considering a list of a dozen factors, such as cost, impact on oil imports and effect on the environment, would have the power to designate proposed nonnuclear energy projects as "high priority" projects.

Priority projects would be given a "project decision schedule" setting deadlines for action by federal, state and local agencies. The board could set a shorter deadline than the minimum required by law.

The future president has worked in engineering, supply and distribution, corporate and financial planning and the treasurer's office within Sohio. Miller is a member of Tau Beta

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The waiver provisions in the conference report are closer to those in the original House-passed bill, which authorized the EMB to recommend to the President waivers of any Federal, state or local requirement (promulgated before or after designation of the priority energy project), with any waiver determination by the President subject to veto within 60 days by both houses of Congress. The Senate-passed bill, by contrast, authorized waiver only of new federal, state or local laws and requirements enacted after commencement of construction of a priority energy project and only for such time as necessary to permit compliance herewith. Any such waiver under the Senate bill was subject to veto by the Administrator of EPA on grounds of pollutant discharge or emissions presenting a substantial danger to public health, or by the Secretary of Interior on grounds of an irretrievable loss of fish or wildlife.

The conference bill imposed numerous procedural requirements prior to any waiver of substantive rules or laws. Specifically, with respect to new federal, state or local requirements promulgated after enactment of this legislation or commencement of construction of a priority energy project, these requirements included publication in the the Federal Register of any proposed waiver by the EMB; an informal public hearing with opportunity for the designated project, any affected agency and any interested person to present oral and written testimony; consultation with agencies responsible for administering the statute or regulation involved; and findings by the EMB that the waiver would serve in the national interest and not result in any substantial harm to public health or safety. Subject to these procedures, any suspension or modification ordered by the EMB would have the force of law and would have to be enforced by the applicable federal or non-federal agency or agencies.

In the case of federal laws and regulations in existence before enactment of this legislation or commencement of construction of a priority energy project, the conference bill provided that the EMB implement essentially the same procedures before transmitting any recommendation for waiver to the President. In addition, any recommendations submitted to the President would require publication in the Federal Register and a period of at least 30 days for written comments by the public. Thereafter, the President could forward to Congress any EMB recommendation (or modification thereof) found to be in the national interest and supported by substantial evidence, reject or remand the recommendation to the EMB, or take no action. A recommendation transmitted by the President to Congress would become law only if approved through a joint resolution passed by both the House and Senate within a period of 60 calendar days of continuous session. In regard to Congressional consideration, the conference report included detailed provisions for referral to, and discharge from, committees having jurisdiction over the Federal statute, rule or regulation involved. Additionally, the conference bill specified that the President could not transmit recommendations for suspension or waiver of requirements relating to more than 12 priority energy projects during any single Congress.

No waiver would be permitted of federal laws and regulations pertaining to workers' rights and compensation; civil rights; securities laws; the Internal Revenue Code of 1954; and antitrust laws. Nor would waiver be allowed of any laws or regulations which would cause a violation of primary air quality standards established under the Clean Air Act; impair constitutional rights of any person; contravene any interstate compact, state or local law, or federal contract relating to water rights; or suspend or modify criminal sanctions under any Federal, state or local law.

In regard to judicial review, the conference bill provided for expedited appeals of specified actions within 30 days to the Temporary Emergency Court of Appeals. Si[illegible] days would be allowed for appeals from EMB orders waiving new regulations and fro[illegible] Presidential recommendations (approved by Congress) regarding waiver of existing regulations. In general, these review provisions corresponded to provisions in the Senate bill. The House bill would have vested jurisdiction to review various actions in the U.S. Court of Appeals for the circuit in which the project was located.

