MIDDLE DISTILLATE PRICES AND SUPPLIES

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE

AND

ENVIRONMENT, ENERGY, AND NATURAL
RESOURCES SUBCOMMITTEE

OF THE

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MIDDLE DISTILLATE PRICES AND SUPPLIES

WEDNESDAY, SEPTEMBER 5, 1979

House of Representatives, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, and Subcommittee on Environment, Energy, and Natural Resources, Committee on Government Operations,

Washington, D.C.

The subcommittees met, pursuant to notice, at 10 a.m. in room 2123, Rayburn House Office Building, Hon. John D. Dingell, chairman of the Subcommittee on Energy and Power, presiding.

Mr. Dingell. The subcommittees will come to order.

Together with my good friend and colleague, Chairman Moffett, and the Government Operations Subcommittee on Environment, Energy, and Natural Resources, the Subcommittee on Energy and Power will hold a joint hearing continuing our ongoing review of the price and supply of middle distillates, especially residential home heating oil.

Although the Department reports that it is satisfied with buildup of primary stocks by refiners, there is evidence that secondary stocks, about which DOE is only now gathering information, are down substantially from last year. This raises questions concerning the Department's program for insuring adequate supplies for the upcoming winter.

It is alarming to the Chair that there is a substantial increase in the price of home heating oil which now averages about 82 cents in New England. With price projections of at least 90 cents a gallon for this winter, consumers will have witnessed nearly a doubling in the price of fuel oil in 1 year.

Concerned with possible increases substantially in excess of the increases which would be permissible under controls, the subcommittee has asked the Congressional Research Service to examine margin increases by refiners, wholesalers and distributors. These findings show that from September 1978 to August 1979 nearly 15 cents a gallon of the increase in the price of heating oil is due to increased margins by refiners, wholesalers and distributors. If accurate, these figures raise substantial questions about the need to reimpose controls on this product.

Moreover, customers are now finding that the terms and conditions of sale are being changed, indeed there is evidence that these conditions of sale are remarkably different than those which consumers found in earlier years.

Discounts for early payment are disappearing; payment demands within 10 days of delivery are now a common practice. These practices further aggravate the difficulty consumers will have this winter in paying for fuel oil.

These matters on price and supply will be the subject of testimony today and we welcome the participation of the witnesses.

We have as our first witness Hon. John F. O'Leary, Deputy Secretary of the Department of Energy.

Before I yield to my good friend and colleague and cochairman, Mr. Moffett, I would like to say to you, Mr. O'Leary, we are honored to have you with us this morning. You and I have worked now for a number of long years during the time that the Department of Energy was in the process of being put together.

I found you to be a man of remarkable ability, integrity, courage, and a ferociously hard worker. I think you have been an outstanding public servant and one who I at least, am very sorry to see go. I understand the enormous workload that you have carried and the fact that you probably have found that the burdens of office have been far beyond what is probably in your own best interests to sustain.

Nevertheless, you have served the country well, and although we will have the pleasure probably of associating with you and dealing with you from time to time during the remainder at least of this month, until the first of October when you will finally formally leave the Department, nonetheless, I would like to take this opportunity to express to you my thanks for your outstanding public service and to have you know that you have earned the respect of this subcommittee and very particularly the respect and affection of the chairman of the subcommittee, and you have been a distinguished public servant.

I am satisfied that in whatever undertaking you undergo in the future you will be a success and we are sorry to see you leave here and we hope that the future brings you a great deal of happiness, content and continued success in whatever undertakings you set within your course.

With that, I recognize Mr. Moffett for such comments as he should like to make.

Mr. MOFFETT. Mr. Chairman, thank you very much for holding these hearings with our subcommittee.

I would like to say on behalf of the Government Operations Subcommittee that sits here today along with your subcommittee, that we are most appreciative of your efforts and we hope that it is being noted that during the past several months there has been a great deal of cooperation between not only these two energy subcommittees but others in the House, that it will continue and that it will not only tend to have us do our job more thoroughly and efficiently but make it easier on witnesses who, therefore, will not have to go before many different subcommittees.

I am sure Mr. O'Leary as he is leaving government, if he has a list of suggestions, would probably put that right near the top, that somehow we consolidate and coordinate better and give the people downtown a chance to do their work rather than appearing before five or six different subcommittees.

So this kind of coordination, Mr. Chairman, I think is something we have been able to establish and I think it is excellent and I think everyone agrees with that.

I want to reiterate what Chairman Dingell said, Mr. O'Leary, and I know that this is a very difficult job that you have had, maybe even more difficult than our jobs in many respects, and I want to commend you for giving it your best and wish you well in whatever you might choose to do.

It is critical, Mr. Chairman and colleagues, that we realize that heating oil has become a major social issue, perhaps the major social issue, as winter approaches. Very simply, it can be said that low income and many elderly people will not have the money to purchase fuel this winter to heat their homes, especially because many dealers are being forced to require payment on delivery from their major oil company suppliers. And without an effective Federal fuels assistance program, the health and safety of 15 million elderly and poor people in this country is in danger.

Moreover, working class families are being driven from their ranks to the ranks of the poor because of these escalating prices, and all we have to do is look at the contribution to the inflation rate from energy prices and, of course, the contribution of home heating oil to those rising energy prices, to realize that this goes well beyond those 15 million people and has a significant impact on the economy.

The response of the Government in general and the Department of Energy in particular should be twofold. First, the administration should determine the extent to which the recent steep increases in the price of home heating oil are reflective of increased costs, particularly crude oil cost, and the extent to which they are reflective of the extent to which refiners and others are exploiting the generally tight supply situation in charging for home heating oil.

I think that the charts that the Department has here, that I assume will be presented—I ask as a matter of fact unanimous consent that this be considered as part of the record.

Mr. DINGELL. Without objection, that will appear in the record at the appropriate place. [See p. 46.]

Mr. MOFFETT. That this chart clearly illustrates the tremendous margins, profits, that are being taken off of heating oil and off of the misery of the people who are being charged these prices.

The Department of Energy has announced it will conduct a hearing on this issue on September 13. Regrettably the price data that the Department will be using on that date in that hearing, as I understand it, will be limited to prices charged prior to July 1 of this year, and it should also be noted that the study now being prepared by the Department of Energy for use in this September 13 proceeding will not be completed until just before the hearing, which in our eyes will severely limit the ability of consumer groups and other public intervenors to play a meaningful role in determining the existence of price gouging.

So given those problems, it appears once again that heating oil users will enter this winter not only facing dramatically higher prices but also a Government that shows little response and sensitivity to their needs.

The second thing that the administration and the DOE must do is provide leadership to establish a Federal assistance program that will deal with the price issue in very real as opposed to merely symbolic terms.

Having just returned from New England, as other members have from their districts, I would like to say that heating oil prices are clearly the major concern in our part of the country, and that hopefully this hearing will help the Government focus more directly and deal more forcefully and thoroughly with the issue.

Thank you, Mr. Chairman.

Mr. DINGELL. The Chair thanks the gentleman.

Mr. O'Leary, we are delighted to welcome you to the committee and we will recognize you at this time for such statements as you choose to give.

Before you do so, we would request that you identify your associates at the committee table for purposes of the record.

Mr. O'LEARY. Probably the best thing is for each to identify ourselves in turn.

Mr. PRECHT. I am Henry Precht, Director of Iranian Affairs in the Department of State.

Mr. HETTINGER. I am Converse Hettinger, director of the Supply Division, Office of the Secretary for the Administration, Department of Commerce.

Mr. ROSEN. I am Gerald Rosen, Director of the Office of Fuels and Energy in the Department of State.

Mr. HOUSE. I am Bart House, Deputy Administrator, Nuclear Regulatory Administration Operations.

Mr. DINGELL. We thank you for being with us.

Mr. O'Leary, we will recognize you first and then we will recognize your associates in such fashion and order as they might choose.

STATEMENT OF JOHN F. O'LEARY, DEPUTY SECRETARY, DEPARTMENT OF ENERGY, ACCOMPANIED BY BART R. HOUSE, DEPUTY ADMINISTRATOR, OPERATION AND EMERGENCY MANAGEMENT, ECONOMIC REGULATORY ADMINISTRATION (DOE); HENRY PRECHT, DIRECTOR OF IRANIAN AFFAIRS, BUREAU OF NEAR EASTERN AND SOUTHERN ASIAN AFFAIRS, DEPARTMENT OF STATE; GERALD ROSEN, DIRECTOR OF OFFICE OF FUELS AND ENERGY, BUREAU OF ECONOMIC AND BUSINESS AFFAIRS (STATE); AND CONVERSE HETTINGER, DIRECTOR OF THE SUPPLY DIVISION, OFFICE OF THE SECRETARY FOR THE ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. O'LEARY. Thank you very much. I am moved to point out, Mr. Chairman, that the level of hospitality of this committee remains as ever, high. Your opening remarks, for example, I think gave me much too much credit, with one reservation. Formerly, when I appeared before this committee there were an adequate number of cups, Mr. Chairman. I notice that this morning we are very, very shy in that department. I understand that these cups are a petroleum product and perhaps that is the cause.

I don't say that to complain, Mr. Chairman, but simply to point out a slight deterioration from the quality and tone of the committee's action. Maybe it is the joint nature of the hearing.

Mr. OTTINGER. It is left to me that Mr. O'Leary has his cups.

Mr. O'LEARY. With regard to the last remark, it is quite the converse.

Now, moving to the statement, I do have a statement that I would like to file for the record.

Mr. DINGELL. Without objection, the entirety of your statement will appear in the record and we will recognize you for such summary as you choose to give.

Mr. O'LEARY. There are two points that I would like to draw from it. The first has to do with the level of buildup of stocks in the direction of meeting the 240-million-barrel target for October that was set by the President. I am pleased to be able to report to the committee this morning that we are well on target for the meeting of this objective.

We are adding very close to a million barrels a day and have been over the last 1½ to 2 months. We are achieving a very satisfactory level of buildup and indeed the last data that I saw for last week showed us within 3 million barrels of the same level for the year earlier, and on the basis of the discussions, the last round of discussions that we have had with the major refineries, it seems to me that barring some now unforeseen event, with regard to either refinery capacity—that is to say, unscheduled outages—or with regard to some now not scheduled shortage of crude on through the remainder of the buildup period, that we will in fact achieve the target.

Now, there is a question with regard to the downstream stocks, Mr. Chairman, that has arisen as a result of a study that was done by the National Oil Jobbers Council, and that has been supplemented by some work of our own. The most recent data that we have with regard to tertiary stocks show them to be, on the basis of a small sample, not a definitive sample, but one nonetheless in which the Energy Information Administration does have confidence. It shows tertiary stocks, which is to say, stocks in the hands of consumers, particularly of heating oil, to be in as good shape or in better shape at the end of July as was the case last year.

So I think we are showing, despite the fact that there were some statistical indicators that stocks were low in June, apparently there was a significant buildup in July.

My own feeling, Mr. Chairman, is that we are going to have an adequate supply of middle distillate heating oil for this coming winter. I have taken that view before this committee before. I did it with considerable confidence before you went on recess. I have even greater confidence in that conclusion today. I think we will be in comfortable shape.

One of the things that makes me believe that, Mr. Chairman, is the fact we have a 20-million-barrel cushion built into the 240 million objective and that will take care of any foreseeable slippage in downstream stocks.

Now, with regard to price, Mr. Chairman, I have brought before you a chart headed estimated components of residential heating oil prices that shows that at the current time the national price is about 80 cents compared to 49.4 cents for all of 1978, a 30-cent increase or a 60-percent increase over that period of time.

Unfortunately, Mr. Chairman, I am not able to make a distribution of the components of those price increases. That is to say, for August. Let me, however, give you the history through June, and speculate with you a little bit about what has occurred since June.

Through June, we saw that the price had gone up from about 29.6 cents, for all of 1978, to 40.5 cents, a very substantial run-up, and the June price did not fully reflect all of the price increases that have gone into effect both domestically and from OPEC for the raw materials and that now bear upon the August price and will bear upon the price into the fall.

I suspect that we are now in August at the point where most of those price increases are reflected in the price of middle distillate. They were not so reflected in the June numbers. My own estimate is that in all likelihood the raw material costs for August have gone up 5 cents to about 45 cents, from the June number of 40.5 cents to 45.5 cents, something like that. We will have much better numbers on that later in the month, Mr. Chairman.

It is evident on the basis of the history of the first six months of this year that reseller margins are rising quite steeply. For example, for all of 1978, they ran about 8.8 cents. These are refinery margins, 8.8 cents, and the indications here are that for the month of June they were 15.9 cents.

Now, these numbers have to be conditioned, Mr. Chairman. We don't quite know how to handle statistically the infusion of spot middle distillate into that market, so some of that price increase is legitimate from the standpoint of purchases by the major refineries of high priced product and then blending it into its overall sales price. This is a statistical weakness that we are aware of and are now trying to expunge. We hope we to have a better data on this by the end of September.

But at the moment I think you have to say even with that, that there are strong indicators, although not conclusive indicators, that there has been a very significant increase in refiner margins.

Now, with regard to the reseller-retailer margins, at least through June they tended to be equitable. We are showing 11 cents, 11 cents for 1979 and 12.7 cents for June of 1979. This indicates that among the various components that we contract the least increases in the three categories of increase have been in the reseller margin side.

Now, I think the lesson to be learned here, Mr. Chairman, is, first of all, that we are having very significant upward weighting in the middle distillate price as a result of crude increases, particularly those attributable to the OPEC actions of the last several months as they rolled into the price, as inventories began to adjust themselves.

Second, there is a strong indicator, but not conclusive, that refiner margins are increasing substantially. Our hearings that Congressman Moffett referred to earlier will delve into that later this month. We will have better data coming out of ERA, the Energy Regulatory Administration, over the course of the next week or so, and we have some contractors that are coming in. We have asked for some input from industry on this and, of course, that input will be made in the course of the hearings.

So, I think that we will have a better statistical handle on this before September goes. But at the moment, Mr. Chairman, I think we have to conclude that refinery margins have gone up quite substantially.

Mr. Chairman, those two points, that is to say, the adequacies, in my view, of the level of buildup of stocks, both at the primary and at the downstream levels, and our concern over the increase in prices, particularly at the refinery level, are the major points in my testimony this morning, and with that brief summary, Mr. Chairman, I would be pleased to answer any question you or your colleagues might have.

[Testimony resumes on p. 21.]

[Mr. O'Leary's prepared statement follows:]

STATEMENT OF

JOHN F. O'LEARY

DEPUTY SECRETARY

U. S. DEPARTMENT OF ENERGY

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to discuss the current middle distillate situation with you. My remarks will address several factors relating to the availability and price of middle distillates for the fall harvest and winter heating season, including the status of primary inventories, our assessment of secondary and tertiary stock levels and overall market conditions. Lastly, I will discuss the available policy options concerning middle distillates.

Middle Distillate Inventory Program

It appears that the Department's management of the middle distillate buildup program has been successful. Barring another significant supply interruption, we expect the industry to meet the President's goal of building primary stocks to 240 million barrels in October. For the week ending August 24, distillate inventories were 189.7 million barrels, only 2.8 MMB below last year's stock level at the same date. Industry is building stocks at a faster rate this year than last year. Since June 15th, of this year, stocks have been built at an average rate of approximately 875 thousand barrels per day. This rate is almost 300 thousand barrels per day greater than that achieved during the same period last year. If industry maintains this rate of buildup, the 240 million barrel target should be attained in October.

If, however, it appears that the inventory buildup is not proceeding to our satisfaction for the remainder of the summer and fall, we have a regulatory measure in standby status to mandate increased distillate production. Specifically, the Department issued a Notice of Proposed Rulemaking in July that would, if used, have the effect of mandating production through the use of refiner production orders. The coverage of such orders could range from the entire industry to selected corporate refiners or individual refineries.

The Status of Secondary and Tertiary Stocks

The 240 million barrel target is adequate to protect against a possible 20 million barrel shortfall in secondary and homeowner stocks. An important part of the Department's middle distillate management plan has been to obtain an estimate of the status of secondary and homeowner stocks.

Estimates by industry indicate that fuel oil dealer inventory is below last year's level. Within two weeks, we will have results from a number of surveys, conducted by DOE, the Census Bureau and states, that will help us evaluate sales and inventory levels of fuel oil dealers. The National Oil Jobbers Council has estimated that at the end of June residential fuel oil tanks were 9% below last year's level; however, an early August DOE representative sample survey of storage in single family dwellings has given indications that homeowner fuel oil tanks were at the same level or slightly higher than they were at the same time last year.

General Market Conditions

The allocation program administered by the Federal Energy Administration for middle distillates ended with the decontrol of distillates in July of 1976. Many refiners, however, implemented their own allocation systems with marketers in conformance with the requirements of the Uniform Commercial Code. In the absence of Federal controls, refiner allocation systems have been generally effective.

However, following the Iranian crisis in early 1979, and the resulting shortfall in crude and products, many refiners began to adjust their historical allocations. Middle distillates were allocated at reduced levels from previous contracts. However, in actuality, refiners supplied for the months of April, May, and June, the last months for which we have data, between 105 percent and 108 percent of actual 1978 deliveries for the same months.

We have limited data on the extent to which contracts have been renewed. During our meetings with the 32 refiners in May and August, this issue was discussed and refiners were urged to renew their contracts. As a result, many refiners have recently executed contract agreements with their bulk accounts at the wholesale level. We have also been meeting with major independent marketers to ascertain their supply status and have had reasonable success in locating alternate suppliers for them when requested. Thus, in the absence of formal allocations, the Department, with industry cooperation, has responded to shortage situations as they have been identified. In our judgment, the supply distribution system is functioning adequately at this time.

However, even if stocks are adequate, there still may be localized supply distribution problems. In previous winters these problems have been due to severe weather conditions, freezing waterways, and strikes. In the past, the Department has been successful in managing localized distribution problems. Our response has been to handle each on a case-by-case basis, without the need for allocation controls.

For example, a large New England terminal operator was refused a new contract by a major supplier that was withdrawing from the market area. At the urging of DOE and various state officials, the major supplier acquiesced and a new contract has been negotiated.

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Distillate Management Group

The Administration is particularly concerned about assuring deliveries of product to end users. We have created a special Heating Oil and Diesel Fuel Management Group to address these concerns. The group will involve DOE, Department of Agriculture and Department of Transportation personnel. Its mission will be to insure the availability of heating oil and diesel to marketers, farmers, truckers, commercial fishermen, barge operators and other consumers.

It will serve as a "clearinghouse" by redirecting product from refiners having adequate supplies of distillate to marketers in need of product. Special emphasis will be placed on coordination with governors. States are in an excellent position to determine and verify their unique fuel needs relevant to the harvest and home heating. We look forward to working with them. The group's efforts will receive the highest priority within the Administration.

Fall Harvest Requirements

The Department has enjoyed a very effective working relationship with the Departments of Agriculture and Transportation. In the next few months, while attempting to meet our first priority of providing adequate home heating oil supplies, we will also be sensitive to the farm and transportation diesel fuel requirements related to the harvest.

