

dustrial uses, not later than 18 months after Nov. 9, 1978.

Section 3343, Pub. L. 95-621, title II, §203, Nov. 9, 1978, 92 Stat. 3373, enumerated acquisition costs subject to passthrough requirements of rule prescribed under section 3341 of this title.

Section 3344, Pub. L. 95-621, title II, §204, Nov. 9, 1978, 92 Stat. 3375, related to method of passthrough.

Section 3345, Pub. L. 95-621, title II, §205, Nov. 9, 1978, 92 Stat. 3378, related to direct passthrough of surcharges paid by local distributors on natural gas delivered by interstate pipelines to industrial facilities served by such local distributors.

Section 3346, Pub. L. 95-621, title II, §206, Nov. 9, 1978, 92 Stat. 3379, enumerated exemptions from application of rule required under section 3341 of this title.

Section 3347, Pub. L. 95-621, title II, §207, Nov. 9, 1978, 92 Stat. 3380, related to application of section 3343 to certain natural gas and liquefied natural gas imports.

Section 3348, Pub. L. 95-621, title II, §208, Nov. 9, 1978, 92 Stat. 3381, directed that Alaska natural gas be allocated to rates and charges of interstate pipelines in accordance with certain general principles applicable on Nov. 9, 1978, for establishing rates.

REPEAL OF INCREMENTAL PRICING REQUIREMENTS

Pub. L. 100-42, §2, May 21, 1987, 101 Stat. 314, provided that:

“(a) REPEAL.—Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

“(b) LIMITED CONTINUING EFFECT OF RULES.—A rule promulgated by the Federal Energy Regulatory Commission, under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flowthrough of costs incurred before the enactment of this section [May 21, 1987], including any surcharges based on such costs.

“(c) IMPLEMENTATION.—The Federal Energy Regulatory Commission may take appropriate action to implement this section.”

SUBCHAPTER III—ADDITIONAL AUTHORITIES AND REQUIREMENTS

PART A—EMERGENCY AUTHORITY

§ 3361. Declaration of emergency

(a) Presidential declaration

The President may declare a natural gas supply emergency (or extend a previously declared emergency) if he finds that—

(1) a severe natural gas shortage, endangering the supply of natural gas for high-priority uses, exists or is imminent in the United States or in any region thereof; and

(2) the exercise of authorities under section 3362 or section 3363 of this title is reasonably necessary, having exhausted other alternatives to the maximum extent practicable, to assist in meeting natural gas requirements for such high-priority uses.

(b) Limitation

(1) Expiration

Any declaration of a natural gas supply emergency (or extension thereof) under subsection (a), shall terminate at the earlier of—

(A) the date on which the President finds that any shortage described in subsection (a) does not exist or is not imminent; or

(B) 120 days after the date of such declaration of emergency (or extension thereof).

(2) Extensions

Nothing in this subsection shall prohibit the President from extending, under subsection (a), any emergency (or extension thereof), previously declared under subsection (a), upon the expiration of such declaration of emergency (or extension thereof) under paragraph (1)(B).

(Pub. L. 95-621, title III, §301, Nov. 9, 1978, 92 Stat. 3381.)

DELEGATION OF FUNCTIONS

Functions of President under this subchapter, except for authority to declare, extend, and terminate a national gas supply emergency pursuant to this section, delegated to Secretary of Energy, see section 1-101 of Ex. Ord. No. 12235, Sept. 3, 1980, 45 F.R. 58803, set out as a note under section 3364 of this title.

§ 3362. Emergency purchase authority

(a) Presidential authorization

During any natural gas supply emergency declared under section 3361 of this title, the President may, by rule or order, authorize any interstate pipeline or local distribution company served by any interstate pipeline to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for the purchase of emergency supplies of natural gas—

(1) from any producer of natural gas (other than a producer who is affiliated with the purchaser, as determined by the President) if—

(A) such natural gas is not produced from the Outer Continental Shelf; and

(B) the sale or transportation of such natural gas was not pursuant to a certificate issued under the Natural Gas Act [15 U.S.C. 717 et seq.] immediately before the date on which such contract was entered into; or

(2) from any intrastate pipeline, local distribution company, or other person (other than an interstate pipeline or a producer of natural gas).