As noted earlier, in urging recommittal of the above-described conference report, House members expressed opposition to the provision for EMB override of Federal, state and local laws promulgated after enactment of this legislation and after designation of a priority energy project -- especially without any Congressional approval. Also, some members questioned whether waiver provisions regarding existing federal regulations would cover state and local laws enacted to implement federal statutes. Other objections pertained to the absence of any limit on the number of employees hired by EMB, the absence of any cap on the number of projects which could be given "fast-track" treatment at any time; and the abundance of procedural steps required before taking any expediting action. Rep. Evans (R-Del.), for example, described the bill as both a "steamroller" and "an oxcart weighted down with EMB -- even more bureaucracy." Similarly, Rep. Stockman (R-Mich.) said the conference report represented a "bureaucratic paraplegic that can expedite nothing but a fast outpouring of litigation and hand-to-hand bureaucratic combat among Federal agencies... ."

Both Rep. Dingell (D-Mich.) and Rep. Brown (R-Ohio), ranking Democrat and Republican members of the House Subcommittee on Energy and Power, urged support for the conf[illegible] ence report as the best result -- although imperfect -- which could be achieved a[illegible] this time. They and others asserted that a vote to recommit would effectively kill the measure, at least for the current session of Congress.

Senate Reaffirms Support For Expeditious Construction and Completion of Alaskan Natural Gas Transportation System

On 6/27/80 the Senate approved a resolution (S. Con. Res. 104) reaffirming the sense of Congress that the Alaskan Natural Gas Transportation System "remains an essential part of securing this nation's energy future and, as such, enjoys the highest level of Congressional support for its expeditious construction and completion by the end of 1985." There was no recorded vote. The House will consider the resolution after 7/1/80.

The resolution was introduced by Senators Jackson (D-Wash.) and Stevens (R-Alaska) who stressed the need to reassure Canadian officials that the U.S. remains committed to completion of the ANGTS. Both noted that the Canadian Government, which will decide shortly whether to authorize "prebuild" segments of the ANGTS in southern Canada, has insisted on adequate U.S. assurances regarding completion of the entire project as a condition to Canadian "prebuild" approval. Senator Stevens referred to indications from various Canadian Government representatives seeking a statement of continued Congressional support.

Senator Jackson also called attention to the two agreements signed on 6/19/80 by the pipeline sponsors of the ANGTS and the three major North Slope gas producers (Atlantic Richfield Co., Exxon Corp. and Sohio Alaska Petroleum Co.). The first agreement provides for producer participation in the design and engineering of the Alaskan gas pipeline and related conditioning plant. The sponsors and the producers will each pay 50% of the estimated $500 million cost of design and engineering.

The second agreement, designated as a "Joint Statement of Intention," indicated the willingness of North Slope producers "to participate in a substantial way with Alaskan Northwest in the financing of the Alaskan pipeline and conditioning plant upon reasonable terms and conditions, provided they are not placed in the position of becoming, in effect, the ultimate guarantors of completion of the ANGTS and provided that their financial exposure is effectively limited." The "Statement of Intention" continues as follows:

> "It is the mutual objective of the Producers and Alaskan Northwest that the ANGTS be completed and placed in service at the earliest practicable date, and, accordingly, the Producers and Alaskan Northwest intend to use their best efforts, on a joint and cooperative basis, to expedite design, engineering and cost estimation.
>
> "The Producers, together with their advisers, will work with Alaskan Northwest in an effort to develop its financing plan in such time and manner so that necessary governmental approvals may be obtained and construction commenced and completed as scheduled by Alaskan Northwest.
>
> "It is recognized that in order for the financing plan to be acceptable to the financial community, the project must be economically sound and the financing plan must accommodate reasonably desired protections for the interests of potential lenders. If the parties, or any of them, conclude that alternative approaches in financing, or waivers of law under the Alaskan Natural Gas Transportation Act are necessary to effectuate a feasible and effective plan of financing, such party or parties may develop alternatives and advise appropriate authorities of their conclusions."