This year's harvest is expected to produce record yields in several major crops and anticipated revenues exceeding 40 billion dollars. This could result in a positive trade balance of 15 billion dollars.

For the spring planting season, the Department enacted Special Rule No. 9, which required all suppliers of diesel fuel to provide 100 percent of current requirements to agricultural customers, transporters of perishable agricultural commodities, surface public mass transportation systems, and oil and gas producers. The principal purpose of this rule was to provide enough diesel fuel for the critical need of planting the Nation's crops and other critical purposes. The combination of the general shortage of diesel fuel and weather conditions in the spring, which had condensed the planting season from a normal 8-10 weeks to 3-4 weeks, had left many farmers without adequate fuel to meet this critical need. All crops were planted successfully, even in that reduced time period. In this regard, Special Rule No. 9 was successful in accomplishing its objective.

Special Rule No. 9 was not without its drawbacks, however. No allocation scheme--which Special Rule No. 9 was to a limited extent--can create more total product. Thus, when more was given to agriculture, less was available for other uses that are also important, including the buildup of home heating oil stocks and use as a motor fuel for trucks, railroads and barges.

The two peaks in agricultural demand for diesel occur in the spring and the fall. The agricultural requirements for diesel are greater for spring planting than they are for the fall harvest. However, in the fall, truck, barge and rail transportation perform a more critical role in transporting the harvest than is associated with spring planting. Any special rule that would grant priority status to harvest-related agricultural and transportation needs would result in over 40 percent of middle distillate consumption falling into this priority category. It is our judgment that a harvest-related special rule could be very disruptive to the non-agricultural market and would therefore be inappropriate. As of August 24th, 78 percent of the agricultural crop reporting districts indicated adequate diesel fuel for harvesting activities. We have received no reports of farmers who have been unable to harvest their crops for lack of fuel.

Middle Distillate Prices

The DOE is monitoring refiner, wholesaler and residential heating oil prices. Additionally, DOE has funded 15 states to monitor, on a bi-weekly basis, residential heating oil prices. It is clear that there has been a significant increase in heating oil prices over last winter's level. As of the middle of August, the average national residential price of home heating oil from a survey conducted by several states in cooperation with DOE was 80 cents per gallon, an increase of approximately 27 cents or 51 percent over the December 1978 price.

Mr. Chairman, we believe that there will be adequate heating oil supplies this winter, and these adequate supplies will keep heating oil prices at competitive levels. Still, we are very concerned that prices will be much higher than last year and that they may impact severely on the poor. As I stated in my testimony last December 20 before this Committee, the economic impact of escalating energy costs on the poor is a significant national problem. There may be many people in our country who will be faced this winter with a cruel choice between food or heat. Although a price control system may prevent price gouging, even if controls were reimposed, prices would be much higher because of the cost increases of raw materials (crude oil) and inflation.

Therefore, we will need an energy assistance program in operation this winter. The Administration will request from Congress an additional 150 million dollars over and above the 250 million already appropriated for Energy Assistance. If approved, this will make a total of 400 million dollars available for energy assistance this winter.

Governmental Actions Regarding Middle Distillate Demand Reduction Initiatives

The DOE has undertaken actions directed toward reducing nonresidential demand for middle distillate so that more distillate will be available for residential users. These actions have included switching large end-users to gas or coal from distillates or low sulfur residual fuel oil, in which middle distillates are often blended to meet clean air standards. These fuel-switching actions include removing certain regulatory obstacles that existed previously in both ERA and FERC regulations. Our estimates indicate that demand for distillate by industrial users has been reduced by an average of 100 thousand barrels a day through the summer by these actions.

Other measures we have implemented to reduce discretionary demand for middle distillate included the order to Federal agencies imposing temperature controls and the mandatory temperature controls program for public and commercial buildings. These controls should be effective in reducing distillate demand this summer because many electric utility peaking plants operate entirely on distillates.

Middle Distillate Exports

On August 3, 1979, the Commerce Department issued licenses to export to Iran some $47 million worth of kerosene and home heating oil. Mr. Chairman, in your letter of invitation you asked me to comment on this action.

As you know, events in Iran over the past year have caused substantial disruptions in the world petroleum market. As a result of the turmoil accompanying the overthrow of the Shah, oil exports from Iran actually ceased in late December 1978, and for the first quarter of 1979 production averaged only 1.1 million barrels per day, less than 20 percent of the 1977 production level. The result was lost economic growth, higher energy prices and fuel shortages in the United States and other industrialized countries.

Iranian oil production now appears to be at a precarious equilibrium of about 4 million barrels per day. In June of this year, total Iranian oil exports to the United States were about 870 thousand barrels per day, equal to 10 percent of total U. S. oil imports and over 20 percent of total Iranian oil production during that month. The United States and Iran have thus reestablished a close commercial relationship in this critical commodity. Amerada Hess, the exporter to Iran in the transaction at issue, operates a large refinery in the U.S. Virgin Islands which is heavily dependent on Iranian crude for the production of petroleum products dedicated entirely to the U.S. market.

Earlier this summer, Iran suffered damage to its refinery and pipeline system. A U. S. sale of 2 million barrels of kerosene and home heating oil on an emergency basis is a reasonable and reciprocal action vis-a-vis the needs of one of our major oil suppliers.

It should be pointed out that the sale represents less than one-tenth of 1 percent of the annual U.S. consumption of these products and in no way jeopardizes the Administration's goal of 240 million barrels of distillate stocks in October. Thus, we anticipate no significant impact on the U.S. consumer as a result of this transaction. It is important to bear in mind that this export serves to encourage the continued flow of crude oil from Iran, which in July supplied the U.S. every three days with an amount of oil equal to the total export. The price for this sale was the same price FOB Virgin Islands that was being charged to Northeastern suppliers at the same point in time.

Middle Distillate Entitlements

On August 31, 1979, the Department extended until October 31 the $5 per barrel entitlements benefit for distillate imports. The entitlements, effective as of May 1, had been scheduled to expire August 31.

The action is designed to enhance U.S. supplies in order to build heating oil stocks to target levels. A reduction of imports could jeopardize that objective and the public well-being.

Production, imports and stocks of distillates have increased significantly over the last few weeks. Prudence dictated that we extend the entitlements benefit to aid us in reaching the 240 million barrel target while improving the deliveries to dealers, homes and other end-users.

Available Government Policy Options

Mr. Chairman, in the remainder of my testimony, I will focus on two additional issues: the potential for issuing refinery production orders and whether the current market situation is sufficiently serious that we should reimpose price and allocation controls on middle distillates.

DOE is currently assessing the level of distillate inventories, crude oil supplies, distillate imports, and distillate production for each of the 32 largest refiners.

If the analysis indicates that refinery production orders should be issued, the Department will be in a position to issue them by mid-September.

We are continuing to assess and monitor middle distillate supplies and prices to determine whether or not supplies will be adequate to maintain price competition. We will also be examining, at a hearing to be held on September 13, the extent to which heating oil prices have increased in relation to costs at different marketing levels. Our preference would be to avoid reimposition of controls, but we cannot preclude that possibility if, in our judgment, the situation warrants taking such action.

The best way to assure adequate distribution and equitable prices is to assure that there are adequate supplies. Price and allocation controls do nothing to increase supplies or reduce demand and can, in fact, be counterproductive to achieving such objectives. Controls will not force the industry to make the necessary efforts to obtain additional supplies. Price and allocation controls could restrict industry's ability and willingness to expeditiously provide supplies to those parts of the Nation where shortages may occur. Therefore, we believe that the best interim strategy is to continue our efforts on the buildup and movement of supplies, while continuing to monitor market situations as they unfold.

Mr. Chairman, that concludes my prepared statement. If you or the Subcommittee members have any questions, my colleagues and I will attempt to answer them.

Mr. DINGELL. Thank you very much.

Gentlemen, we have a number of other panel members here, Mr. Hettinger, Mr. House, Mr. Rosen and, sir, I am not sure I have your name correct.

Mr. PRECHT. We are here merely to answer questions which might be within our range of competence.

Mr. DINGELL. Maybe the Chair could ask do any of you other gentlemen desire to make a comment at this time or have prepared statements?

Mr. HETTINGER. I am also here to answer any questions that may arise.

Mr. DINGELL. The Chair observes it is the practice of the committee to recognize our colleagues in the order of appearance after those who were present at the time the gavel fell. So the Chair will recognize first in order of seniority. It is of course the practice of the committee that members are recognized for 5 minutes each. The Chair will recognize my friend and colleague and co-chairman, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman.

Again, Mr. O'Leary, thank you for your testimony and your appearance and your cooperation with us not only today but during your entire term at DOE.

Both you and I have had the pleasure of participating in the Fuel Oil Marketing Advisory Committee proceedings on fuel assistance for the poor and elderly. That group has recommended a program that will provide fuel assistance for people paying more than 10 percent of their income on home energy use. It is my understanding that those who pay more than 10 percent of their income are paying at a rate of twice the national average in terms of percentage of income.

The cost of that program that that group recommended, as you know, is $4.3 billion, with 100-percent participation and $3.2 billion with 75-percent participation.

Is that your understanding?

Mr. O'LEARY. Yes; that is my understanding.

Mr. MOFFETT. And is it not true that in determining the cost, in coming up with their cost estimates that advisory committee used last year's prices as a basis?

Mr. O'LEARY. Yes. I think that that particular session was about 4 or 5 months ago, Congressman.

Mr. MOFFETT. Yes.

Mr. O'LEARY. And, of course, at that time the prices were substantially below where they are today.

Mr. MOFFETT. Can we agree that their need assessment is low since it doesn't take into account the extraordinary price increases which have occurred since last January, home heating oil rising more than 50 percent in some areas?

Mr. O'LEARY. I am willing to agree with you that their estimate did not take that into account.

Mr. MOFFETT. So if you are going to reach a large percentage of the eligible population, would it be fair to assume that $3 or $4 billion is astonishingly enough, because it sounds like so much money, less than what is needed to adequately accomplish the goals of their proposal?

Mr. O'LEARY. Of their proposal. But I would not agree that their proposal is one that would really meet the test that I at least would impose upon proposals of the sort, Congressman.

Mr. MOFFETT. Well, despite the fact that their cost estimate of $3 to $4 billion would not be adequate in terms of meeting the needs of these people. it is my understanding of your statement that the administration is asking for only $400 million for fuel assistance. It is my impression that the administration is being slightly more generous, but please correct me if I am wrong.

My understanding is that they are asking for $400 million for the CSA fuel assistance program to be continued, as well as $1.2 billion for direct cash payments to SSI and AFDC recipients, hoping, I assume, that at least a portion of the $1.2 billion would be used for fuel costs. But since that $1.2 billion—if you can follow me—since the $1.2 billion may be incorporated from the overall energy package, and since it is unclear what percentage would be spent on fuel costs, it seems it may be safe to conclude only $400 million would be available for this winter. As in your testimony, that would come out to only 10 percent of what this advisory committee of the DOE estimates is needed.

Mr. O'LEARY. Yes sir, but of course double the amount that Congress has seen fit to provide for this purpose in each of the last 3 years, so you can cut either of the two ways, Mr. Chairman, either as a significant shortfall in I would think the very, very generous recommendation of an advisory committee, but in the real world, that is to say in budget terms, double the level of any past intervention and, of course, the record of past administrations in this area is zero.

That means going from nothing to quite a substantial sum in the course of only 3 years.

Mr. MOFFETT. Let me say that I and others have been working with a variety of people in the administration, both in the White House and DOE, and are grateful for what is being done. I don't want my remarks to be misconstrued in any way. But I am trying to present here a picture of what this enormous need is, granting that FOMAC in your eyes might be too generous.

Even if you have a funding level of $400 million, that is only providing an average payment of $25 per family, as I see it, or $33 if you have a 75-percent participation rate. Does that sound correct to you?

Mr. O'LEARY. I simply haven't worked it out recently to that level of detail, Congressman.

Mr. MOFFETT. Well, if you take the average heating oil cost in my State, which for example, last year, was 55 cents a gallon, a total of $680, was spent annually based on a conservative 1,200 gallon annual usage. The price range now in Connecticut is from 80 cents to 89 cents with a weighted average of 84 cents before the heating season even starts—the conservative estimate is that a family's heating oil costs would increase about $420 assuming an average price of 90 cents, which I think is reasonable, over the heating season.

Thank you, Mr. Chairman.

Mr. DINGELL. Time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania, Mr. Kostmayer.

Mr. KOSTMAYER. Thank you, Mr. Chairman.

Mr. Secretary, my office conducted a survey in our State during the month of August. We wrote to 705 retail distributors of home heating oil and we asked them a long series of questions, and incidentally, we found information very similar to what you have told us today as far as price increases.

There is some difference in terms of supply, however. We got a rate of response of 21 percent or 150 out of 705. The Library of Congress says that is double what you need to have a valid result.

They told us they are virtually all being curtailed now, 87 percent have been notified they will be curtailed as of August 1. There is a 40-percent shortfall in the summer fill and they expect that to be reduced by October 1, but they will still be about 20 percent short. They are receiving only about 76 percent of what they received for the same month last year.

Do you find that generally consistent or at variance with what you have found?

Mr. O'LEARY. Yes, we are going to have, Mr. Kostmayer, the results of some work that the census is undertaking on our behalf by or on about September 15, but in addition to that we have done work not at the level of stocks that you are discussing here but really downstream from there at the residential level and we find that although there is statistical evidence that stocks at the residential level were lower than normal in June, by the beginning of August or the end of July, apparently that debit had been recouped and they were at or above normal.

I think what I have testified earlier, Mr. Kostmayer, will turn out to be the case, that we will find despite the fact that the companies are on allocation, many companies are on allocation, we will find that the combination of these circumstances, the achievement by the industry of the 240 million objective to begin with, and second the maintenance of a respectfully high level of stocks downstream and third, the cushion, 20 million cushion within the 240 million objective, and very significantly, the probable reduction in demand as a result of these very price increases that you discussed here, will bring the situation into one of balance or even better than balance as we go into the heating year.

Mr. KOSTMAYER. How much can people reduce their consumption? It is not as though we were talking about gasoline. You say if we raise the price people will reduce their consumption.

Mr. O'LEARY. Mr. Kostmayer, in my own case, I heat with fuel oil and I think that over the immediate post-embargo period we were very rigorous in keeping our thermostat down. There is a creep in that over the last several winters. I am sure as the bills come in this winter that we will go back to the more rigorous attempt than we did in 1974 and in the winter of 1973–74, and beyond that.

In the simple pattern in which we live, we do have the capacity for substantially reducing our demand for heating oil. Indeed, most of industry estimates now are that there will be a reduction in demand, everything else being equal, that is to say, on a temperature equalized basis, of between 8 and 15 percent this coming winter.

Mr. KOSTMAYER. Your findings as far as the tertiary level in people's homes, is a little bit at variance with what the jobbers found.

Mr. O'LEARY. Not at variance. They are later. They were dealing with June findings and we are dealing with July findings. There was a substantial buildup during that period.

Al Linden from the Energy Information Administration is with me and is prepared to discuss that point with you if you would like to pursue it further.

Mr. KOSTMAYER. We are conducting another survey to try and find out exactly what stocks are in people's homes and we hope to have that in a couple of weeks. That will give us some more indication.

I am a little puzzled as to how supplies at the tertiary level can be adequate if they are clearly not adequate at the secondary level. Those people in their homes are getting it from somewhere and the distributors are receiving only 76 percent of what they received last year. Their summer fill is now up to what it ought to be by October 1, how are they getting enough oil and what leads you to think those levels are adequate at the tertiary level?

Mr. O'LEARY. It depends upon the distributor you are talking about. Most of the distributors that you are talking about don't have any stocks at all, they are rack purchasers, Mr. Kostmayer. They go to a primary supplier, to a bulk terminal and purchase from them. They really are not in the stock business.

Now, second, they buy quite often from more than one supplier. So when they say that Mobil, for example, is holding them at 95 percent—I am sorry, Mobil is 100 percent—Amoco is down at 90 percent, they do have the option and are exercising it of going to a different supplier.

The end result of this, Mr. Kostmayer, I think we will know a great deal more about by the end of September, but I want to tell you that the indications that we have now support the point that I made earlier that there will be adequate supplies of middle distillate even to meet a severe winter as a result of stocking that is currently going forward.

Mr. KOSTMAYER. Well, I want to ask you one more question about something Mr. Moffett dealt with, and that is price increases. Pennsylvania wholesale prices have gone from 41 to 65 cents a gallon, about 59 percent, which is generally what your information reveals.

Before we left on recess I offered an amendemnt to the DOE authorization which will require the administration, if the amendment is not knocked out in conference' to report back to us within 45 days as to whether or not price and allocation controls should be restored, having been removed sometime in 1976. Do you think they should be?

I have an editorial from the August 3 Washington Post, which says—I don't know whether it is accurate or not—22 cents went to the companies out of the 34-cent increase in the Washington-Baltimore area. Out of 34 cents, 22 cents of that went to the companies that transport, refine, store and distribute the oil. There has been a gigantic widening of operating margins all along the complex system that gets the oil to our furnaces.

Do you think those kinds of increases are justified, even given the increase of the cost of labor or OPEC oil or the rate of inflation?

Mr. O'Leary. I think that I dealt with that adequately in my opening remarks and I want to restate two points.

First of all, it gives me some sadness to tell you that we don't know with precision at this point where that August markup is and a lot, of course, occurred over the end of the summer.

Second, if the situation is as the current evidence indicates it to be, that is to say, if there has been a major run-up in the margins at refiners, it seems to me that that is cause for more major concern.

Mr. Kostmayer. Do you think there has been or do you have any opinion?

Mr. O'Leary. At the moment there are strong indicators, but because of the statistical weaknesses, the data weaknesses, I cannot say conclusively that there has been run-up of this magnitude.

Mr. Kostmayer. Thank you.

Mr. Dingell. Time of the gentleman has expired.

The Chair recognizes Mr. Gore.

Mr. Gore. Thank you very much, and it is a pleasure to have you once again as a witness, Mr. O'Leary. Lest you come to the conclusion that the best way to get kudos from Congress is to announce your resignation, I would refer you to the kudo expressed to you in your last presentation before that was announced.

I think you have done an excellent job and you have consistently demonstrated a mastery of the subject area of which you have given responsibilities and have made major contributions.

I would like to ask you some questions about diesel fuel. As you know, diesel and heating oil are very similar, almost identical in composition, and although the main focus of this hearing today has thus far been on heating oil, we face the possibility of severe problems with diesel fuel before the heating oil crunch comes.

As you know, there is a September harvest peak for number two distillage usage, and I would like to ask you whether or not you can give some assurances to farmers and independent truckers, who rely on a stable marketplace for diesel oil, that we will not have a recurrence this month of the catastrophe we experienced this spring?

Mr. O'Leary. I can't give those assurances unfortunately, Mr. Gore. The chaos that we had this spring is a concomitant of the tight market and what we had particularly with the abuses of special rule 9, which actively encouraged the distortions in the market, was the normal sort of pattern of hoarding, people protecting their own interests, the analog in civil terms is tank topping, and a shortage that was already there in real terms, but it was exacerbated by the actions of consumers.