(b) Contract duration

The duration of any contract authorized under subsection (a) may not exceed 4 months. The preceding sentence shall not prohibit the President from authorizing under subsection (a) a renewal of any contract, previously authorized under such subsection, following the expiration of such contract.

(c) Related transportation and facilities

The President may, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natural gas, as he determines necessary to carry out any contract authorized under subsection (a). The costs of any construction or transportation ordered under this subsection shall be paid by the purchaser of natural gas under the contract with respect to which such order is issued. No order to transport natural gas under this subsection shall require any pipeline to transport natural gas in excess of such pipeline's available capacity.

(d) Maintenance of adequate records

The Commission shall require any interstate pipeline or local distribution company con-

tracting under the authority of this section for natural gas to maintain and make available full and adequate records concerning transactions under this section, including records of the volumes of natural gas purchased under the authority of this section and the rates and charges for purchase and receipt of such natural gas.

(e) Special limitation

No sale under any emergency purchase contract under this section for emergency supplies of natural gas for sale and delivery from any intrastate pipeline which is operating under court supervision as of January 1, 1977, may take effect unless the court approves.

(Pub. L. 95-621, title III, §302, Nov. 9, 1978, 92 Stat. 3382.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(1)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.

§ 3363. Emergency allocation authority

(a) In general

In order to assist in meeting natural gas requirements for high-priority uses of natural gas during any natural gas supply emergency declared under section 3361 of this title, the President may, by order, allocate supplies of natural gas under subsections (b), (c), and (d) to—

- (1) any interstate pipeline;
- (2) any local distribution company—
 - (A) which is served by any interstate pipeline;
 - (B) which is providing natural gas only for high-priority uses; and
 - (C) which is in need of deliveries of natural gas to assist in meeting natural gas requirements for high-priority uses of natural gas; and
- (3) any person for meeting requirements of high-priority uses of natural gas.

(b) Allocation of certain boiler fuel gas

(1) Required finding

The President shall not allocate supplies of natural gas under this subsection unless he finds that—

- (A) to the maximum extent practicable, emergency purchase authority under section 3362 of this title has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;
- (B) emergency purchases of natural gas supplies under section 3362 of this title are not likely to satisfy the natural gas requirements for such high-priority uses;
- (C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses; and
- (D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to to¹ the max-

¹ So in original.

imum extent practicable to terminate such deliveries.

(2) Allocation authority

Subject to paragraph (1), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of natural gas the use of which has been prohibited by the President pursuant to authority under section 717z of this title (relating to the use of natural gas as a boiler fuel during any natural gas supply emergency).

(c) Allocation of general pipeline supply

(1) Required findings

The President shall not allocate supplies of natural gas under this subsection unless he finds that—

- (A) to the maximum extent practicable, allocation of supplies of natural gas under subsection (b) has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;
- (B) the exercise of such authority is not likely to satisfy the natural gas requirements for such high-priority uses;
- (C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses;
- (D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to the maximum extent practicable to terminate such deliveries;
- (E) such allocation will not create, for the interstate pipeline delivering certificated natural gas, a supply shortage which will cause such pipeline to be unable to meet the natural gas requirements for high-priority uses of natural gas served, directly or indirectly, by such pipeline; and
- (F) such allocation will not result in a disproportionate share of deliveries and resulting curtailments of natural gas being experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders issued under this subsection applicable to other interstate pipelines (as determined by the President).

(F) such allocation will not result in a disproportionate share of deliveries and resulting curtailments of natural gas being experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders issued under this subsection applicable to other interstate pipelines (as determined by the President).

(2) Required notification from State

(A)² Notification

The President shall not allocate supplies of natural gas under this subsection unless he is notified by the Governor of any State that—

- (i) a shortage of natural gas supplies available to such State exists or is imminent;
- (ii) such shortage or imminent shortage endangers the supply of natural gas for high-priority uses in such State; and
- (iii) the exercise of authority under State law is inadequate to protect high-

² So in original. Par. (2) enacted without a subpar. (B).