Economic Regulatory Administration Issues Rulemaking Proposal Contemplating No Major Changes in Existing System of Curtailment Priorities, Except Those Required by NGPA

On 6/24/80 the Economic Regulatory Administration issued a proposed rulemaking (ERA-R-79-10-A) regarding establishment of natural gas curtailment priorities for interstate pipelines. Apart from changes mandated by the NGPA, the proposed rule -- issued in accordance with responsibilities assigned to DOE under the Department of Energy Organization Act and Title IV of the Natural Gas Policy Act -- contemplates only relatively minor modifications to the present system of curtailment priorities. ERA concluded that the existing federal priority scheme, predicated largely on the concept of end use, is generally "adequate for managing long-term and seasonal gas shortages at the interstate pipeline level," and that the benefits of any changes in this priority system would be limited. While there exists "significant potential" for reducing the dollar costs of natural gas curtailments through establishment of market pricing mechanisms designed to encourage changes in the management of curtailments at the burner tip, ERA asserted, these benefits cannot be achieved by the establishment of Federal curtailment priorities. Rather, the changes would require Federal and State actions and "the integration of other aspects of natural gas regulation, such as rate structure, at the distribution company level".

More specifically, except to the extent modifications are necessary to implement Priorities 1, 2 and 3 as mandated by the NGPA, the proposed rule would require no changes in presently effective authorized plans of interstate pipelines. Any pipeline without a curtailment plan in effect on the date of a final rule would be required to comply with respect to any authorized plan filed with the FERC in the future.

The proposed rule includes 5 priorities, as follows:

Priority 1 -- requirements for high priority uses, defined to include use in a residence, commercial establishment (amounts less than 50 Mcf on a peak day), school or hospital, or sanitation or correctional facility, and for police and fire protection, minimum plant protection (when operations are shut down), or emergency situations.

Priority 2 -- requirements for essential agricultural uses, defined to include uses (detemined by the Secretary of Agriculture as necessary for full food and fiber production) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, unless the FERC has determined that use of an alternative fuel is reasonably available and economically practicable.

Priority 3 -- requirements for essential industrial feedstock uses (uses of natural gas for its chemical properties as a raw material in creating an end product, provided the Commission has determined that an alternative fuel is neither economically practicable nor reasonably available), and essential industrial process uses (uses of natural gas directly in an industrial process where a direct flame, precise flame characteristics or precise temperature controls are required, where conversion to an alternative fuel would cause a significant deterioration in the quality of the product or require costly modification or replacement of equipment, and where the Commission has determined that use of an alternative fuel is neither economically practicable nor reasonably available for such use).

Priority 4 -- requirements for all other priorities not specified in Priorities 1, 2 or 3 above, including large commercial use (50 Mcf or more or a peak day) and industrial use less than 300 Mcf/d.

Priority 5 -- all other requirements, subdivided into four 4 volumetric subcategories (300 up to 1,499 Mcf/d, 1,500 up 2,999 Mcf/d, 3,000 up to 10,000 Mcf/d, and 10,000 Mcf/d and above).

If adopted, the proposed rules would be implemented and enforced by the FERC.

ERA requested written comments by 8/29/80 and scheduled a series of hearings on the proposed rule. The hearings will be held on 7/22/80 in Chicago, Illinois; 7/24/80 in Atlanta, Georgia; 7/29/80 in Houston, Texas; 7/31/80 in San Francisco, California and 8/12/80 in Washington, D.C. In each location, the hearing will continue the next day if necessary.

Background

Under the Department of Energy Organization Act, the responsibility to review and establish natural gas curtailment priorities was assigned to the Secretary of Energy, who subsequently delegated this authority to ERA. At the same time, the FERC was given the function of administering and enforcing curtailment plans. This division of responsibility was carried forward in Section 403 of the NGPA which directed that the Secretary of Energy prescribe rules concerning curtailment priorities for essential agricultural and essential industrial process and feedstock and that the FERC implement these rules, pursuant to their respective authorities under the DOE Act.