You may know, you may recall, that we eliminated special rule 9 for precisely that reason. There were abuses there. People could simply come in and write their own ticket for these precious fuels and there were widespread abuses in there. Indeed there are indications that there were such siphoning off into the spot market as a result of the allocations.

So I think the first point that I will make has to do with the assurances of adequate supply and what I am telling you this morning is that we are comfortable with the trajectory of the buildup of supply for this whole middle distillate cut.

Now, the second point has to do with the management of the problem that you are laying out here.

We, of course had not, this management team had not experienced a comparable situation before. We went through it this spring. Bart House, who is with me this morning, was the head of our management team for this. He has had this experience now. He developed in the course of the spring a very close working relationship with the Department of Agriculture. We met last week with the Deputy Secretary of Agriculture, the Under Secretary of Agriculture, and set in motion the reestablishment of that working relationship for the harvest period.

We have now skilled, experienced energy offices in each of the States. That was not the situation this spring. That is to say, skilled in the sense that they have been through this now and know what to do. They will be able to make calls to us. We will be able to respond. We have current ties to industry so that we can put product where it is needed.

Let me go back to the spring and say there was chaos, there was disruption, there was distortion of market, there was siphonage, but we got through the planting season without any significant shortfall where it was needed. That is to say tractors in the field.

There were a few cases where farmers would have liked to have gone into the field 2 or 3 days earlier but by and large the Department of Agriculture tells us that the planting season was a success.

Mr. GORE. You may call it a success but we had snipers on the interstates and we had blockades at the distribution terminals. We had a breakdown of law and order. If that was a success, I would like to see some way to avoid a repetition of that.

Mr. O'LEARY. The point I was making was with regard to the planting season.

Mr. GORE. I understand. But, the planting season was partially over at the time that special rule No. 9 was taken off, and here we have the possibility of a recurrence, hopefully not a recurrence. Hopefully if there is a recurrence, to a milder degree. But we have this possibility facing us and you are not going to go back to special rule 9, the price and allocations controls are not in effect. What can be done if we begin to see these problems developing this month?

Mr. O'LEARY. Well, let me just give you one point here. One of the points that you are quite accurate in recalling was the difficulty with regard to the transport of agricultural products over the highways. We have now in connection with the Department of Transportation worked on a safe route strategy that has a route that does have State officials cooperating from the standpoint of public health and public safety and from the standpoint of Mr. House's operation it does have adequate supplies, will have adequate supplies of fuel, along those routes.

Mr. GORE. I am somewhat encouraged by that. In lieu of the limited time, let me ask you a question to focus and then if Mr. House wants to comment, I would be most pleased to hear it.

The operation of the program you have to insure the 240 million target level, it seems to me, runs the possibility of exacerbating this problem during September. If you neglect to include secondary and tertiary area stocks in the definition of that stockpile, you get the oil companies holding primary stocks artificially high as a mix of the overall stock makeup, and you have increased difficulty on the part of the distributors and ultimately farmers and truckers in getting the normal flow into secondary and tertiary stocks during the harvest season.

Now, is that going to continue? Am I right in saying that that may exacerbate the situation this September?

Mr. O'LEARY. Well, it may. My reasoned judgment on this point, Mr. Gore, is that it will not, and again I want——

Mr. GORE. What do you base that on?

Mr. O'LEARY. The 20 million barrel buffers that we have.

Mr. GORE. That buffer kind of appeared out of mid-air. The first time we heard about that buffer was very, very recently. At your last appearance here on June 29 you referred to the 240 target "with an ample crude supply and nominal and secondary and tertiary stocks. This level will suffice for the average winter."

There was no mention of a buffer until recently. The buffer came up about the time the October 1 deadline was shifted back to the end of October.

Mr. O'LEARY. Well, it may be that we failed in our responsibilities to communicate this to the Congress. From the very beginning of the planning there has been the thought there ought to be something over and above bare bones and when I referred to the buffer that is a cushion of a buffer bear bones mission.

Mr. GORE. You had no information on secondary and tertiary from which to calculate.

Mr. O'LEARY. We began this spring—I initiated 5 months ago work in the Energy Information Administration aimed at developing a satisfactory level of knowledge of secondary and tertiary stocks by this fall. We have that in hand then.

Mr. GORE. Thank you again for your appearance here. I appreciate it very much.

Mr. DINGELL. Time of the gentleman has expired.

The Chair recognizes the gentleman from Massachusetts, Mr. Drinan for 5 minutes.

Mr. DRINAN. Thank you, Mr. Chairman.

Mr. O'Leary, I am really disappointed that the Energy Department hasn't done something since you last appeared here on June 29. You indicated at that time that the Department of Energy was making a massive survey of the rise in the price of distillates from January through June. Apparently that analysis hasn't been done, but I was consoled to read that you are going to have a hearing next Thursday, and that possibly, conceivably, after that hearing you might reimpose controls.

What are the norms and who is going to sit at this hearing? What assurance does the public have that they are going to get a

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fair and adequate hearing on this question that is of such monumental importance to them?

Mr. O'LEARY. First of all, with regard to the timing of the hearing, it really depended upon getting data out, and we were a little bit more optimistic with regard to that hearing date than we should have been. We won't have the data out until early next week. Consequently, I have asked Mr. Bardin this morning to talk to consumer groups about whether it would be in their interest to postpone this hearing for a week or two.

Mr. DRINAN. You have said that the data that you have gives strong but not conclusive evidence that we are being ripped off—in the nice words—that refinery margins are increasing. You say you have strong evidence that this is so, but not conclusive evidence. What would make it conclusive? What can we hope for on September 13? What evidence would cause the Department of Energy to say that we are going to freeze the price of heating oil for 3 or 6 months?

Mr. O'LEARY. Well, I think what you are going to find in the course of the hearing that will be held later this month is an opportunity for consumer groups to come in and make their assertions.

Mr. DRINAN. They don't have the data. You people are in exclusive control of the data.

Mr. O'LEARY. No.

Mr. DRINAN. Suppose they come along and say there is conclusive evidence that the companies are putting the prices up to a level unjustified by the price of crude?

Mr. O'LEARY. I assume if they can make that case the administration will act accordingly. On the other hand, the other side of the equation will be that the people who have the stocks will be able to come in, and who have incurred the costs, and tell where those costs came from. That is a system that is time honored. That is the way we resolve a decision of this sort, Father Drinan, as you know, and I think that our record in this area is good enough.

Mr. DRINAN. I don't say it is good enough, sir, because the price has gone up and up since you decontrolled. All I am asking is something to tell my constituents. You say on page 13, "We will reimpose controls if in our judgment the situation warrants taking such action."

I just want to know what evidence you need to make it conclusive.

Mr. O'LEARY. Well, you need—I am sorry to turn these words on you, Father—you need conclusive evidence.

Mr. DRINAN. But how strong is it now? Let's get into that. How strong is the evidence?

Mr. O'LEARY. Right now it is very, very weak.

Mr. DRINAN. You said it was strong, sir.

Mr. O'LEARY. No, I say that there is a fairly strong case, if you simply take the numbers that came out in June. But when you look behind those numbers, into the constituents, here is what we don't know.

We don't know what has been happening to operating costs of refiners. Let me just give you two points. Wages have been going up, and overall we have had over the last 3 years since decontrol a

30-percent inflation in this country, or maybe a little better than 30 percent.

That is not incorporated into those numbers. We simply don't know where we are with regard to refining costs.

Second, again related to refining costs, a good bit of refining costs are associated with fuel costs. This, this goes back and feeds on it.

Fuel costs have either directly or incrementally on the margin gone up very substantially over the course of the last 2 years, particularly the last 6 or 8 months.

While we see a prima facie case that margins have gone up, I have to tell you—and I do this with some sadness—that we don't know what has been happening to costs, so we cannot make that crucial comparison between costs on the one hand and margin on the other, that will let us make conclusions with regard to profitability.

Mr. DRINAN. Well, then there is a possibility that the price could go up to $1.25. I mean DOE has no control over this. You are not going to reimpose controls. If the oil companies want to put it to $1.25 come December, they can do so.

Mr. O'LEARY. Father, I don't think that that follows at all from what I have said.

Mr. DRINAN. People from the DOE said months ago it is not going to get up to 90 cents and here it is, the price has more than doubled in 1 year. Let's have some frank and candid estimate as to what might happen this winter.

Mr. O'LEARY. You recall last year we had extensive hearings in this room on that point. That emerged from a report from the Office of Hearing and Appeals from the Department of Energy.

At that point we found that there had been since the period of decontrol an increase in the price of middle distillate of 10.5 cents. We found that 0.5 or 0.4 cents of that dime runup could not be accounted for on bases that would have been permitted to be passed through to consumers, under the control program we had in effect until 1976; that is to say, until last year, the last time we made a rigorous examination of this, there was no evidence at all of undue gouging, of taking advantage of consumers on the part of any sector of the oil companies.

What we had was a substantial increase, in raw material costs, operating costs.

Now, I note that once again margins have gone up substantially. That is the data that are before me. Now, to say that we would have affected that conclusively by the imposition of controls, reimposition of controls, or indeed by the maintenance of the old control system is simply not within any statistical orbit. It doesn't follow.

Mr. DRINAN. One last point, Mr. O'Leary. I have here that study of the DOE, dated November 1978. It concluded there had been price gouging in this area, and said that, "The burden of making that showing that there hasn't been should now be on the industry."

At the hearing on September 13, will the industry have the burden of proof or what?

Mr. O'LEARY. Well, I think what you have is a question of the general counsel of the department is going to have to answer. But in this particular case, the case that you are referring to, I reviewed that document.

The conclusion that I came to is the conclusion that I have just presented to you. There had been a better than 10-cent runup in the delivered price of heating oil to homes, and of that 10 cents 0.4 could have been assessed as an increase in profits unjustified or justified, but an increase in the profitability of the refiners.

I do not agree with the conclusion of that report, didn't agree then, don't agree now, that that was an undue, excessive profitability on the part of industry that would call for the reimposition of controls.

If we find something like that as a result of our current review, then I would have to come to the same conclusion.

Mr. DRINAN. Thank you very much.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York, Mr. Ottinger.

The Chair recognizes the gentleman from Texas, Mr. Loeffler.

Mr. LOEFFLER. Thank you, Mr. Chairman.

Mr. Secretary, I find it somewhat incomprehensible that we would make sales to Iran when in fact we have the scarcity of product here in the United States that we are talking about—the distribution of home heating oil to the Northeast.

Certainly I understand the problems in the Northeast, but I think it is also important to remember that home heating oil is also used in Texas, and it is used in other parts of the country as well. We are making the effort to store 240 million barrels, which is understandable.

My question lies with respect to supply. You expressed earlier that supplies of home heating oil would be adequate. That is in New England. What about the rest of the country? What about Texas?

What about the 21st Congressional District of Texas? What about diesel fuel for the farmers and ranchers, and diesel for the use of production of oil and gas in the 21st Congressional District?

What about our truckers? Again, in my travels throughout the month of August in my congressional district, people were absolutely incensed that we would sell a very scarce commodity to an unfriendly nation for a price much less than what we are paying, for instance, in Texas.

In Texas, many purchasers of diesel, in a very scarce situation, are paying between 90 cents and $1, in essence almost double in price what the sale has been reported to be to Iran.

Would you please elaborate with respect to the supply situation—take it away from New England. Let's look at the rest of the country as well. Not only will New England need home heating oil, but the rest of the country will need it as well.

Mr. O'LEARY. Mr. Loeffler, the 240 million objective is, of course, a national objective. It is not a heating oil objective. It is a middle distillate objective that runs to diesel as well as to furnace fuels.

Consequently, it meets precisely the criteria you have outlined. What about your truckers. They will be protected by the attainment of that 240 million goal. How about the farmers? Again, and the people that depend upon it for heating oil, the refiners, for example, they too will be protected by it.

Mr. LOEFFLER. Where is that supply now being stockpiled?

Mr. O'LEARY. The primary refiners and at bulk terminals all over the country, a lot of it in your part of the United States.

Mr. LOEFFLER. Then why is it that we are experiencing the scarce supply of diesel? For instance, as farmers are getting ready in the west Texas area for harvest they are on a very tight string and paying a very high price.

Mr. O'LEARY. They are on a tight string because we are still in the situation where the situation with regard to products is not comfortable. I am content that by the time we move into the planning season, we will find probably small misadventures, small dislocations of supply—into the harvest season, I am sorry.

But I am content that we will have enough fuel and the proper management techniques have been established by the Department of Energy and the Department of Agriculture and the Department of Transportation, to see to it that that fuel is there with minimum disruption.

We are not in a business as usual year. We still have the effects of the loss of Iranian production that will be with us for some time to come, until stocks are built up to the point where they are adequate and we are entirely over the episode of the first quarter of this year.

But I think that we will be able to get through without any serious interruption on the harvest, and without any serious interruption in the capacity to move that harvest to market in your part of the country, as well as all other parts of the country.

Mr. LOEFFLER. How do you reconcile the decision, then, to export a scarce tool—when in essence we cannot be comfortable with our own needs here—at a price significantly lower than what we are paying currently in our own domestic market?

Mr. O'LEARY. First of all, with regard to price, the price of this transaction was at a price that the particular seller, Amerada Hess, offers to its other bulk off-takers, to its cargo tankers.

It was in the range of 55 cents per gallon, and that at the time of that transaction was more or less the going price. Now your people are paying substantially higher because there are a number of changes to get to the point of the farmer purchasing it for his tank.

But to the major suppliers, the major off-takers of Amerada Hess, that was the going price.

Mr. LOEFFLER. Well, then, I assume that the Iranian Government, as it has been purportedly stated, will be able to resell our U.S. fuel at a profit. Based upon the contract price that they have with Amerada Hess, the Iranians could sell to anyone throughout the world they wish at a profit.

Mr. O'LEARY. I suppose that is technically correct. I am confident that we would not have had this whole sequence of events of an agency of the Iranian Government to the Hess operation asking for this particular assistance had there not been at least the perception of need for domestic use within Iran.

Further—and I think that this is the compelling point from your standpoint—we are involved in a two-way trade with Iran. We send them a lot of agricultural commodities. We send them a lot of manufactures. We provide them a lot of architect engineering services and a lot of air conditioners.

Mr. LOEFFLER. I did not believe the Khomeini government has even recognized the United States at this point.

Mr. O'LEARY. They have recognized us to the point of sending us almost a million barrels a day.

Mr. LOEFFLER. 750,000 compared to a million that we were getting before, and it is still an unstable market we cannot rely upon. In essence——

Mr. O'LEARY. Mr. Loeffler, in today's world, if you have a supplier who will day in and day out provide you with 750,000 barrels a day, count your blessings.

Mr. LOEFFLER. So what do we do when the Arabians call and say, "We need 47 million gallons of diesel"? Are we going to sell it to them, too, at a cutrate price?

I would like to ask one other question. Who are the purchasers from Amerada Hess in addition to the Iranian Government?

Mr. O'LEARY. That is a matter of privilege, Mr. Loeffler, and I simply would not feel free to provide that information to you.

Mr. LOEFFLER. It seems to me——

Mr. HETTINGER. The terms of the export license require consumption of that No. 2 fuel oil and kerosene in Iran. Advance written authorization from the Department of Commerce would be required before it could be exported.

Mr. LOEFFLER. What about the statement——

Mr. HETTINGER. Exported and sold to some other destination. I understand that the Department of State has sought clarification of the reported statement that it would be available for re-export. My colleague from the Department of State may wish to comment on that point.

Mr. LOEFFLER. I would be happy to hear your comment.

Mr. PRECHT. We were in touch with the Iranian oil company. They have published a statement in the Iranian press which has not been picked up in the American press to the effect that the remarks of the chairman of the DOE were totally misunderstood, that it is the intention of the Iranian Government to use every drop of the oil purchased from the United States in Iran.

When the chairman made the remarks that he could, if the oil was not needed, sell it abroad, the article went on to state that they were attempting to reassure the Iranian public that they were not becoming overly dependent on the Americans for a supply of refineries.

Mr. LOEFFLER. I would like to interrupt you at that point and say that you are talking about a media report. Do you have anything further of substance besides an article appearing in a newspaper in Iran, which can be controlled by the Iranian Government?

Mr. PRECHT. We have the statements to our embassy officers by officials of the Iranian oil company, yes.

Mr. LOEFFLER. Who are those officials?

Mr. PRECHT. Well, they are senior officials of the company.

Mr. LOEFFLER. Could you provide the committee with a list of those officials?

Mr. PRECHT. Certainly.

Mr. HETTINGER. If I may respond to your earlier question, this particular export was approved under a seldom-used provision in our regulations providing for the authorization of exports of commodities subject to petroleum export quotas on an ex quota basis for overriding foreign policy reasons.

The finding, the determination that there were overriding foreign policy reasons present in this case was made by the Under Secretary of State in consultation with the Department of Defense.

Mr. LOEFFLER. What are the overriding foreign policy reasons?

Mr. HETTINGER. I must defer to my colleague from the Department of State on that point. If I may just complete my comment—we also received urging from the Department of Defense to approve the export, and the Secretary of Energy recommended the export and confirmed to us that the transaction had been approved by the President.

Mr. LOEFFLER. Would you please respond to the overriding foreign policy considerations? I have not heard one comment with respect to that.

Mr. PRECHT. I think Mr. O'Leary described our motivation in going ahead with the sale.

We are importing from Iran just about as much crude oil as we received from Iran prior to the revolution. You have to bear in mind that Iranian production is down by about one-third.

So, that proportionately, at a time when the United States is in some trouble in Iran, there is strong anti-Americanism in the country, we are receiving far more Iranian oil than, on a proportionate basis, we might expect to receive.

We receive some 750,000 barrels a day. That is equivalent to about 3 days' supply that we send to Iran from the Amerada Hess refinery.

Mr. LOEFFLER. I just want to remind you that that 3-day supply would be very critical in a farming area during 3 days of important crop harvesting. But go ahead. Again, I want to hear the overriding foreign policy reasons.

Mr. PRECHT. Well, I think it was with an eye to assuring a continuing substantial supply of Iranian crude that we made this transaction. Amerada Hess is a firm that is heavily dependent on Iranian crude oil.

In effect, the company was refining crude from Iran and returning it to them for their domestic use.

Mr. LOEFFLER. Thank you, Mr. Chairman.

Mr. DINGELL. Mr. O'Leary, you set out that this matter was a matter of privilege or confidential as regards—you mentioned——

Mr. O'LEARY. As regards the other offtakers or customers of Amerada Hess, yes.

Mr. DINGELL. Is that confidential or privileged or what?

Mr. O'LEARY. It is proprietary, Mr. Chairman.

Mr. HETTINGER. May I respond to that point, Mr. Chairman.

Mr. DINGELL. Yes, you may. I would like a very specific citation in the statute which makes it so.