In accordance with Section 401, ERA prescribed a rule by the specified deadline (120 days from enactment, or 3/9/79) to protect essential agricultural uses of natural gas -- as certified by the Secretary of Agriculture -- from curtailment by interstate pipelines, except when necessary to meet the needs of higher priority users or when the FERC determines (in consultation with the Secretary of Agriculture) that an alternate fuel is "economically practicable" and "reasonably available."

Under Section 402 of the NGPA, the Secretary of Energy must prescribe another rule (with no deadline specified) limiting the circumstances under which an interstate pipeline may curtail essential industrial process or feedstock uses. This second rule is encompassed by the instant proposed rulemaking.

On 3/13/79 the ERA issued a notice of inquiry soliciting public comments regarding its review of natural gas curtailment priorities and certain other related issues under both the Natural Gas Act and the NGPA. The ERA cited its responsibility to examine the present curtailment system to determine whether, and to what extent, modifications are required either because of the NGPA or current conditions. The notice of inquiry identified several broad areas for examination and listed 22 specific questions for consideration. Some 75 comments were submitted. Most parties -- particularly pipelines and distributors -- argued that current curtailment plans of interstate pipelines, many of which were arrived at after years of administrative and court procedures, are working well and should be retained, and that ERA does not have the broad authority to review curtailment practices to the degree suggested by the detailed issues included in its notice of inquiry. Numerous gas users supported high priority classification for their particular gas needs. (See REPORT NOS. 1201, pp5-6; 1220, App. pp1-16.)

Subsequently, on 10/18/79, ERA issued another notice of inquiry (ERA-R-79-49) concerning possible use of the Federal curtailment priority system to provide incentive for coal conversion and the production of heavy oil. Specifically, EPA requested comments on two suggested alternative mechanisms: (1) grant of high priority curtailment status to electric power plants served by interstate pipelines to induce conversions to coal, or (2) adoption of an FERC rule facilitating interstate pipeline transportation of gas directly purchased by power plants which are scheduled to burn coal or a non-petroleum fuel at some specified date in the future. Comments in response were nearly unanimous that the option of granting higher priority curtailment status would not provide incentive to increase conversions to coal or production of heavy oil because, among other reasons, the purchased gas adjustment clauses of most electric utilities would not permit use of savings from any reduced fuel cost for capital formation, the amount of any savings would be insignificant in comparison to the capital costs of coal conversion, higher priority access to natural gas could induce delays in coal conversion unless significant penalties were involved, and natural gas would be diverted to lower valued uses and result in higher costs to other users. The comments also generally agreed that the suggested transportation rule would have little effect on inducing coal conversions and might jeopardize service to existing customers in the long term by permitting utilities to compete with interstate pipelines for limited gas supplies. (See REPORT NOS. 1232, pp7-9; 1245, App. pp-11.)

Based on the comments received on this matter, ERA decided against including any provision in the instant proposed rule which would give special higher priority to electric power plants as inducement to convert to coal, and terminated the related inquiry.

Proposed Rule

As noted, the ERA concluded that the benefits of further refining the current Federal curtailment priority system based on end-use concepts -- as reflected in FPC Order No. 467-B -- were limited. Given wide variations in efficiency and type of alternate fuel burning equipment, prices paid for alternate fuels, and costs among users with the same end use, "further changes in curtailment priority designations to delineate end uses more perfectly have limited potential for reducing costs of curtailment". In addition, ERA noted, due to a high degree of user familiarity with the existing system of priorities, any major changes could lead to unnecessary expenditures by natural gas companies for supplemental gas supplies and facilities and by end use gas customers for additional alternate fuel supplies and equipment. Also, "self-help efforts and established patterns of gas usage would be undermined", adversely affecting related financial investments. While these negative effects could be minimized if buyers and sellers voluntarily shifted gas at mutually agreed-upon prices, ERA added, any mandating of such shifts would entail "considerable administrative and equity problems".