Mr. O'LEARY. Be pleased to, Mr. Chairman.

[The following information was received for the record:]

Amerada Hess Customer List

I declined to provide the information during the public hearing on the grounds that the information very likely is proprietary. In response to your request, I did promise to supplement the record by citing legal authority for my position.

For purposes of public disclosure, DOE has consistently treated customer lists as falling under the Freedom of Information Act exemption for trade secrets and confidential commercial information (5 U.S.C. 552(b)(4)). Moreover, the provisions of the Trade Secrets Act, 18 U.S.C. 1905, likely would apply to the public disclosure of such information. Accordingly, DOE would not choose to make such information publicly available. Of course, if DOE were in possession of information which was the subject of a formal request from the Subcommittee, DOE would comply with such a request. If DOE were to provide the Subcommittee with such information, the Subcommittee would be advised of DOE's position and cautioned against its public disclosure.

As a matter of fact, DOE does not have a complete list of current Amerada Hess customers. We do have customer lists covering the period from May, 1973 to July, 1976. For the months of March and April, 1979, we have a partial list of customers.

Mr. Hettinger. Normally the details of the export transaction would be subject to the confidentiality strictures of section 7(c) of the Export Administration Act of 1969 as amended.

However, in this case the exporter, Amerada Hess Corp. has given us permission in writing to reveal the details of the transaction.

Mr. Dingell. All right. Now that is with regard to that specific transaction.

Mr. Hettinger. The export transaction, correct.

Mr. Dingell. Now, what about the other customers of Amerada Hess?

Mr. O'Leary. Other customers are, as I say, proprietary. That information is proprietary and is protected by the Freedom of Information Act. I will be pleased to provide the committee a cite on that, Mr. Chairman.

Mr. Dingell. I must confess, I have studied the Freedom of Information Act from time to time because of questions of this kind. I am incapable of agreeing with you on that particular point at this time.

Mr. O'Leary. Mr. Chairman, I am bereft this morning. Mr. Fygi, who, as you know, is the expert on this and all other matters legal, is not with me. Were he here, I am pretty sure he could convince you of the rightness of the stand I have taken.

Mr. Dingell. Mr. Fygi and I have had many interesting differences over our respective careers on matters of this sort. We have not always arrived at a firm agreement.

The Chair recognizes now Mr. Fithian.

Mr. Fithian. Thank you, Mr. Chairman.

Mr. O'Leary, I would like to direct your attention to the two charts I just had the staff give you and are now being given to members of the committee, as far as they will go.

[The charts referred to follow:]

Distillate Fuel Oil Stocks at
Primary Level -- Midwest Region

	1977	1978	1979
Jan	42.5	68.6	52.0
Feb	37.9	54.9	39.0
Mar	39.8	47.9	33.9
Apr	41.9	47.1	33.7
May	46.2	47.1	35.1
Jun	51.8	49.5	39.8
Jul	60.6	57.3	48.6
Aug	71.1	63.4	*
Sep	77.3	67.0	
Oct	81.1	67.6	
Nov	81.7	64.9	
Dec	78.4	63.4	

* Week Ending:

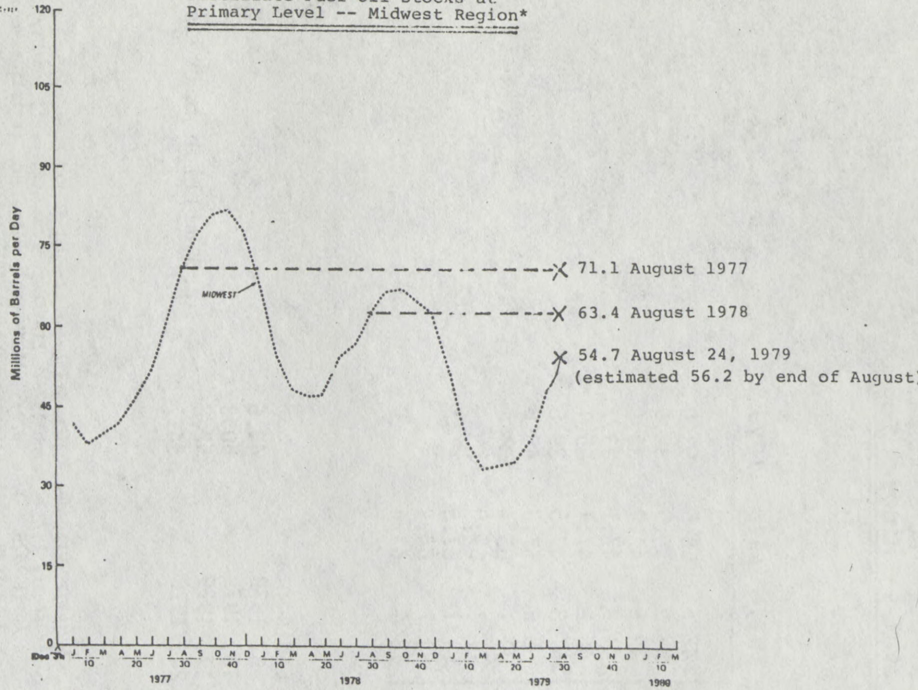
Aug. 3, 1979	49.6	
Aug. 10, 1979	50.3	
Aug. 17, 1979	52.2	2.5 million barrels
Aug. 24, 1979	54.7	

Source:
- 1977: EIA, "Petroleum Statement, Annual (Final Summary)"
- January 1978 - March 1979: EIA "Petroleum Statement, Monthly"
- April 1979 - June 1979: EIA "Monthly Petroleum Statistics Report"
- July 1979: EIA estimates based on API weekly data.
- Week Ending Data: API "Weekly Statistical Bulletin"

From U. S. Department of Energy Weekly Petroleum Status Report, August 31, 1979

Stocks

Distillate Fuel Oil Stocks at
Primary Level -- Midwest Region*



Source:
- January 1977 - January 1979: EIA, "Petroleum Statement, Monthly"
- February 1979 - April 1979: EIA, "Monthly Petroleum Statistics Report"
- May 1979: EIA estimates based on American Petroleum Institute (API) weekly data
- Week ending data: American Petroleum Institute "Weekly Statistical Bulletin"

From U.S. Department of Energy Weekly Petroleum Status Report, August 31, 1979

* PADD Region II, including Indiana, Illinois, Minnesota, Wisconsin, Oklahoma, Kansas, Ohio, Kentucky, Tennessee, Michigan, Iowa, Missouri, Nebraska, and the Dakotas

Mr. Fithian. I am directing your attention to the area of your repeated assurances this morning that we are going to have adequate supply. I want to draw your attention to those two charts because it looks to me like in the Midwest area, that your assertion simply cannot hold up in light of the data which comes from your Department, the Department of Energy.

To summarize that, if you follow that chart, those figures which you issue in your August 31 report, you will see on the chart that the August 24 distillate stocks in the region were listed as 54.7 million barrels.

Assuming that the middle distillate stocks continue to accumulate in the region at about the same rate as they did in late August—that is about 2½ million barrels a week—we would have about a 56.2-million-barrel total at the end of August.

When we compare that 56.2 million figure with figures for August 1978 or August of 1977, the problem must become obvious to all as to what is going to happen in that whole midwestern region.

We see this region, which includes our own State of Indiana, but also Illinois, Michigan, Ohio, Tennessee, Kentucky, Wisconsin, Iowa, and Missouri, and all the Great Plain States, from North Dakota to Oklahoma, now has approximately 7.2 million barrels of middle distillate less than they did 1 year ago, and 14.9 million barrels less than in 1977.

If my arithmetic is correct, that shortage then represented by those figures is anywhere between 13 and 27 percent depending upon which year you use as a base.

We have expressed a great deal of concern about other areas of the country. I have supported that repeatedly. I am not provincial in this. There is genuine concern about the distribution problem that these figures represent.

My own judgment is that the 1977 figures would be more accurate given the winter we had, which was pretty mild in 1978.

My question is twofold. Why, if your own figures are accurate, is the Midwest taking the brunt of the middle distillate shortage; and what, if anything, is the Department prepared to do about it?

Mr. O'Leary. I don't think it is taking the brunt of the shortage, Mr. Fithian.

Do you have a copy of our latest weekly petroleum status report before you, the one labeled August 31, 1979?

Mr. Fithian. I think so.

Mr. O'Leary. If you look on page 19 of that, it gives the distillate fuel oil stocks by region. If you take a look, for example, at the 1977, July right across, versus July, which is the last number appearing at 1979, you will see that the shortfall is generalized.

We certainly don't have a situation in which the Midwest has been picked out. Let me just give you the numbers.

In July of 1977, for the east coast we had 91.2——

Mr. Fithian. Hold it just one second. I am not sure I have the same set of figures that you are dealing with here.

Mr. O'Leary. Page 19.

Mr. Fithian. OK.

Mr. O'LEARY. What we had in July of 1977 was 91.2 for the east coast, now 72.7, shortfall; very substantial shortfall if you take only those data points into context.

Also take a look at the total U.S. stocks. July, 204 versus 168, in July of 1979. The Midwest, as you point out, 60.6 versus 48.6, very substantial shortfall. Gulf coast, 35.6 versus 31.9. And so on across the chart, Mr. Fithian.

I think what we are finding is a generalized reduction below the levels that obtained 2 years earlier, and no discrimination against the Midwest or any other part of the country.

Mr. FITHIAN. Well, let me just ask you to make that comparison, as you projected it on into August in your own figures, where in my calculation the figure is 6 percent above in New England, which has been very hard hit, and we all know that.

Their total stock is 6 percent above last year, and only 12 percent below 1977. Isn't that correct? If that is correct, then the 13 percent to 27 percent for the Midwest represents something double.

Mr. O'LEARY. Yes. Mr. Fithian, I mentioned earlier the abuses of special rule 9. That was particularly prevalent in your part of the country. The Midwest, being the breadbasket, as it were, of this country, with all that enormous amount of agricultural activity, was the area in which stocks are simply sucked away as a result of the action of special rule 9, and some of what we are seeing here is the attempt to recover from that very, very severe drawdown of the spring and early summer.

Mr. FITHIAN. I have two concerns. Is that the end of the 5 minutes, Mr. Chairman?

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from North Carolina, Mr. Broyhill.

Mr. BROYHILL. Thank you, Mr. Chairman.

I have enjoyed working with you over the years, Mr. O'Leary, and am certainly sorry to see you leaving. You are one person in the Department that I have felt has had a pretty good grasp on the situation, and has given good, concise, and accurate information over the years.

However, I am concerned about the statements that you are making here today, which leads to believe that we are not going to have a problem with heating oil supplies this winter.

I have done some checking in my congressional district, spot checked with some of the oil distributors and oil jobbers. I find a very disturbing situation, or it is to me.

I would say with those people that I have checked with, on their average their stocks—and that is in the tanks of the distributors—their stocks are about half of what they were 1 year ago at this time, and also their customer tanks are only about ½ or even less than they were 1 year ago at this time.

If this situation is the same all around the country, you are not going to have enough in the national stockpile, or whatever you are calling it there, that would take care of filling up these tanks by the heating season and keeping them full during the heating season.

Then when you combine that with the fact that some of the suppliers have withdrawn from our marketing area, some, for example, are no longer selling kerosene. Kerosene is still a major fuel supply in our area, or source of fuel in our area.

What is even more disturbing, we find that kerosene is used primarily by older people. They don't have a supply of heating fuel.

Of course, then the other thing that disturbs me is that when these people do get their heating oil, it is going to be at a far higher price than they would have paid if that supply had been available last spring, when they would normally have been filling up their tanks.

They are not only going to be paying more, but it would appear that the suppliers—that is, the refiners, are going to be making even more profit than they would have back a few months ago.

I wonder if you could speak to that.

Mr. O'LEARY. Congressman, the situation you are pointing to in your part of North Carolina is not typical of what we are finding nationwide. I am going to ask Bart House to get in touch with your office and work with your people to find out what is happening there so we can clarify the situation.

If the sample that you have drawn is representative of your whole district, then we have a problem.

Mr. BROYHILL. I haven't checked with all, but just a representative group, and this is the information that is coming back to me.

Mr. O'LEARY. As I say, it simply doesn't follow from what the Energy Information Administration is finding on the basis of their nationwide collection. What we are finding is by and large tertiary stocks—that is to say, the stocks in householders' hands—are at or above right now the levels of 1 year ago.

As I say, I will have Mr. House get in touch with you and we will find out if there is something wrong in your congressional district.

Mr. BROYHILL. Thank you. I hope you are right, that this is not a national situation.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Alabama, Mr. Shelby.

Mr. SHELBY. Thank you, Mr. Chairman.

Mr. O'Leary, I have several questions. You know we are all interested in our respective congressional districts, whether they are Alabama, Arkansas, Michigan, or so forth, and how this might affect us. I think we should be.

I think there is a deeper question here; that is, what is this going to do to the U.S. Government and us.

I would like to know what assurances, if any, we were given by the government in Tehran to us of continued oil exports in exchange for this.

Mr. O'LEARY. Mr. Shelby——

Mr. SHELBY. If any.

Mr. O'LEARY. My suspicion is that there were none. Let me just tell you again how I view this matter. We receive from Iran close to a million barrels a day.

Mr. SHELBY. I understand that.

Mr. O'LEARY. We exported back to them in a situation where they saw a significant shortfall of very, very strategic fuels from the standpoint of the well-being of their population, the equivalent of 3 days 'of that import.

Now, it seems to me that even a commodity such as oil is subject to the rules of international comity; that is to say, you take a look at a person's need, if you take a look at your dependence on them, their dependence upon you, and you make these decisions on the basis of what is best ultimately for the country.

I tell you that if you had been there, Mr. Shelby, and knowing the sensitivity, you would have made the same decision.

Further, I will say that when I talk to associates and they say what is this terrible thing the Government has done, and you spend 15 minutes with them talking about our dependence upon Iran, and they will start off with the same view, that Iran is a hostile nation and holding us and not playing fair with us, and then you say here is a very small export that is part of the cement of rebuilding good relationships with that country, that is so important to our future——

Mr. SHELBY. Mr. O'Leary, why was it necessary to shield this transaction in what I would call a lot of secrecy?

Mr. O'LEARY. It was not shielded.

Mr. SHELBY. It surely wasn't brought out early in the open. How long was it before the press or anybody leaked it to the American people?

Mr. HETTINGER. May I respond to that?

Mr. SHELBY. Yes; I would like for you to.

Mr. HETTINGER. With regard to your earlier question first, there was no specific assurance sought or given as part of the licensed transaction. That is not required by our regulations.

The approach was made by the National Iranian Oil Co. to Amerada Hess, which came to us and filed an export license application. They met all of the requirements and, in addition, we had all of the determinations and recommendations I mentioned earlier.

The licenses, there were two, one for kerosene and one for——

Mr. SHELBY. I am familiar with that. But why was it so shielded from the American people?

Mr. HETTINGER. Mr. Shelby, the licenses were issued on August 3 and the fact of their issuance was published in the Commerce Department's daily licensing list for that date.

Mr. SHELBY. Was anything else said about it other than publishing in a routine way that day?

Mr. HETTINGER. No, we don't normally do so because of the strictures of——

Mr. SHELBY. It wasn't released because you didn't want it out, is that right?

Mr. HETTINGER. That is not correct.

Mr. PRECHT. Could I make a comment on this. This is a matter of some sensitivity in a very volatile political situation in Iran. I think it would not have done the Iranian Government, the moderate groups in that country, any good for us to make a particular announcement of this sale.

It did come out. We tried to explain it at the time. We did not try to cover it up.

Mr. SHELBY. Doesn't it really amount to sophisticated blackmail in a sense?

Mr. O'LEARY. No.

Mr. SHELBY. Where is this Government going to stop?

Mr. O'LEARY. Mr. Shelby, this is far, far away from any form of sophisticated or unsophisticated blackmail. This is the sort of normal relationships that civilized countries have with one another. They needed something that we have; we need something that they have. That is the basis for a trade.

Mr. SHELBY. But then you said you have no assurances, Mr. O'Leary, that we are going to continue to get any oil from them.

Mr. O'LEARY. No, but 3 days after that transaction was entered into, we were even, Mr. Shelby—3 days after that transaction was entered into, we were even, if you are worried about oil account.

Mr. SHELBY. Well, I think we ought to try to get ahead.

Thank you.

Mr. O'LEARY. Mr. Shelby, we are ahead each year by a factor of 100. You know, to take the view that we should simply say to the countries that send us these useful commodities, that we should not return the favor, is simply——

Mr. SHELBY. I agree with you, Mr. O'Leary, we should do that. But we should have some assurances. The way this was handled—and I have to say again it was handled under a cloak of secrecy of some sort, during the August recess, while Congress was out of session. There was nothing leaked to the press on it. I believe the American people have a right to know what is happening here.

I agree with you. You might have some sensitivity here dealing with the Iranian Government, the form that it is now.

Mr. HETTINGER. Mr. Shelby, if I may. The provisions of section 7(c) of the Export Administration Act prevent us from issuing a press announcement when we issue an export license.

Without the special permission which we have obtained from Amerada Hess Corp. in this instance, we would not be able to discuss the details of this transaction in an open hearing.

Mr. SHELBY. I am sure that the American people would like to know more about it. That is why we are having the hearing.

Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now Mr. Synar.

The Chair recognizes the gentleman from Texas, Mr. Leland.

The Chair recognizes our colleague from Indiana, Mr. Sharp, for 5 minutes.

Mr. SHARP. Thank you, Mr. Chairman.

Mr. O'Leary, I would like to add my compliments to those you have heard this morning. I have expressed them to you in private in the past. I think you have made a superb contribution to this country, and I hope others who don't often get public note get some in the process of this kind of activity.

I think that we need public servants who are knowledgeable, hard working and try to make a contribution in the face of extreme criticism in this country. I respect the job that you have done. I hope that others in the departments, some of whom are leaving now, as well receive the public commendation for their work.

Mr. O'Leary, I would like to ask, if I might, a bit more about the harvest question, which is, of course, of great interest in my area of the country. I wasn't clear from your response to Mr. Gore what you see the situation as.

Am I correct you anticipate us generally having enough, but you are making preparations in the event we need allocation rules?

Mr. O'LEARY. We have begun last week working with the Department of Transportation, the Department of Agriculture, and with the State energy office so that we will be sure of these things, Mr. Sharp.

First of all, when we begin to get into trouble from the standpoint of supply, we know about it. The State energy offices and Department of Agriculture let us know this. We can get a validated assessment of where we are with regard to supply from the county agents and from the State energy offices.

Second, that we have the transportation capacity to get the fuels in.

Third, from Mr. House's operation, that we can work with the major suppliers to be sure that the supply is available to go through the transportation system and get to where it ought to be in order to get the crops out and delivered.

So, I think that this will work better than the system we had in place in the spring, that despite the criticism we received I think worked adequately given the overall situation.

We did in fact get through the planting season without significant disruption, even in the most sensitive parts of the country, including your own.

Mr. SHARP. Do I understand that you are hopeful of taking an approach different from that in the spring; that is, of avoiding a general rule and hoping to deal with specific localized cases?

Mr. O'LEARY. Yes; we felt that special rule 9 was badly abused. I think that we would be hard put to construct a rule.

Now, we can, we probably could, but I think we would be hard put to construct a rule that would not be subject to abuse; that is to say, without putting a policeman on every tractor.

Consequently, I hope that we can do it and really feel confident because the supply situation fundamentally is going to be better this fall than it was in the spring. I think that we can do it without the reimposition of that sort of qualitative control.

Mr. SHARP. Well, obviously, too, we require more transportation in the harvest season.

Mr. O'LEARY. Much more.

Mr. SHARP. So it is critical that we not be allocating away from the transportation or find ourselves having to choose between the two if we can possibly avoid it.

Mr. O'LEARY. Yes; we note during the critical period of the harvest and the transportation period thereof, that agriculture-related demand is 40 percent of total demand for middle distillates.

Mr. SHARP. Well, Mr. O'Leary, in recent weeks—and I have not had any recent information from the State of Indiana energy office—one of the top energy officials in the State of Indiana has been publicly challenging the Department of Energy's view that we will have adequate middle distillates for the fall and winter.

I am wondering if your department has had any particular communication with that office, and trying to resolve disputes there, or with other critics around the country.

Mr. O'LEARY. We have had a good bit of criticism on this and had a good deal of contact. The staff is shaking its head on a horizontal plane, indicating no contacts with Indiana. However, I will ask Mr. House's people to get in touch with the Indiana energy agency and find out what the problem is.

Mr. SHARP. I will make a point of also trying to get further information to resolve if there is some substantial difference of opinion, or some statistical basis for that opinion.

Mr. O'LEARY. Let me give the sort of reassurance the staff is giving me. With regard to the attainment of the 240, we are essentially on target. We have just completed or are just completing the last round prior to this fall with the refiners.

I personally conducted most of that. Every one of the refiners that I have discussed this with told me they were on target and would achieve their goal. I think there was one exception to that. They have since come back and said, "Yes, we are going to achieve our goal."

Now, the second thing has to do with the validity of the 240 million. I am content that we have the right number there, with a significant cushion. You need that cushion—for precisely the reason Mr. Fithian came forward with.

If you get into a point where there is a regional discrepancy in the numbers, you want to be able to move product from a place of surplus into a place of shortage.

Incidentally, Mr. Fithian, to round out your situation, the midcontinent has the best transportation system for these sorts of things in the United States and, consequently, is the easiest served.

New England, on the other hand, is at the end of a very long pipeline, a very long exposed pipeline. So you have to be a good deal more sure that you have adequate supplies positioned before winter comes for New England than you do for your part of the country by and large.

Mr. SHARP. Mr. O'Leary, I would also like to ask you about an issue pending before the Congress now; that is, the House voted to put into law, though it is not there yet, a 1-percent set-aside on diesel fuel for agriculture, and then also subsequently voted a 1-percent set-aside for home heating oil.

I wonder if the Department has developed any view, or you could provide a personal view, of whether we should proceed to make that law, to write into it a specific 1-percent set-aside.

Mr. O'LEARY. I really don't think that you need that, Congressman Sharp. We are, as you know, operating now with set-asides on a fairly long basis of experience for both middle distillates and for gasoline.

It seems to me that to write it into law particularly given the uncertainties of supply over time and the requirement on the Administrator to be flexible, serves no particular useful purpose.

I just cannot see what we obtain by making such a provision in law.

Mr. SHARP. Are there any negative results that you can see flowing from that?

Mr. O'LEARY. Yes; there are severe negative results now flowing from the setaside. Let's take a company that has a 100-percent supply fraction, now, which is to say in August of 1979 precisely the same runs and precisely the same production of product out of their refineries that they had in 1978.

Simply because of the set-aside, they are shorting their distribution chain to some degree. It seems to me what you want to do is avoid that, if the market is such that you can avoid it.

You know, there are benefits, but there are costs. It seems to me that whenever you are at the point where the costs of the set-aside system exceed the benefits, you ought to be able to get away from it.

Mr. SHARP. Mr. O'Leary, if I can quickly ask you one more question that has arisen a number of times. I believe it came out in the questioning earlier; that is, is there a problem of holding the primary stocks or not getting them out to the field?

A number of Members of Congress have expressed concern about this several weeks ago. I am not clear in my own mind what the situation is with respect to that problem.

Mr. O'LEARY. Yes; I was very much concerned with that, saying to myself, are we robbing Peter to pay Paul, which is to say are we achieving a Potemkin 240 million barrels at the expense of a normal buildup of secondary and tertiary stocks.

Indeed, from the very beginning, the inception of the 240 million program, that has been a concern of mine. That, Mr. Sharp, is why I asked the Energy Information Administration to do whatever was necessary to generate the data that would tell us where we stand on secondary and tertiary stocks.

From that effort has come the reassurance that Mr. Linden is prepared to give you with regard to tertiary stocks, residential stocks.

I think we will get a fairly happy outcome from the other stock data. The additional stock data are available from the Bureau of the Census in mid-September, mid-month.

We are going to show probably a shortfall from normal. Why is that? It is because many companies have in fact been on allocation. They have been giving their distributors less than the distributors would like. Not all, but many.

Now, compensating that is this overage in the national stock figure, and incidentally that is where it should be. It should be at the primary level because that is where you get maximum flexibility; second, be predictable to the point of certain reduction in heating oil demand that will flow from the price impacts, price escalations of the last 6 months.

Mr. SHARP. Is the primary stock physically held in the refiner's tanks?

Mr. O'LEARY. Yes.

Mr. SHARP. I am not talking about a paper transaction. I am talking about literally under their control.

Mr. O'LEARY. It is under their control, held in the refiner's tanks, and in the large bulk distributor's tanks and product pipelines, the tanks of product pipelines.

Mr. SHARP. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Texas, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. O'Leary, just to review this, because it seems to me the matter has not been treated with equity, Hess sold this at exactly the same price they would have sold to any other contract sale?

Mr. O'LEARY. No; to their cargo purchasers.

Mr. COLLINS. That is the same volume, though?

Mr. O'LEARY. Yes.

Mr. COLLINS. The same volume that would have been the same price.

Mr. O'LEARY. Yes, same volume, same price.

Mr. COLLINS. There was no entitlement on this particular situation.

Mr. O'LEARY. They gave up their entitlements benefits on this transaction; yes.

Mr. COLLINS. So was there any way that this was given preference other than the fact that we were selling abroad when we were still short—as far as the sales or the terms?

Mr. O'LEARY. No; there was no discrimination in favor of the Iranian transaction.

Mr. COLLINS. Let me go into something else. I have heard discussion today about the distribution and the costs of distribution. I don't know what the normal allowance is, but I am certainly aware that you have transportation, you have wholesaler's costs, retailer's costs, and all that.

I know to buy a dress, if the dress costs $50 to manufacture it probably would be $100 on the shelf. How much does it increase in distribution? How much do you anticipate that this heating oil will increase through channels?

Mr. O'LEARY. The indication we have now is that the under-the-rack price is closing on 68, 69, 70 cents, and into your tanks 80, 81, 82. So, there is about 12 cents from the rack—if you take the point of departure as the raw materials supply, that is 45 cents, of the 68 to 69 cents under the rack.

From those I think you can get the allowance for the manufacturing cost, and for the in-company transport out to the point where it goes into its distribution system, and can be sold under the rack.

There is about, at the moment, something in the order of 25 cents, 23, 24, 25 cents, and that is that part of the transaction.

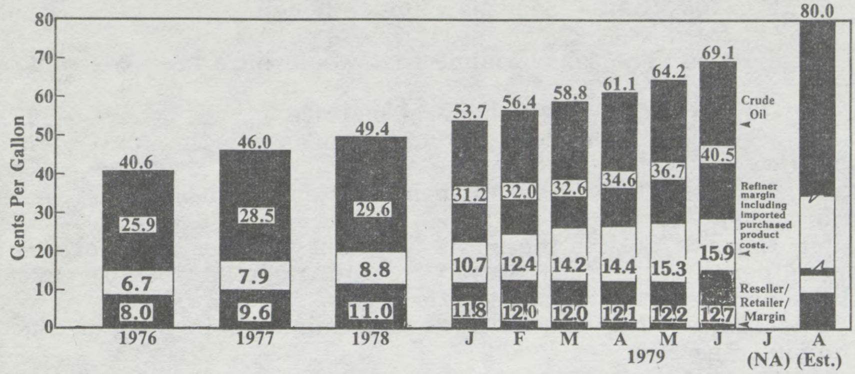
Mr. COLLINS. Based on the costs of storage, transportation, labor, and all of the taxes, is there anything unreasonable about that, or does it seem we are following a normal pattern?

Mr. O'LEARY. No; it may be that we are getting into a zone, if we only knew all the cost constituents, in which there is substantial, indeed, the potential for quite high profits.

Let me give you one point of comparison. I handed out two charts, one having to do with estimated components of residential heating oil prices and the other estimated components of regular gasoline full service price.

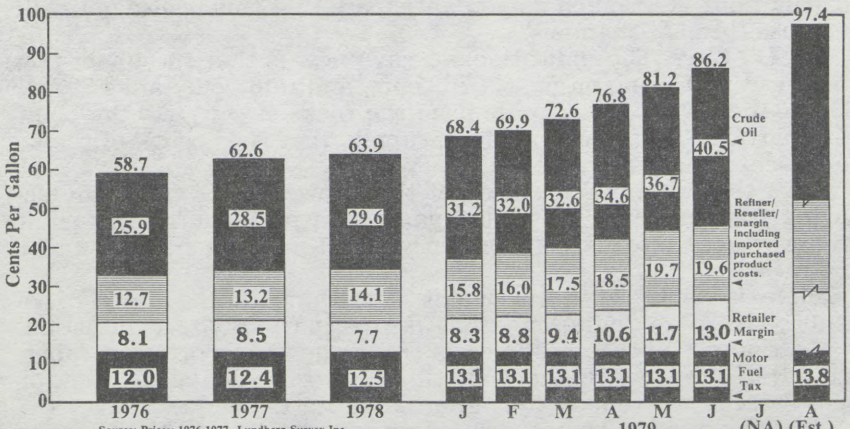
[The charts referred to follow:]

Estimated Components of Residential Heating Oil Prices



Sources: Prices; Jan. 76 — June 79 — FEA Form P112-M-1/EIA-9, "No. 2 Heating Oil Supply/Price Monitoring Report".
Crude Oil Costs; Jan. 76 — Form FEO 96, "Monthly Cost Allocation Report".
Feb. 76 — June 78, FEA Form P110-M-1, "Refiner's Monthly Cost Allocation Report".
July 78 — June 79, ERA-49, "Domestic Crude Oil Entitlements Program".

Estimated Components of Regular Gasoline Full Serve Price



Source: Prices; 1976-1977, Lundberg Survey Inc.
Jan 1978 — June 1979, EIA-8/EIA-79 "Monthly Motor Gasoline Service Station Survey."
Aug 1979, AAA Fuel Gauge Report (8/23/79)
Crude Oil Costs; Jan. 76 — Form FEO 96, "Monthly Cost Allocation Report".
Feb. 76 - June 78, FEA Form P110-M-1, "Refiner's Monthly Cost Allocation Report".
July 78 — June 79, ERA-49, "Domestic Crude Oil Entitlements Program".

Mr. O'LEARY. I invite your attention to the refinery margin. It is the portion labeled "Refiner Reseller Margin Including Imported Purchased Product Costs," which for June, and for the number for June ought to be pretty good—is 19.6 cents for gasoline.

That is a controlled price. It has gone from 14.1 cents in 1978—we have a reasonable assurance that there is no excess profitability, no gouging, if you will, in the cycling of from 14.1 to 19.6. In other words, there has been a 5-cent, 5.5-cent increase from all of 1978, and June of this year, all of it presumably cost justified, and in accordance with our rules. Otherwise, somebody is in violation of our rules. There is a controlled-price product.

Now, if you take a look over at the 8.8-cent, the 15.9-cent increase between 1978 and June of 1979, you will find that there has been about 2 cents, 1.5 to 2 cents, not accounted for by the same sort of a rough back-of-the-envelope comparison.

That might be excess profitability. It might be spot purchases of product. That is what the exercise during the remainder of this month is designed to reveal.

Mr. COLLINS. Of course, they pay more when they go in and buy the spot.

Mr. O'LEARY. Of course, and that gets incorporated in that number.

Let me just give you the bare bones of that sort of a transaction, Mr. Collins. If a company finds that it is short in its own production of middle distillate, cannot meet its normal customer requirements, it normally goes out and buys on the spot market, which is at or below its own refining cost.

This year it would be substantially higher. The company might be contractually bound, however, to deliver. It might go out and buy for $1.00 a product that it delivers for 70 cents. That difference would be reflected in this margin.

So, the point that I want to underscore here is that, although you have some prima facie case that there has been a substantial run in margins, until you know the other side, the cost side of that piece of data, you cannot say that there has been price gouging.

Mr. COLLINS. I am glad you brought that out, because it is desirable to go in and do spot buying when you need to fill out and have adequate distribution.

Now, we seem to have adequate supplies in this country, but coming from Texas I know that our crude oil production is down 600,000 barrels a day compared to 3 years ago. Where are you getting all this oil?

Mr. O'LEARY. Well, among others we are getting a lot of it from Iran. We are getting a lot of oil that is going into the mid-continent now from Alaska. It is offsetting to a degree the increase from Alaska that came in in mid-1977—is offsetting some of the decline in——

Mr. COLLINS. How much are your foreign imports of oil up this year over last year?

Mr. O'LEARY. They are up about 4 percent.

Mr. COLLINS. You estimate they will run 4 percent, the same level, the rest of this year or higher?

Mr. O'LEARY. We hope that we will be able to hold at a somewhat higher level. They were somewhat depressed during the first half of the year. They are high now, and I hope they stay high.

Mr. COLLINS. What will they do next year?

Mr. O'LEARY. That will depend upon several factors, the state of the economy—a recession, of course, will dampen demand, and dampen imports; the availability of crude on the world market; the imposition or nonimposition of quota controls along the lines the President discussed when he returned from the summit in Tokyo.

Mr. COLLINS. When you speak of 4 percent, you are not talking in terms of price. You are talking about in terms of barrels.

Mr. O'LEARY. The barrels are up 4 percent from where they were a year ago; yes.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Michigan, Mr. Stockman.

Mr. STOCKMAN. Thank you, Mr. Chairman.

Mr. O'Leary, I want to join the gentleman from Tennessee in commending you for your outstanding performance over the last 2 years. Since the superiority of your performance is the only thing that he and I have ever agreed on, I think that is some indication of the exceptional job that all of us believe you have done.

Mr. O'LEARY. Why haven't you done what I have suggested, then, Mr. Stockman?

Mr. STOCKMAN. I think I have pretty faithfully followed some of your recommendations, at least to a level equal to many others on the committee. But we have to pick and choose.

I wanted to go into what I thought were some worthwhile questions on margins and the 240 target. I hope that you can say a few more words on what I consider to be the silly, trumped-up nonsense that we have heard all morning about the Iranian sale.

Now, the implication seems to be that the 2 million barrel sale is a net loss to the economy. But if we look in terms of supply and remember that the Caribbean refineries and the Western Europe refiners are pretty well integrated into our home heating oil supply market, then obviously they could have bought from Aruba, or the Bahamas, or from an Italian refinery, or they could have bought it from a Rotterdam refinery, and it would have had the same impact on the total available pool of heating oil that would be used to meet the 240 target and the needs of the American economy this next winter.

Hasn't it indeed been the case that one of the reasons we have made such rapid progress in the last 2 months is that our heating oil import levels are up substantially from last year, and that has led in the stock buildup?

So, in terms of any kind of real analysis of its supply impact, whether you granted the license or not, 2 million barrels from some refinery that could potentially supply the United States probably would have been taken by the Iranians to meet their kerosene distillate need.

Mr. O'LEARY. Mr. Stockman, let me tell you that in my view there would have been absolutely no gain to U.S. consumers from denial of that import transaction and possibly a substantial loss.

Mr. STOCKMAN. Because of the ill will that would have been generated and the jeopardy to supply the Iranian refinery. But to be specific they could have bought it from the refinery in the Bahamas or in Aruba. Both of those supply heating oil to the east coast of the United States and the gulf coast.

Mr. O'LEARY. Yes.

Mr. STOCKMAN. Then on the price, we have had this apples and oranges comparison of 90 cents here and 55 there. Isn't that an FOB price Virgin Islands?

Mr. O'LEARY. That is the price, FOB.

Mr. STOCKMAN. Now, when you are talking about getting it to somebody's tank in, say, Buffalo, N.Y., you are going to have to pay tankerage charges into New York City on top of that.

Mr. O'LEARY. And transportation to Buffalo.

Mr. STOCKMAN. Then isn't the import terminal operator going to take some, and then the wholesaler, and the retailer?

Mr. O'LEARY. Indeed.

Mr. STOCKMAN. So therefore the comparison that has been made is totally inappropriate.

Mr. O'LEARY. No; I think the point, Mr. Stockman, this is the price that Hess charges to its bulk customers, is the qualifying observation with regard to this transaction.

Mr. STOCKMAN. I wanted to go on, then, to the question of margin because there has been a lot of suggestion this morning that gouging and excess profits are being generated and so forth.

If indeed the refineries had such monopolistic power that they could at will raise the price above some market justified level, then why would you find on your chart behind you during 1976, 1977, and 1978, when there were no controls on heating oil margins, fairly stable margins? Wouldn't that suggest the fairly competitive structure for the industry?

Mr. O'LEARY. Mr. Stockman, I think that the point I would make, if I were making the case of gouging, is that during periods of surplus you cannot gouge and during periods of shortage—and we are now in a period generally recognized to be one of actual or incipient shortage—you can gouge.

So the test comes as to the nature of the market at any given point in time. The past is not necessary prologue in this kind of case.

Mr. STOCKMAN. Well, I think that raises an important question. Is it reasonable to expect that margins would be absolutely rigid and constant over time?

Almost any market that I can think of has great cyclical variability, whether you are talking about aluminium smelters or soybean growers, when you have tight markets; that is, when they recover losses that are sometimes incurred during the surplus markets.

Mr. O'LEARY. Let me give you an example of that.

We have permitted and part of the runup we have seen in the price of gasoline is the recovery of so-called bank costs.

Mr. STOCKMAN. Didn't you have over a $1 billion bank buildup at one time, suggesting underrecovery during the general surplus product markets in 1977 and 1978?

Mr. O'LEARY. Yes; we have had that. On the other hand, Mr. Stockman, I think we have to point out that during periods of shortage oil, because of all of the whole surround, the whole legal and social surround of oil, takes on a special relationship to consumers in this country.

My own view is that if there was developed a strong showing that in fact the oil companies had unfairly profited at the expense of consumers who were literally at their mercy, that would be a pretty strong argument for the reimposition of controls.