Mechanisms using price as a means to move gas between industrial markets, ERA observed, offer the greatest potential for reducing economic costs of curtailment. Such pricing, however, must be implemented at the burner tip. Consequently, much of the action required to implement an effective pricing system would have to be taken by the States. "There appear to be no practical alternatives for implementing a pricing system using Federal authority only".

Nevertheless, ERA noted, movement of gas between systems can be facilitated to a degree by the current regulatory system, namely, the provisions contained in Title III of the NGPA enabling shifts and allocations in the event of emergency natural gas supply shortages and enabling transportation between interstate and intrastate pipeline systems. "Sales of excess gas between systems should be encouraged and facilitated during lesser periods of curtailment to obtain economic benefits", ERA said.

Based on the above analysis, ERA proposed only minor modifications to the present system of curtailment priorities, other than changes required to implement NGPA Sections 401 and 402. Moreover, in the future, ERA will seek to encourage the continuation and expansion of current FERC efforts to facilitate sales of surplus gas between pipeline systems. It will also work with the FERC and the states to develop effective pricing mechanisms and to find means for gradually introducing them into the current market, while protecting contract and property rights. Additionally, ERA said it will study means of lessening curtailment costs through rate design. When appropriate, ERA will propose specific rules for FERC consideration and action pursuant to Section 403 of the DOE Act.

ERA specifically requested comments on its intent to move in the direction of greater reliance on pricing mechanisms and increased sales between systems to better manage natural gas curtailments.

With respect to the five priority of service categories set forth in ERA's proposed rule, the first three -- high priority uses, essential agricultural uses, and essential industrial process and feedstock uses -- are required by Sections 401 and 402 of the NGPA. The fourth and fifth priorities, based primarily on volumetric usage, assume that smaller-volume users have higher economic costs of fuel substitution per unit of gas used than larger-volume users. The fourth category would include all natural gas users which are not included in higher priorities and have peak day requirements between 50 Mcf and 300 Mcf. This category covers most large commercial and small industrial customers. ERA said these users are presumed not to have alternate fuel capability and are virtually impossible logistically for interstate pipelines to curtail. The fifth priority would be divided into four subcategories based on volumetric levels consistent with the levels reflected in the FPC's Order No. 467-B policy statement.

Except for Priority 2, curtailments in the other priorities would be geared to requirements during a fixed base period. In the case of essential agricultural uses, however, ERA interpreted the Congressional intent underlying Section 401 of the NGPA as allowing some agricultural load growth. Hence, essential agricultural uses would not be limited to base period volumes. Otherwise, ERA determined that the fixed base period concept should be retained because of its advantages in providing incentive for minimizing low priority usage and in encouraging self-help methods, among other reasons. By controlling growth, ERA stated, the fixed base period procedure "removes the incentive for distributors to compete for interstate pipeline supplies by enlarging their higher-priority obligations and thus defeating the self-help efforts of other customers." However, ERA added, the proposed rule would not preclude an interstate pipeline from rolling or updating its base period, provided it can demonstrate to the FERC that such action is just and reasonable.

With respect to definitions, the ERA proposed to define:

(1) "Curtailment" as "any situation where an interstate pipeline cannot make deliveries of all of its customers' requirements, including situations due to a lack of pipeline capacity." Capacity shortages were included in the definition

because of the NGPA requirement that high priority, essential agricultural, and essential industrial process and feedstock uses be protected from curtailment relative to other uses of natural gas. ERA interpreted this mandate as applying to capacity shortages as well as supply shortages.

(2) "Requirements" as "the volumes of natural gas that a customer of an interstate pipeline is entitled to under that pipeline's curtailment plan." In proposing this definition, ERA agreed with the view of numerous parties that customers' rights to gas can only be protected through specific figures written into the curtailment plans filed by interstate pipelines.