Mr. STOCKMAN. Let me follow up on that. Obviously we make some kind of social priority decision. If there are tight oil supplies in the aggregate, we want it to tilt toward heating oil rather than gasoline.

It seems to me given the crude supply available you have an ideal situation right now. Uncontrolled margins on heating oil, controlled margins to some degree on gasoline. If you look at the incentives facing the refineries, they would have, it seems to me, a pretty powerful incentive to optimize their output of heating oil.

Mr. O'LEARY. And of course they are doing that.

Mr. STOCKMAN. That is right. Therefore, the supply needs—and this seems to me ought to be paramount—of the country are being satisfied, and we have a fairly confident picture as a result.

But wouldn't there be a danger, Mr. O'Leary, if you came in suddenly, in September 18, with a margin control for the refineries, that you might get them out of kilter with the gasoline margin controls, switch the incentive process the other way, and probably do far more harm to the availability situation for this heating season than if you left things the way they are today?

Mr. O'LEARY. I don't really think so, Mr. Stockman. I think we will find the companies doing just about anything in their power within reasonable economic reach to avoid shortages this winter. I think that is one of the driving mechanisms, economics aside.

Mr. STOCKMAN. Well, obviously when you have had these high prices on the spot market, which you indicated need to be folded into that margin, that is some indication that in the total market that supplies our heating oil needs there is a lot of competition.

It seems to me that that would suggest that we would be ill-adised to start right now tinkering around with margins and price controls at the refinery level when we are making what I consider to be some pretty encouraging progress that supplies will be adequate.

Mr. O'LEARY. Mr. Stockman, I think that I agree with you in the general line of questioning. I don't look upon the situation today as warranting the reimposition of price controls, or at least what I understand of it. However, I think I have to say that there could develop circumstances in which I would recommend a reimposition of controls.

The other side of the coin that we are discussing here is the capacity of consumers to pay for this product. We do get to the point where consumers are so badly affected, so severely affected that you have to temper in the absence of other social amelioratives, you have to temper the sheer activity of the market and tilt in their favor.

Mr. STOCKMAN. I agree with that, but that is what Mr. Moffett was talking about. If we want to do that we make it a direct subsidy. We do move faster on that than to tinker with the market in this instance.

Mr. O'LEARY. Perhaps up until now, and I think I have made this point before you before, we have done precious little on that side of this social dilemma.

Mr. STOCKMAN. Wouldn't you choose that route rather than the price control?

Mr. O'LEARY. Yes sir, everything else being equal I would much prefer to see a free market here. But everything isn't equal, Mr. Stockman. There has been a good deal of inertia in the system of recognizing the social requirements in this business, through some sort of direct subsidy to the consumers who are most hard hit.

Mr. DINGELL. Mr. Gramm.

Mr. GRAMM. I am afraid I am going to have to go back to the pricing problem of Iran again.

Mr. O'LEARY. Nothing would please me more.

Mr. GRAMM. I think there is something misleading here. My dear colleague from Michigan talks about the fact that no one should be concerned about this price because the President has sold the kerosene and middle distillate at the contract price FOB Virgin Islands. There is only one problem with that and that is, of course, Iran is not a contract buyer and had Iran been forced to enter the open market they would have bought not at the contract price FOB Virgin Islands, they would have bought at the spot price world market, and they clearly would have paid a higher price.

I am not going to argue that. I think it was the right move. Anytime that you are engaging in reciprocal trade in a very scarce commodity, you have 100 to 1 advantage, It is to your advantage to trade, but what I am saying is, I think it was poor economics, and I certainly think it was poor politics not to require in licensing this sale that they sell to them as a spot buyer, not as a contract buyer, and therefore force them to pay the price that any other marginal buyer in the world would have had to pay under the circumstances.

I think that is where the economics mistake and the political mistake occurred, because again here we are giving special treatment to people who immediately after their political upheaval moved their oil to a spot price and sold it to us. Here is a case where I don't think we are treating people as they treated us.

Mr. O'LEARY. Mr. Gramm, I think I just disagree with you entirely.

Mr. GRAMM. I would like to hear why.

Mr. O'LEARY. Let me, first of all, say that the majority or great bulk of Iranian oil is sold at a price well below the spot price, including a good bit of the portion that comes here. Some cargoes come in at spot price, some come in at OSB. We are not in the business of paying the incremental price, the reciprocal point that you are making for those imports.

Second, let me hypothecate a little bit the sort of transaction. The supply fellow in Iran gets a little concerned about supply and he figures well, I ought to get some, I will call up and see if Leon will deliver. Leon says, yes, I will be glad to, assuming I can get the necessary approval.

The response comes back you can do it but we are going to tell you the price that you are going to charge for this transaction.

Now, that, it seems to me, is first of all bad policy on the part of the U.S. Government. We don't generally do that unless we control the price, Mr. Gramm, and second, the consequences for the Iranian importer is, I will call my second supplier, a Japanese or French refiner, and if he does the same sort of thing, then I will do more of my business next year, next month, with him. I won't be in the position in any event of paying the world price, the incremental price, the Rotterdam price, for this oil. This simply wasn't going to happen in the very beginning and what we have begun is we have assured that at least the treatment of the United States, that particular United States importer of Iranian oil will be neutral rather than subneutral.

Mr. HETTINGER. Under our regulations price is not a criterion in the licensing decision. The price is a commercial decision arrived at by negotiation between the exporter and the foreign purchaser without any participation by the U.S. Government.

There is, as previously noted, a mechanism in our regulations to assure that when these products are exported the benefits of domestic price controls on the crude oil from which they are refined are not in effect exported with the oil. We asked for and obtained a specific assurance from the exporter that he would report these products, exports, to the Department of Energy for purposes of adjustment of his crude oil.

Mr. GRAMM. Let me redirect a question to you. Are you telling me that you could not under existing law direct Hess in approving the licensing that they sought that they sell to Iran as they would sell to any other marginal or spot buyer?

Mr. HETTINGER. Price is not a criterion.

Mr. GRAMM. Even of a commodity that is crucially short in supply in the United States?

Mr. HETTINGER. That is correct.

Mr. GRAMM. The President would have had no power under existing law to have directed in any way the determination of that price?

Mr. HETTINGER. We were not a participant, Government was not a participant in the export sale. We were faced with an application submitted with a given quantity, a given price, and a given consignee, and we had to make up our minds at that time.

Mr. GRAMM. You never, in making a license agreement, negotiate with the company on any condition once the licensing request is sent forward?

Mr. HETTINGER. We try never to enter into the commercial area on a licensing decision. Where there are other issues, we still do.

Mr. GRAMM. I am not an opponent of the sale to Iran. I would like to have seen them pay the spot price. I think the American people would have accepted it more readily had they done it. I think this is an inadequacy of the law that needs to be changed.

Mr. O'LEARY. In this particular case I can assure you that the Iranians would have not paid the Rotterdam price, they would have simply gone to another one of their lifters, their takers. We would have lost the transaction and next year, I am sure, it would have been reflected in import levels from Iran.

Mr. GRAMM. So you are in fact saying that there was in this at least an element of potential blackmail?

Mr. O'LEARY. Not blackmail. This is the normal give and take of a commercial transaction. You know, you are from a State in which these transactions, the book on these transactions was written, Mr. Gramm.

Mr. GRAMM. I can assure you we did not write the book on pricing of either crude petroleum on the basis of the definition of oil or the price of natural gas where we paid at home in some cases, three times for natural gas what people in other parts of the country were paying at the wellhead price. We certainly are not stupid enough to have written that book. Those rules were imposed from here, not from Austin.

Mr. O'LEARY. When I was thinking of the book that was written it was really not in terms of the Natural Gas Act of 1938 or the Phillips decision, but on how to make a deal.

Mr. GRAMM. I understand that. I think what you conceive as a deal and what often we conceive as a deal through the State Department are entirely different things. I view a deal as something that clearly is beneficial, that is clearly at arms length, and I think we have a case here where we are not dealing with people at arms length, and we are in this case, despite the fact that again I think that this transaction has to be made, I think it should have been made as any other transaction would have been made.

If they wouldn't have taken it, I think they should have gone elsewhere. I suspect they would have taken it but that is speculation.

I would like to ask one more question. I would like to go back to the question about freezing the price of heating oil. We have just taken action to begin freeing the price of crude petroleum. We are going to impose a very heavy excise tax on it so we don't get the full production benefit, the consumer will bear the full price.

Now, how can we at the very time that we are moving toward deregulation of the initial product that is entering into refinery process at a time when we don't control import prices, how can we be talking about controlling one part of the distillation process?

Mr. O'LEARY. I have often been moved to point out that consistency is the last resort of cowards, or something like that.

I think it is altogether conceivable that you could have the Government moving in two directions. One, the general proposition of taking away controls on gasoline—I am sorry, on crude and on gas and other commodities—and at the same time, because of the empirics of the situation, the short run, taking a step and action such as reimposition of controls on middle distillate.

Mr. GRAMM. It seems to me that is a completely inconsistent statement of position to take without the goal of conservation. If we are worried about the impact on low-income people why don't we deal with that through cash instead of with price? It seems to me you have said in your statement that we have an allocation system which in itself contributes to our problem, that in essence Government has in many ways been a culprit in our problem in many areas, and yet here we are talking about bringing Government back into an area where we just took steps to try to take Government out of.

It seems to me that there are two problems. One is the allocation problem and we clearly know that the market does that best. Then there is the question of the social impact, and it seems to me that ought to be dealt with with social programs, not with the use of the price mechanism, because in doing so, we destroy the whole function of the system and you get more and more regulations which you already say are not working in the area.

Mr. O'LEARY. I know from hearing my testimony that I do not like the continuation or reimposition of controls of petroleum products. I think as a general proposition it is bad government to do that.

On the other hand, if you find a situation in which there is price gouging, and generally conceded to be price gouging because of the companies taking an advantage of a shortage, then it seems to me that you have a fairly strong argument from the standpoint of social policy of reimposing controls in that industry. I think that is a fact. The fact is we still have controls on gasoline, despite the fact that the President of the United States, the former Secretary of Energy and the present Deputy Secretary of Energy have inveyed against those controls. The fact is we still have those controls.

Mr. GRAMM. Thank you.

Mr. DINGELL. The Chair has several questions.

Mr. O'Leary, on the first of October 1981, the authority for control of, or rather for allocation of crude and of product will expire. Does it appear to be desirable that we should commence giving some attention to what we would do in the event that those controls expire so that we could assure that we would be able to meet major shortfalls in supply of either crude or product?

Mr. O'LEARY. Mr. Chairman, I think that you should not touch that now. I would hope that the situation will be such as to permit the termination of controls on crude as scheduled on October 1, 1981. In the event that the situation is such that that cannot be accomplished in consonance with the public interest, the Congress can address the question then.

I don't think that there is any point in trying to address the situation that will obtain over that period of time that far away now because I am pretty sure that whatever you came up with wouldn't be too useful in any event.

Mr. DINGELL. I am just referring to some kind of a standby proposal.

Mr. O'LEARY. I understand, Mr. Chairman, and I still think that given all the important matters in energy before the Congress that I would not give that high priority.

Mr. DINGELL. Now, we had some substantial interferences with the delivery of heating oil, diesel, and other products from refinery gates, from jobbers, and from tank farms and things of that kind.

Is there, in your view, a sufficiency of authority available to deal with that kind of situation in the fall if it becomes necessary?

Mr. O'LEARY. Yes; there is, Mr. Chairman. We have discussed this with the Department of Justice and we feel that there is no legal impediment to taking those actions necessary to see to it that essential product moves to essential uses.

Mr. DINGELL. I observed there were some fairly successful stoppages for goodly periods, of supply of product from jobbers and from distributors.

Mr. O'LEARY. Yes; but those flow from the lack of authority both in State officials and Federal officials to make that product move. Had it been in the national interest necessary to make it move——

Mr. DINGELL. The Chair is going to recognize counsel for questions.

Mr. ATHY. Mr. O'Leary, in June of 1976 the Federal Energy Administration said before this committee, in justifying decontrol of this product, that the FEA has found there is no reason to expect any increase in the price of middle distillate over and above those expected under continued price and allocation controls.

FEA testified further that immediate hearings on reimposition of controls would be called if increases in price beyond amount permissible under control went above 2 cents for that period, for any monthly period. Those margin increases now approach 15 cents. Is the current DOE policy consistent with the statement you have mentioned that your scheduled hearings——

Mr. O'LEARY. What is the antecedent for those, Mr. Counsel?

Mr. ATHY. With the previous statements.

Mr. O'LEARY. Well, the antecedent was those 2 cents had become 15 cents, is that what you are saying?

Mr. ATHY. FEA said if margin increases went to 2 cents over the period of any month, that they would hold immediate hearings to consider the policy of decontrol. Those margins have now increased to 15 cents.

Mr. O'LEARY. You are dealing in numbers I just don't know anything about, Mr. Counsel. I am sorry I don't. I haven't seen anything like 15 cent increases in margins. Perhaps you are right but I sure haven't seen those data.

Mr. ATHY. And what does your chart show with respect to increases in margins since September of 1978?

Mr. O'LEARY. It shows about an 8-cent increase in margins over that period of time.

Mr. ATHY. Now, the figures that we have show 15 cents. Using your figures, we still do not have a hearing scheduled on decontrol.

Mr. O'LEARY. We have a hearing scheduled for the 13th of this month, Mr. Counsel, on that subject.

Mr. ATHY. On a report. You have a hearing scheduled on a report. Analysis of refineries number two distillate, cost of revenues July 1976 to July 1978, an update of that report. That is not a hearing on decontrol as I understand it. Will any conclusions on decontrol be reached?

Mr. O'LEARY. We don't make promises in perpetuity, for one thing. Mr. Zarb made a commitment which I regarded as a 1-year commitment and regarded as a commitment for 2 years, in fact. I do run the monitoring system, did hold a hearing last August, I believe or September, and did have extensive hearings before this committee. Were you here, Mr. Counsel, for those hearings?

The finding at that time was that the price exceeded the price that would have obtained under controls by about four-tenths of 1 cent. Now, I have gone to some pains this morning to tell you the limitation on the data before you on these refinery data. I don't know how they relate to the control price and I am sad about that. It is a statistical failure on the part of the organization and we will rectify that failure by the end of the month.

We will hold a hearing on these points. We will hear from the refineries. We will hear from consumer interests. Then the administration will, as always, make a judgment with regard to the public benefits and the public costs that are associated with a course of action and imposition of controls, partial reimposition of controls.

But I think that any commitment made back in 1976, by Mr. Zarb of the old FEA, now more or less defunct, doesn't obtain now.

Mr. Athy. Thank you.

Mr. Dingell. Mr. O'Leary and gentlemen, thank you. We again express to you our thanks for a job well done today and at all other times, and also good wishes of the committee for complete success to you in the future.

[Testimony resumes on p. 69.]

[The following responses to questions were received for the record:]

RESPONSES TO QUESTIONS SUBMITTED BY SUBCOMMITTEE

Question 1

Q. What initiatives or investigations has the Department taken to determine whether price or allocation controls should be reimposed on middle distillates? If any such actions have been taken, please detail the finding made.

A. We are continuing to assess and monitor middle distillate supplies and prices to determine whether or not middle distillate supplies will be adequate to maintain price competition. Our preference would be to avoid reimposition of controls, but we cannot preclude that possibility if in our judgment the situation warrants taking such action. The best way to assure adequate distribution and equitable prices is to assure that there are adequate supplies. Therefore, as an interim strategy we have concentrated our efforts on the buildup of supplies. Reimposition of controls during this buildup period might have been counterproductive to this effort.

The President has established an industry target for primary stocks of 240 million barrels of middle distillate by the end of October. We have met individually with refiners to discuss supply projections and have urged all refiners to take voluntary action to build up distillate stocks to insure that heating oil supplies will be adequate throughout the winter heating season. Furthermore, we have notified each of the thirty-two largest refiners that we are monitoring their progress in attaining adequate heating oil stocks for the coming winter. We are encouraged by the most recent data, which indicates that refiners are making satisfactory progress in reaching our target level. On July 30, 1979, we proposed a rule which would establish mandatory middle distillate production levels for each refiner, the effect of which would be to maximize domestic refinery production of middle distillates. We will only impose this rule if refiners fail to attain adequate stocks of heating oil.

In addition, we have taken a number of actions this year in response to shortages of middle distillate supplies. In January, we adopted Special Rule No. 7 establishing a special middle distillate set-aside program to insure adequate supplies of home heating oil for assignment by the States in emergency situations. After initially extending Special Rule No. 7 on an emergency basis in March in order to prevent the interruption of agricultural production activities, we adopted a new Special Rule No. 10 in June establishing a permanent middle distillate set-aside program.

By early May, middle distillates were in such short supply that there was a serious threat to the continuation of agricultural production activities, especially crop planting. Therefore, we adopted Special Rule No. 9 to insure adequate supplies of diesel fuel for use in agricultural production. Special Rule No. 9 was expanded for a brief period to include agricultural trucking, crude oil and natural gas production, and surface passenger mass transportation activities. However, we later determined that it would not be feasible to allocate middle distillates except under the most compelling circumstances. Accordingly, we further amended Special Rule No. 9 to provide for the allocation of middle distillates only for surface passenger mass transportation, since the Department of Agriculture had informed us that this year's planting activities were at least ninety percent complete.

We have also taken actions both to conserve and to increase the volume of available middle distillate supplies. In this regard, we have established restrictions on the thermostat settings for heating, cooling and hot water in commercial, industrial and other non-residential buildings, including government buildings. In addition, we adopted a final rule providing during the months May through August 1979 for the issuance of entitlements for middle distillate imports as a means of increasing available supplies. This entitlement has just been extended through October 31, 1979.

In addition to these efforts, we will hold a public hearing on September 13 on heating oil prices, to determine whether price increases have been in line with cost increases. Following the hearing when we will have more information on middle distillate prices and secondary and tertiary stock levels, we will be in a much better position to decide whether controls should be reimposed.

Question 2

Q. What is the Department's policy with respect to the selective application of price and allocation controls, either by rule or order to particular regions, transactions or refineries?

A. We believe we have the authority, to impose rules or orders on a selective basis. If the circumstances warranted such a response, we would exercise our authority to issue orders or rules on a selective, or case-by-case basis, such as to a particular region or to a particular refinery or class of refineries.

Question 3

Q. Please aggregate monthly price increases for middle distillates at the refinery, wholesale, and retail levels since October 1978. What are current residential prices for middle distillates on a regional basis? What retail prices are projected for deliveries this winter?

A. The enclosed table provides the most recent heating oil rack and residential prices available to DOE. The rack prices are for sales by refiners and large wholesalers at terminals located in the cities indicated in the table. The residential prices are weighted average prices collected by the Energy Information Administration (EIA) in its survey of heating oil dealers and refiners. Latest data available from the EIA survey are for June 1979.

While distillate prices have gone up sharply, it is not possible to project with accuracy residential heating oil prices. A number of variables need to be considered, the most important of of which are world crude oil prices and the supply of and demand for distillate. We know that crude oil acquisition costs are likely to increase between now and the end of the winter. However, it is our policy to attempt to increase supplies to the point where competition will have a significant restraining effect on further price increases.

Table 1. No. 2 Heating Oil Rack Prices for Selected Cities
(cents per gallon)

	Boston	Buffalo	Chicago	Minneapolis	Long Island	Philadelphia
1978						
November	40.8	41.4	40.0	39.5	41.2	40.4
December	41.6	41.7	40.2	40.1	41.9	40.9
1979						
January	41.7	42.0	40.3	40.4	42.0	41.0
February	44.1	44.1	42.3	42.6	44.0	43.0
March	46.8	46.8	45.7	44.7	46.6	45.4
April	48.7	48.5	48.4	47.7	48.5	47.1
May	52.8	52.3	53.1	51.6	52.0	50.9
June	56.2	56.7	56.8	57.0	56.3	54.6
July	60.3	61.7	63.0	61.6	59.9	59.1
August	65.4	65.8	66.5	66.0	63.6	63.2

Source: Telephone survey of refiners and large reseller/retailers by the Department of Energy.

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Average No. 2 Heating Oil Residential Prices for Selected States
(cents per gallon)

	MASS	NY	ILL	MINN	CONN	PA
1978						
October	50.9	51.0	46.4	46.1	51.7	49.8
November	52.6	52.3	47.9	48.0	53.3	51.2
December	53.8	53.6	48.8	49.7	54.8	52.1
1979						
January	54.7	54.7	50.2	51.4	56.0	53.1
February	57.7	57.5	52.5	52.6	58.2	55.7
March	60.8	59.9	55.0	55.2	61.3	57.7
April	63.0	61.9	58.0	58.4	63.5	60.0
May	66.1	64.6	60.2	62.0	67.1	63.2
June	70.6	69.5	66.7	68.5	71.8	68.1

Source: DOE/EIA-0013 Table 5 (EIA-9)

Questions Nos. 4, 5, 6, and 8

4) Please provide the components of these price increases according to product and nonproduct costs for refineries and nonproduct costs for wholesalers and retailers.

5) Estimate dollar recoveries since June 1976 by refiners, wholesalers, and retailers in excess of amounts that would have been permissible under price controls.

6) On December 20, 1978, you testified that the Department could not, at that time, determine the components of the 2.7 cent increase in refiners' selling prices to wholesalers that occurred since September 1978, but were continuing your analysis. What has that continued analysis demonstrated?

8) On December 20, 1978, you testified that the Office of the Special Counsel for Compliance would obtain and corroborate nonproduct cost information from selected major refiners in order to see how closely the OHA calculations ($193 million in overcharges through April 1978 and a projected $331 million in overcharges through the 1978-79 heating season) compare with actual data. Please provide the findings from that examination and the results of your promise to request the largest refiners to provide the Department with certified product and nonproduct costs.

A. The Department of Energy has completed a study of refiners' costs and revenues for the period July 1976 through December 1978. A copy of the report is attached. The report is presently being updated to cover the period from December 1978 through June 1979. The updated report will be the subject of a hearing scheduled for September 13, 1979. We will provide the Committee a copy of the report upon its completion.

Question 7

Q. What analysis has the Department conducted to examine changes in the terms and conditions of the sale of middle distillates between wholesalers and retailers and customers? What are the results of these findings?

A. DOE has undertaken several initiatives with respect to terms and conditions of the sale of middle distillates:

(1) The Department contracted with R. Shriver Associates (RSA) to study the distillate market before, during, and after price and allocation controls. The study will address this issue and is expected to be completed by the end of October.

(2) The Department's Fuel Oil Marketing Advisory Committee (FOMAC), which is a broadly-based advisory committee with state government and

consumer as well as industry representation, has also developed a study on the competitive viability of independent marketers of heating oil. A copy of the report is presented herewith. We have asked FOMAC to plan a public forum in the early Fall to address the issue of refiner contract and credit terms, with a view toward developing proposals to insure equitable credit terms for small independent marketers.

We will keep your staff advised of the status of the forum.

(3) Finally, the Department is currently meeting with 32 refiners with respect to the buildup of middle distillate stocks. Refiners are being asked about contract renewals and changes in credit terms and in appropriate cases are being urged to revise their practices to make them more equitable. These meetings will be completed by the end of September, and we will have an assessment of refiner practices with respect to this issue shortly thereafter.

Question 9

Q. Also on December 20, you stated that "if sufficient evidence is not supplied by refiners to support the proposition that workable competition exists, the ERA should institute formal rulemaking proceedings to determine the nature and extent of the price control program that should be instituted for No. 2 heating oil." What has been the result of this recommendation?

A. The ERA will hold a public hearing September 13, 1979, in Washington, D.C., on its previously mentioned report, <u>Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976 through December 1978</u> and the update of that report through June of this year. Following that hearing, comments will be evaluated to determine the need for reimposition of controls or other appropriate regulatory measures.

Question 10

Q. What surveys does the Department conduct to collect data on the status of stocks in secondary storage? What are the results of these surveys? How does the Department explain the evidence that secondary stocks are down appreciably from comparable periods last year and what factor does this play in evaluation of adequacies of middle distillate stocks?

A. The 240 million barrel target includes a margin of approximately 20 million barrels to offset any shortfall in secondary and homeowner stocks. An important part of the Department's middle distillate management plan has been to obtain an estimate of the status of secondary and homeowner stocks.

Estimates by industry indicate that fuel oil dealer inventory is below last year's level. Within two weeks we will have results from a number of surveys conducted by DOE, the Census Bureau and states, that will help us evaluate sales and inventory levels of fuel oil dealers. The National Oil Jobbers Council estimated that at the end of June, residential fuel oil tanks were 9% below last year's level. However, an early August DOE survey of storage in single-family dwellings has given preliminary indications that homeowner fuel oil tanks were at the same level or a slightly higher level than they were at the same time last year.

The surveys undertaken by EIA and the Census Bureau will provide monthly estimates of distillate and residual fuel oil consumption, sales, and end-of-month inventory. The fifteen states that historically have consumed 75% of the Nation's home heating oil are conducting surveys of fuel oil dealers in their states and will report at least bi-weekly on the amount of oil delivered, selling price, and dealer inventories of distillate fuel. The time schedule for each survey is shown on Table A attached.

TABLE A. Schedule for Reporting Data on Secondary Storage of Fuel Oil

Subject	First Data Available: Scheduled Date Available	First Data Available: Time Period Covered	Frequency of Subsequent Reports	Geographic Area Covered
A. SECONDARY STOCKS				
1. Retail Fuel Oil Dealers[1]	Sept. 15	End of June 1979	Monthly	U.S. Total and P.A.D. Districts 1a, 1b, 1c, 2,3,4,5
2. Wholesale Fuel Oil Dealers[1]	Sept. 15	End of June 1979	Monthly	U.S. Total and P.A.D. Districts 1a, 1b, 1c, 2, 3, 4, 5
3. Bulk Stations[1]	Sept. 22	End of June 1979	Monthly	U.S. Total and P.A.D. Districts 1a, 1b, 1c, 2, 3, 4, 5
4. Surveys of fuel oil dealers conducted by State Energy Offices produces data on deliveries, prices, and inventories of home heating on dealers in the state	Aug. 31	July/Aug. 1979	Bi-Weekly or Weekly	Pennsylvania
	Sept. 4	Aug/Sept. 1979	Bi-Weekly or Weekly	New Hampshire
	Sept. 15-20	Aug/Sept. 1979	Bi-Weekly or weekly	Maine, Vermont, Mass., Rhode Island, Wisconsin, New York, New Jersey
	Sept. 25-30	Aug/Sept. 1979	Bi-Weekly or Weekly	Connecticut, Minnesota, Michigan, Illinois, Indiana, Oregon
5. Electric Utilities that are large consumers of oil	Sept. 10	End of June 1979	Monthly	U.S. Total
6. Manufacturers (excluding petroleum refineries)[1]	See note below	End of June 1979	Monthly	U.S. Total and P.A.D. Districts
B. TERTIARY STOCKS				
1. Residences heated with oil	Preliminary Aug. 31, Final Sept. 30	Early August	None Scheduled	U.S. Total and NE Census Region

[1] Data collected by the U.S. Bureau of the Census under contract to the Department of Energy

Note on Survey of Manufacturers

The Bureau of the Census was asked to conduct the survey since its use of the Annual Survey of Manufacturers as a sampling frame would provide the best statistical estimates for all Standard Industrial Code (SIC) groups and minimize respondent reporting burden. The manufacturing sector has thus far not been fully cooperative in this voluntary survey. Special appeals for cooperation have been made to the companies included in the survey; however, to date insufficient response has been received to calculate statistical estimates of fuel consumption and inventory for the manufacturing sector of the United States. The Bureau of the Census is giving a high priority to its efforts to improve the response rate, and another assessment of the quality of the survey will be made in two weeks.

Question 11

Q. What actions does the Department contemplate taking to insure that farmers have adequate supplies of diesel available for the harvest season? Does this include the establishment of priorities by special rule in the distribution of this product to farmers or other users in the agricultural sector?

A. An Interagency Heating Oil and Diesel Task Force (DOE/USDA/DOT/SBA) is being established at the present time. One of its primary activities will be assuring adequate diesel supplies for the harvest season. Other Task Force initiatives will include:

o serving as a "clearinghouse" by redirecting product from refiners having surplus distillate to marketers and areas in need of product;

- evaluating data collected by EIA, States, and industry trade associations;
- evaluating spot market sales and assessing demand for distillate by state and region;
- assessing the state-by-state requirements for diesel, as well as the requirements of different modes of transportation; and
- conducting a special analysis of barging requirements.

Agricultural requirements for diesel fuel normally constitute 5 percent of the total demand of the middle distillate portion of the barrel. The two exceptions to this annual average occur in the spring and fall. Spring planting requirements increase the agricultural demand for diesel to approximately 15 percent and the fall harvest escalates demand to approximately 10 percent of total distillate requirements.

A number of discussions have addressed the idea of a special rule for the fall harvest, giving priorities to agricultural production and related activities, consistent with the philosophy of Special Rule No. 9, which was put into effect this spring. However, in the fall, truck, barge and rail transportation requirements are key factors in assessing the harvest diesel requirements, since these factors perform a critical role in the harvest that is different from the spring planting season. When considered together with agriculture, these combined uses constitute approximately 40 percent of the demand for distillate between August and November. The adoption of a special rule giving priority to this large a segment of the distillate market must be approached with caution because of the disruption it could cause to other uses, such as non-agricultural transportation and the buildup of heating oil supplies.

From an agricultural standpoint, diesel supplies have improved gradually throughout the Nation. Weekly surveys of this subject have been conducted by the Department of

Agriculture, with which we are in close contact as this matter. Of the agricultural reporting districts, 78 percent indicated adequate diesel supplies as of August 24, 1979.

Question 12

Q. Please provide an analysis of the results of the product entitlements program implemented by the Department to encourage imports of middle distillates including available findings on its impact on spot prices for this product.

A. As an extra precaution to assure that the President's 240 million barrel distillate target is met, on August 31, 1979 the Department extended until October 31 the $5 per barrel entitlements benefit for distillate imports. The entitlement, effective as of May 1, had been scheduled to expire August 31.

The action is designed to ensure U.S. supplies necessary to build heating oil stocks to target levels. A reduction of imports could jeopardize that objective and the public well-being.

Table 2 shows distillate import data for 1978 and 1979. Import data are only available for the first two months following the implementation of the entitlement (May and June 1979.) Preliminary data for July indicated continued increases in the level of imports.

Distillate spot market prices initially surged during the period immediately following the adoption of the emergency rule on May 24, 1979. However, distillate spot prices in the U.S. and Europe have softened considerably since that time (see Table 3).

TABLE 2
MIDDLE DISTILLATE IMPORTS (MB/D)

	1978 Total	1978 Non-U.S.	1979 Total	1979 Non-U.S.
JANUARY	194	58	226	87
FEBRUARY	209	57	196	55
MARCH	187	45	176	38
APRIL	100	19	146	19
MAY	119	31	162	23 ($5 En me
JUNE	146	23	173	43 "
JULY	149	26		
AUGUST	143	24		
SEPTEMBER	163	29		
OCTOBER	178	58		
NOVEMBER	223	79		
DECEMBER	254	124		

SOURCE: ERA-60, except where $5.00 entitlement was paid, include #4 oil.

TABLE 3
MIDDLE DISTILLATE SPOT MARKET PRICES
(Cents per Gallon)

	New York (#2)	Rotterdam (gas oil)
6/1/79	112.5	127.2
6/15/79	87.8	118.0
7/2/79	87.5	123.1
7/16/79	73.3	118.8
8/1/79	77.3	106.3
8/21/79	76.8	100.6

SOURCE: Platt's Oilgram

Question 13

Q. Please justify the Department's acquiescence to the Department of Commerce approval of the export of approximately 1.5 million barrels of middle distillate to Iran? Is this consistent with the Department's policy of encouraging imports of essentially the same product? Is the Department prepared to find in this connection that the country will have adequate heating oil supplies for a winter of adverse weather conditions Are any additional exports contemplated? What terms, if any, were applied to this sale?

A. On August 3, 1979, the Commerce Department issued export licenses for $47 million worth of kerosene and home heating oil as an exception to the general prohibition against the export of petroleum products.

Events in Iran over the past year have caused substantial disruptions in the world petroleum market. As a result of the turmoil accompanying the overthrow of the Shah, oil exports from Iran actually ceased in late December 1978, and for the first quarter of 1979 production averaged only 1.1 million barrels per day, less than twenty percent of the 1977 production level. The result was lost economic growth, higher energy prices, and fuel shortages in the United States and other industrialized countries.

Iranian oil production appears to be in a precarious equilibrium at about 4 million barrels per day. In June of this year, total Iranian oil exports to the United States were about 870 thousand barrels per day, equal to ten percent of total U.S. oil imports and over twenty percent of total Iranian oil production during that month. The United States and Iran have thus reestablished a close commercial relationship in this critical commodity. Amerada Hess, the exporter in this transaction, operates a large refinery in the U.S. Virgin Islands which is heavily dependent on Iranian crude for the production of petroleum products dedicated entirely to the U.S. market.

Earlier this summer, Iran suffered damage to its refinery and pipeline system. The National Iranian Oil Company asked for addition supplies of kerosene and home heating oil. A U.S. sale of two million barrels of kerosene and home heating fuel on an emergency basis is a reasonable and appropriate response to one of our major oil suppliers.

The sale represents less than one-tenth of one percent of the annual U.S. consumption of these products and in does not jeopardize the Administration's goal of 240 million barrels of primary distillate stocks in October. We anticipate no significant adverse impact on the U.S. consumer as a result of th transaction. It is important to bear in mind that this export serves to encourage the continued flow of crude oil from Iran, which supplies the U.S. every three days with an amount of oil equal to the total export.

Question 14

Q. Has the Department revised its goal of a primary stock level of 240 million barrels by October 1? If there has been any revision in goal, please explain.

A. The Department's goal of 240 million barrels was intended as a peak inventory level going into the winter heating months. Typically the peak is not reached before the end of October. For example, we entered the 1978-79 winter with approximately 221 million barrels in primary inventory at the beginning of October and 233 million barrels by the end of October.

Distillate inventories have been building at a rate of approximately 875 thousand barrels per day since June 15, 1979. This rate is almost 300 thousand barrels per day higher than during the same period a year ago. If this buildup rate continues, we do not anticipate problems in achieving the 240 million barrel target in October.

Mr. DINGELL. The Chair observes our next panel will be a panel of witnesses composed of the following:

Dr. Charles Bowman, vice president, Gulf Refinery and Marketing; Ms. Kathleen O'Reilly, Consumer Federation of America; Mr. Edgar Morgan, vice president, National Oil Jobbers Council.

Ladies and gentlemen, if you will come forward to the witness table and take your places, we will be happy to receive your statements.

I think we should recognize our witnesses in this order. Mr. Bowman, Ms. O'Reilly, and Mr. Morgan. If you would each now starting at your left, for purposes of the record, and to assist our reporter, identify yourselves starting with the gentleman on your right.

Mr. HICKEL. My name is Jim Hickel, staff economist with the National Jobbers Counsel.

Mr. AMATO. My name is Joel Amato, Independent Heating Oil Distributors.

Mr. MORGAN. I am Ed Morgan, the fuel oil vice president of the National Oil Jobbers Council.

Ms. O'REILLY. My name is Kathleen O'Reilly. I am executive director of the Consumers Federation of America.

Mr. PODHORZER. Michael Podhorzer, legislative director, Consumers Federation of America.

Mr. BOWMAN. Charles Bowman, representing Gulf Refinery and Marketing Co.

Mr. DINGELL. Mr. Bowman, we will recognize you first, then we will recognize Ms. O'Reilly and finally, Mr. Morgan.

STATEMENTS OF CHARLES BOWMAN, PH. D., VICE PRESIDENT, GULF REFINING & MARKETING CO.; KATHLEEN F. O'REILLY, EXECUTIVE DIRECTOR, CONSUMER FEDERATION OF AMERICA, ACCOMPANIED BY MICHAEL PODHORZER, LEGISLATIVE DIRECTOR (CFA); AND EDGAR G. E. MORGAN, FUEL OIL VICE PRESIDENT, NATIONAL OIL JOBBERS COUNCIL, ACCOMPANIED BY JAMES HICKEL, STAFF ECONOMIST; AND JOE AMATO, FUEL OIL DEALER, SILVER SPRING, MD.

Dr. BOWMAN. Thank you, Mr. Chairman. As indicated, my name is Charles H. Bowman and I am a vice president of Gulf Refining & Marketing Co., which is in turn a division of Gulf Oil Corp.

We at Gulf appreciate the opportunity to testify about the outlook for middle distillates, particularly heating oil, as seen by one major international company.

To aid our understanding, it may be useful for a moment to relive events of December 26, 1978, at Kharg Island in the Arabian Gulf. In the wake of the Islamic revolution, the last cargo of Iranian crude oil that would be lifted for 2 to 3 months sailed on that date. Although partially offset by production increases elsewhere, we know for a fact that the Western World lost some 5 million barrels per day of Iranian export capacity, a loss translated into crude oil shortages in major consuming nations beginning in February.

Five days prior to that final loading, on December 21, Gulf Refining's president, Robert W. Baldwin had testified before this committee concerning gasoline prices and supplies. I quote briefly from his remarks:

> Gulf is currently running its gasoline producing units at 100 percent of capacity. Forecasts indicate that this production should enable Gulf to supply its segment of the gasoline in 1979. There is, however, no spare capacity in the Gulf system to meet unforeseen additional demand or unexpected shortfalls in supply.

He then went on to assert that:

> We have a very fragile supply/demand situation. A prolonged strike, any interruptions in foreign crude supplies or the loss of even one major processing unit could result in a shortage.

Prophetic. We all know "what" happened. The "why" debate continues, and there are important interrelationships between gasoline and distillate supplies.