(3) "Essential industrial process use" in terms of three tests -- the technology involved (whether a direct flame, precise flame characteristics or precise temperature controls are required, or whether the gas is used in the processes of ignition, startup, testing or flame stabilization), the extent to which the use of gas is considered "essential" to prevent a significant deterioration in the quality of the resultant product or avcid costly modification of equipment, and the existence of an econcmically practicable or reasonably available alternative fuel. This definition is more elaborate and restrictive than the present FPC/FERC definition of "process gas," i.e., "gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics."

(4) "Essential industrial feedstock use" as "natural gas used for its chemical properties as a raw material in creating an end product," provided the FERC determines that an alternative fuel is neither reasonably available nor economically practicable. This definition largely conforms to that contained in Order No. 467-B except for the addition of the alternative fuel test drawn from Section 402 of the NGPA.

(5) "High-priority user" consistent with the definition in ERA's present rule regarding essential agricultural uses. ERA specifically rejected use of an end-product approach for determining "high-priority users" as "hopeless" in view of the highly integrated nature of the economy in which output of particular products frequently depends on many other products and activities.

Regarding other aspects of implementing curtailments, the proposed rule generally requires complete curtailment of all volumes in a lower priority before any curtailment of a higher priority. However, based on a survey of industrial consumers indicating that retention of a certain percentage of gas (e.g. 20%) in a low priority category could reduce curtailment costs substantially, the proposed rule would allow continued service to meet an unspecified portion of requirements for Priority 5 (or any of its volumetric subcategories), even if a higher priority category or subcategory is being curtailed, subject to a demonstration to the FERC that such delivery in individual situations is just and reasonable. However, because of the statutory protection given the first three priority categories by the NGPA, all requirements for Priority 4 must be curtailed before a pipeline may curtail deliveries for essential industrial process and feedstock uses (Priority 3).

The proposed rule would make no distinction between firm and interruptible service for purposes of implementing curtailment, unless -- as to uses covered in Priorities 4 and 5 -- it were demonstrated to the FERC that such a distinction would be just and reasonable for a particular pipeline. ERA said the NGPA precludes any distinction for the three highest priorities. (Present FPC/FERC policy is not uniform regarding application of the firm/interruptible distinction.)

Under the proposed rule, interstate pipelines could inject natural gas into storage or deliver gas to their customers for storage injection, unless it were demonstrated to the FERC that such treatment is not reasonably necessary to meet the requirements of high-priority and essential agricultural, process and feedstock users in their respective order of priority. The proposed rule declined to specify any particular method for treating storage injections -- such as "storage sprinkling" or a "block" method -- because of inability to conclude that one approach was preferable to the other for a particular pipeline.

The proposed rule also declined to adopt a standard small customer exemption provision (as recommended by a group of small municipal distribution systems), but stated that an interstate pipeline would not be prohibited from continuing to serve requirements of a small local distribution company customer when requirements of other customers are being curtailed, so long as it demonstrated to the Commission that such continued service is just and reasonable.

Additionally, the proposed rule would deny any special higher priority for the use of natural gas in cogeneration facilities. While cogeneration activities make more complete use of an energy source and should be encouraged, ERA stated, natural gas curtailment plans are not the proper vehicle for providing such incentives.

Finally, as noted at the outset, ERA would require no changes in curtailment plans in effect on the date of adoption of a final rule, except to the extent necessary to protect Priorities 1,2, and 3 from curtailment. While the proposed rule reflects a curtailment system designed to cause the least economic costs of curtailment, ERA explained, "change solely for the sake of change" is not warranted. "The administrative costs related to making unrequired changes may well outweigh the economic benefits to be gained."

FERC Proposes to Delete Certain Data Elements From Natural Gas Pipeline Form 2 Report

On 7/1/80 the FERC issued notice of a proposed rulemaking (RM80-56) to revise the Form 2 Annual Report for Class A and B natural gas pipelines (those with annual gas operating revenues of $1 million or more) by reducing the data required to be reported. Specifically, the Commission proposes to (1) eliminate the requirement for CPA certification of 15 of the 19 schedules presently subject to such certification; (2) establish specific threshold reporting levels on 13 schedules; (3) amend the reporting instructions on 17 schedules; (4) delete entire data columns from 10 schedules; and (5) delete 33 schedules in their entirety. No changes would be made with respect to 62 schedules.

The FERC explained that it no longer needs certain elements of the data presently submitted in the Form 2 report, and that the proposed deletions would bring about a 19% reduction in the current reporting burden. However, the Commission added, the Energy Information Administration may decide to continue collection of some data proposed for deletion. If so, the Commission would issue a final rule with a delayed effective date so as to allow time for EIA to obtain approval for collection of such data under its own authority.

The Commission invited public comments by 8/29/80 on, among other questions, the need for continued collection of the data for the purposes of another Federal agency, the effect of the proposed revisions or eliminations of data on any state commission regulatory functions, and the extent of any cost savings likely to result from the proposed elimination of the 15 CPA certifications.

Earlier, on 5/23/80, the Commission proposed a similar reduction in information required in the Form 2-A Annual Report for Class C and D natural gas pipelines. (See REPORT NO. 1263, p25.)

Department of Transportation Requests Comments to Aid Cost-Benefit Analysis of Additional Federal Regulation of Natural Gas Pipeline Safety

On 6/26/80 the Research and Special Programs Administration, Department of Transportation, requested public comments respecting various aspects of a study of natural gas pipeline safety regulation to be undertaken by DOT pursuant to the Pipeline Safety Act of 1979. Among other things, that legislation -- enacted 11/29/79 -- requires DOT to study the adequacy and effectiveness of existing pipeline safety regulations, to conduct a cost-benefit analysis to determine whether additional natural gas pipeline safety regulations by the federal government would be beneficial, and to submit a report to Congress on these matters within one year.

Comments are specifically invited on the following topics: (1) use of cost-benefit analysis to assess the adequacy and effectiveness of existing natural gas pipeline safety regulation; (2) classification and measurement of relationships among pipeline failure, pipeline industry activity, and existing pipeline regulation; (3) identification and measurement of the costs and benefits of existing pipeline safety regulations imposed from 1970 to the present; (4) potential for more effective use of existing pipeline data by pipeline operators and DOT's Materials Transportation Bureau to anticipate and prevent pipeline failures; (5) identification and estimation of benefits and costs of implementing and enforcing regulations which would require pipeline operators to prepare and maintain a description of their natural gas pipeline facilities, including details as to location, type, age, manufacturer, method of construction, climatic, geologic and seismic conditions of the areas in which the facilities are located, and the existing and projected population and demographic characteristics of these areas; (6) cost-effectiveness, feasibility, and potential benefits of establishing a program within DOT for electronic data processing of pipeline safety information obtained under existing and future federal laws and regulations; and (7) identification and estimation of the social benefits and costs of implementing and enforcing regulations which would require pipeline operators to report future leaks in certain specified situations, including leaks of which a person "knew or reasonably should have known."

As originally introduced in January 1979, the House bill (H.R.51) eventually resulting in the conference version of the Pipeline Safety Act of 1979 (S.411) would have required pipeline operators to report to DOT (1) detailed descriptions of the location and physical characteristics of all pipeline facilities covered by the legislation -- including information with respect to age, method of construction, nature of materials transported, and "climatic, geologic, seismic and other conditions (including soil characteristics) associated with the areas in which pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas"; and (2) any pipeline leaks of which pipeline owners or operators "knew or reasonably should have known." These reporting obligations, however, were deleted during markup of the bill by the House Subcommittee on Energy and Power as immediate requirements and instead were included as topics to be considered in the cost-benefit analysis of additional pipeline safety regulation in the future. The provisions for this cost-benefit analysis were adopted in the final conference report. (See REPORT NOS. 1200, pp20-24; 1208, pp30-31; 1211, pp11-13; 1213, pp33-34; 1227, pp20-22; 1236, pp1-3.)

Comments due by 7/25/80