In the first 6 months of 1979, it is true, as recently reported locally, that Gulf imported 23.5 percent more foreign crude oil than in the comparable period a year ago. We also imported 89 percent less refined products, chiefly residual fuel. The crude oil increase was about 80 million barrels per day. How was this accomplished? And where did it go?

Gulf's U.S. refining system processes light, sweet crude oil, primarily from Nigeria, Libya, Algeria, and the North Sea. We also refine a minor volume of light, sour Abu Dhabi crude oil. However, no Iranian or other similar heavy, sour Middle East crudes are normally handled.

Consistent with Gulf's practice during the 1973 embargo, we allocated our sweet crude oil and sour crude oil pools separately. The loss of Gulf's Iranian production severely impacted our own European refining system as well as our affiliate and third party customers in the Far East.

Operations of Gulf Oil Co.-United States were virtually unaffected. Indeed, during that period, Gulf achieved record rates of refining capacity utilization, 95 percent, as against an industry average of 84.7 percent. Crude runs to stills for the first 7 months of 1979 were up 5.8 percent or 45,300 barrels per day compared with the previous year. This was, quite simply stated, as much crude as we could possibly turn into refined products.

The Department of Energy required us to sell about 20 million barrels per day of crude oil to smaller competitors under its buy/sell program. The balance, approximately 15 million barrels per day, went to offset declining domestic crude oil production and to modestly build up crude oil inventories. We had entered the year with a subnormal crude inventory.

As you can imagine, the additional crude oil processed by Gulf yielded substantial increases in the production of both gasoline and distillate. East of the Rockies, the heart of Gulf territory, gasoline and distillate production was increased by 12.7 percent and 12.4 percent, respectively. We normally operate in a maximum prime fuels mode, which maximizes the total of gasolines plus distillate, while minimizing the production of residual fuel.

But production did not rise in isolation. So did sales. Both gasoline and distillate customers of refiners more severely impacted by crude oil shortages turned to Gulf for product. Gulf's gasoline sales increased by 16 to 17 percent in the first quarter, causing a rapid inventory drawdown despite record crude runs and gasoline production. In late March, we became one of the last two major companies, Exxon being the other, to declare a gasoline allocation fraction.

The trend of distillate sales was similar. There have been suggestions that this increased demand reflected stockpiling by commercial and industrial customers. An equally credible explanation is that some refiners, already plagued by crude oil shortages, were unable to supply their historical customers.

Moreover, one should not lose sight of the fact that the most rapidly growing segment of the crude oil barrel in demand terms is the distillate segment, not only for home heat, but for diesel transportation, petrochemical feedstocks, turbine aircraft fuel, and so forth.

In May, the Department of Energy asked us to meet our share of an announced 240 million barrel target for primary distillate stocks by October. We agreed. Our commitment is about 18 million barrels. We are on target. The commitment will be fulfilled.

Although distillate is a decontrolled product, the unprecedented demand, coupled with our inventory commitment to the Department of Energy, forced Gulf to curtail supply to customers during the summer. In July, we could supply only 75 percent of demand the previous year. Since then, we have increased supply on several occassions and are currently delivering about 90 percent of sales in September 1978. By November/December, we expect to supply 120 percent of last year's demand.

Now what this translates to overall in 1979 is a delivery of about 111 percent of 1978 demand. This, with a flat refining capacity. We believe most competitors faced similar circumstances. The unpleasant fact is that while the Nation's appetite for middle distillates continues to increase, refining capacity growth has not kept pace.

Summer curtailments have undoubtedly impinged upon efforts to fill secondary and tertiary storage. However, our own analysis suggests that tertiary storage is probably about 50 percent full, though I would hasten to add at this point that that is a very, very small sample that we have taken.

Assuming an average to normal winter, and barring interruptions in crude oil supply, or major refinery shutdowns, industry should be capable of adequately supplying the home heat market in the Northeast.

Strange as it may sound, we are concerned lest this Nation become awash in distillates by winter. We would prefer that distillate inventories peak in late November or early December. With full tanks in October, a refiner facing below average demand born of a mild fall has two options: he can curtail refinery production or make distress sales of excess distillate to someone who hopefully does possess storage capacity.

The former action, of course, impacts gasoline production at the time the industry begins the annual rebuilding of depleted gasoline stocks. Stock replenishment is essential if we are to avoid a repetition of the service station lines of 1979. This strategy of inventory management would also minimize the current supply impact upon resellers and end users of distillate.

A consumer will find little comfort in the thought that the home heating oil he cannot buy is cheap. Happily, supplies do appear adequate. Unhappily, the price is definitely not cheap. Our own analysis suggests that heating oil prices average about 28 cents a gallon more than a year ago. Crude oil producers, domestic and foreign, received about half of that. The remainder represent increased gross margin, as it is called, for refiners and resellers.

A significant portion of this gross margin is consumed in the struggle against the inflationary cost increases these refiners and resellers face. But a portion undeniably represents profit improvement. For most, we suspect it is the first significant profit improvement since 1973, when margin controls were imposed on the industry. Imposed at a time of more than adequate supply. Imposed at a time when heating oil had to compete with natural gas, whose price was regulated below replacement cost. Imposed when domestic refining capacity was adequate, and the capital cost of new capacity was less than one-third of what it is today.

Heating oil prices have not risen in isolation. Home heat, diesel fuel for agricultural and transportation use, petrochemicals, kerosene, jet fuel—all of these demands pull upon the same 30-percent fraction of the crude oil barrel we call distillate. The price of any of these products must reflect its alternate use value. The heating oil consumer must compete with these other demand sectors.

Again, industry profits have improved, and Gulf's distillate profits are no exception.

This summer, we announced a $250 million refinery expansion and modernization program which will increase capacity at our Philadelphia and Port Arthur, Tex., refineries by 80 million barrels per day. The projects will help meet growing demand for unleaded gasoline and middle distillates, provide energy conservation measures to help offset rapidly rising refinery fuel costs, and lay the groundwork for us to utilize a wider range of poor quality, high sulfur crudes that represent the bulk of the world's remaining reserves today.

These investments are largely possible because of our improved distillate margins plus certain recent modifications to DOE's gasoline price control program. We, and the entire refining industry, have a clear public responsibility. Without the opportunity for a fair profit, however, it is unlikely that Gulf or the industry can meet forecasted distillate demand over the coming years.

Profit is the cost of the future.

Thank you for the opportunity to present these prepared remarks, Mr. Chairman, and at an appropriate time I would be pleased to respond to the committee's questions.

Mr. DINGELL. Dr. Bowman, the committee thanks you for a very helpful statement.

Ms. O'Reilly, we welcome you.

STATEMENT OF KATHLEEN F. O'REILLY

Ms. O'REILLY. This winter, consumers of home heating oil will be forced to pay double the amount that they did last winter to heat their dwellings. The human and economic impact of that doubling will not be minor inconveniences, or minor readjustments to their monthly budget, but rather a severe hardship which is not economically, legally or equitably justifiable.

We have seen that in the first 7 months of this year the wholesale price of gasoline rose at an annual rate of 47 percent, the wholesale price of crude oil rose at an annual rate of 27 percent. Then we get to the major league of energy, and see that the price of home heating oil has increased at an annual rate of 62 percent, which translates into 4½ times the increase in the consumer price index.

We also see the spot market prices have been increasing at a 156 percent rate in New York and 133 percent in Rotterdam. Those figures in isolation are shocking enough. Yet look at the historical pattern that in the first 6 months of 1975, 1976, 1978, that the price of home heating oil declined. In the first 6 months of this year, not only was there not a decline, there was increase of 29 percent.

The impact is going to be very real. There are 10 million households in this country that in the winter ahead because they live at the poverty line, just above the poverty line will simply not have the money to pay their home heating oil bills.

We see already, that 20 percent of the households in this country that are living at or below 125 percent of the poverty line are spending as much as 25 to 40 percent of their disposable income on energy.

If we look specifically at a poor family in the North, this winter such a family that has $350 a month to pay all of their bills and expenses, will be forced to pay $200 of that amount just to heat their dwelling at a temperature level which is only marginally healthy.

A year ago the Consumer Federation Association conducted a study analyzing the impact on low income consumers of Federal energy policy. We found that 40 percent of the low income households in this country do not have thermostats.

We found that in Michigan, a study showed that in the winter of 1976 and 1977, 40 percent of the people who went into nursing homes that winter, went into nursing homes not because of bad health, not because they wanted to give up their homes, but because they could not afford their utility bills.

Another 1977 Michigan study showed that in the 1977–78 winter, one out of five senior citizens in this country would literally have to decide whether to pay their utility bills or have the most basic of food on their tables.

These figures understate the problem, because low-income consumers do not have the cash on hand to pay immediately upon delivery. They do not buy in sufficient quantities to be preferred customers of the oil companies.

Dealers are literally in fear of delivering oil into these poor neighborhoods because of those very few houses that can afford the home heating oil. More than any other segment of the population low-income consumers are victimized by the hoarding of oil which only commercial users and only the wealthy can afford.

Low-income consumers have the most energy inefficient homes. They do not have $500 to $1,000 necessary to weatherize their home or to insulate. They do not have energy-efficient appliances. They don't have garbage disposal, or gadgets like microwave ovens and electric garage door openers that they can readily do without to bring down their energy consumption.

We are talking about a situation where people will freeze to death this winter in certain households unless there is relief.

Even on the supply side a doubling of the cost of home heating oil is not going to provide assurances that there will be and adequate supply. For although it appears that stocks will probably approach the DOE goal of 240 million barrels by October, that will be achieved because of a swelling of primary stocks and withholding from the secondary levels of stocks. You have to look at the total size of stocks to really consider supply, not any one component.

When we consider that in August of this year the refinery capacity was running at 86 percent; whereas a year ago it was 91 percent; and a year before 90 percent, we can see that there is a gap, and there is not a commitment to meet the demands of the consuming public.

In short, we are talking not simply about reasonable profits. We face gouging that is economically unjustifiable. We face economic blackmail on the American consuming public, which is a captive audience of home heating oil, which cannot effectively boycott the oil industry, cannot pick and choose among home heating oil distributors to get a good buy.

Equally shocking as this victimization, is the fact that to date the Government has not exercised its responsibilities to put a stop to this outrage. That is why it is time for Congress to exercise its responsibility, not only to legislatively reimpose controls on home heating oil, but to give us assurances (through pressure or DOE and through their day to day deliberations) to insure us that we will have a Department of Energy that is committed to controls.

More than ever the American consuming public needs and insists that the Government respond to the public and put an end to the shocking economic blackmail that will result in a doubling of home heating oil prices this winter, and severe human hardship, particularly for low-income consumers and the elderly.

Thank you.

[Ms. O'Reilly's prepared statement follows:]

TESTIMONY OF
KATHLEEN F. O'REILLY
EXECUTIVE DIRECTOR
AND
MICHAEL PODHORZER
LEGISLATIVE DIRECTOR
CONSUMER FEDERATION OF AMERICA

BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
U.S. HOUSE OF REPRESENTATIVES

HOME HEATING OIL
SEPTEMBER 5, 1979

Consumer Federation of America is a federation of 240 national, state and local non-profit organizations that have joined together to espouse the consumer viewpoint. CFA and its member organizations represent over 30 million consumers throughout the United States. Among our members are: 60 state and local consumer organizations, 83 consumer cooperatives, 16 national labor organizations, and 27 national and regional organizations.

An increasing number of studies demonstrate persuasively that as winter approaches, consumer anxiety about the energy crisis eclipses general concern about "inflation" as the current number one consumer problem.

Consumers face the probability that the price of home heating oil this winter will double. Consider the psychological and political implications of that concern in light of the fact that oil companies have all been reaping record profits. As a result, consumers will carefully scrutinize Congressional action these next few months. Consumers desparately need assurance that Congress will exercise the courage necessary to recognize the error that the 94th Congress made in failing to veto decontrol of middle distillates. That failure has already cost consumers billions of dollars. This winter billions of dollars more will be unjustifiably transferred from consumers to the major oil companies if Congress fails to reimpose controls. Parenthetically, it should be noted that the more basic error that an earlier Congress made was approving a process by which controls could be removed if the decision were initiated by the President and not vetoed by Congress (rather than legislatively affirmed by Congress).

PRICES

Heating oil price increases this year are nothing short of astronomical. In the first seven months of the year, heating oil prices increased at a 62% annual rate.

This increase is 4½ times faster than the consumer price index. The wholesale price of heating oil has been increasing at a 62% annual rate, even faster than the 47% annual rate of increase for gasoline and the 27% annual rate of increase for crude oil. Spot market prices have been increasing at a similar rate -- a 156% rate in New York and a 143% rate in Rotterdam.

Furthermore, if history is any indication, these estimates are conservative. From 1975 through 1978, the price of heating oil declined between January and June. This year, heating oil prices increased by 29% between January and June.

The need and the justification for reimposition of heating oil controls are compelling. Since decontrol, heating oil prices have increased by 75%. This is 1½ times as fast as the controlled price of gasoline over the same time period.

IMPACT

At a time of shrinking real income, such steep price increases will place a tremendous burden on the vast majority of consumers. But the burden will be heaviest on the most vulnerable members of society -- the low-income, the elderly, and those on fixed incomes. This winter more and more consumers will face the mathematical impossibility of having enough income to obtain enough oil to keep the house at a minimally healthy temperature, pay rent, and to purchase basic groceries. Studies two and three years ago found that the poor were being forced to decide between keeping warm and eating. This winter the poor will be able to do neither.

Estimates of the income share energy purchases will require next year is nothing short of a national scandal. The more than 10 million households in the United States living in poverty will spend between 1/3 and 2/5 of their income, in large part depending on whether their homes are heated with oil. The higher income household will spend 1/20th or less of their income on energy.

But even these statistics understate the enormous burden heating oil prices will place on the poor because during the winter, the poor must have sufficient cash on hand to pay for fuel oil deliveries. A poor family living in the North will have an average of $350 a month total disposable income to pay heating bills averaging $200 a month this winter.

A year ago CFA conducted a study of the impact rising energy prices were having on low-income consumers and accordingly how the poor were coping. We found that whereas most of society has a variety of available options in coping with rising energy prices, the low-income consumer does not. Insulating, weatherstripping, installing storm windows and doors, driving automobiles which achieve higher miles per gallon, reducing the thermostat setting and eliminating non-essential energy use such as electric garage doors and microwave ovens are options available to many but not the low-income consumer. Weatherization requires too much on-hand cash. Lowering the thermostat setting is unrealistic as most low-income households' temperature is already at or below the minimum margin for health. In any case, 40% of these households do not have control over the temperature in their homes, and in most low-income households there is little or no "non-essential energy consumption to eliminate."

Living in homes that are sieves, as a practical matter being backed into budget constraints that force choices between eating and staying warm, the consequences of rising energy prices on the low-income consumer are numerous and devastating. For the low-income senior citizen, the rising energy prices of recent years have been a direct peril to health and have meant an increasing rate of institutionalization. For the low-income homeowner, the rising energy prices have resulted in mortgage defaults and loss of home -- typically after generations of home ownership. For most low-income consumers, rising energy prices have meant worsened diet, consequent ill health, dislocation, unemployment and the physical and emotional trauma of a rapidly decreasing standard of living.

SUPPLY

Even at these prices, consumers can by no means be certain that there will be adequate supply. Although it would seem that primary stocks will come close to the DOE established goal of 240 million barrels by October, it is becoming more evident that this achievement may be of little practical value to consumers, because it appears that the goal is being achieved by withholding heating oil from secondary stocks -- wholesalers and jobbers. The implication is that the real bottom line -- total stocks in the system -- are far short of what is necessary. In this connection, it is hardly reassuring to see that refinery capacity utilization is running so far behind the last two years rate. For example, August's roughly 86% refinery capacity utilization compares with 91% last year and 90% the year before. Given the record of the effect which low utilization had on the gasoline situation earlier in the year and the fact that crude stocks are increasing, it is indefensible that DOE has taken no forceful action, such as mandatory allocation and refinery yields. One would like to believe that Secretary Duncan is not as intimidated by the major oil companies as ex-Secretary Schlesinger who took no action because (according to him) he was afraid that the major oil companies would leave the oil" on the high seas."

It is also clear that the poor will face even more severe supply problems. Ensuring an adequate supply of heating oil to the poor will be a major state and federal problem. The poor will have a greater difficulty in obtaining service because of "cash on delivery" policies, because of their smaller purchases (thus their unprefered customer status), and because of the danger heating oil dealers feel they would expose themselves to by entering low-income neighborhoods during times of short supply to deliver to the rare home which can afford the fuel. The poor are further disadvantaged by the hoarding of commercial and industrial enterprises as well as by wealthier individuals -- hoarding which reduces supply dramatically and forces prices even higher.

Mr. Dingell. Ms. O'Reilly, the committee thanks you for your very helpful statement.

The Chair announces a vote is going on the floor. The Chair advises, the Chair intends to stay here and persist in the taking of testimony on these very important matters. For that reason, we will recognize at this time Mr. Morgan.

STATEMENT OF EDGAR G. E. MORGAN

Mr. Morgan. Thank you, Mr. Chairman, and members of the subcommittees.

I have been asked to come here today to address the issue of the present level of heating oil stocks for this coming winter. Additionally, the subcommittee staff requested that I present whatever information I can regarding price and credit terms placed upon the retail heating oil dealers by their suppliers.

As the fuel oil vice president of the National Oil Jobbers Council I welcome this opportunity and wish to point out that accompanying me here today are Mr. Joe Amato, a local fuel oil dealer from Silver Spring, Md., and Mr. James Hickel, our staff economist.

First, allow me to discuss the issue of supply. A great deal of attention has been devoted to this subject with very little light being added or full comprehension being realized.

Earlier this summer the Department of Energy announced a target level of 240 million barrels of middle distillate to be in primary storage tanks by October 1 of this year. Later this target date was moved to October 31.

Primary storage generally means any storage facility that has a capacity of 50,000 barrels or more. Since most retail heating oil marketers do not have storage facilities of this size, their individual bulk plants and terminals are not included in the primary stock level figure currently being monitored by DOE.

This factor is critical in understanding the significance of the 240 million barrel target and its relevance to the total amount of oil that is in storage, ready for use, at any given time.

Aside from the large facilities at the refiner level, total capacity in the storage tanks of independent dealers is estimated at 47 million barrels nationwide.

While last year on June 1 there were about 22 million barrels stored in dealer tanks, approximately equal to 48 percent of total dealer capacity, this year on June 1 the level of inventory was down to 13.5 million barrels, or 29 percent of capacity.

This shortage is due to the 240-million-barrel target level for October 31 that the refiners are trying to achieve and can only meet at the expense of dealer tank storage.

The third level of storage is the customers' tanks. The amount of distillate oil which can be stored by heating oil customers across the Nation is estimated at 80 million barrels.

On June 1 of last year these customer tanks were approximately 60 percent full while this year the level was at 51 percent of capacity. These storage figures are the result of a survey the National Oil Jobbers Council undertook this summer and are included with my testimony. [See p. 84.]

Mr. DINGELL. Without objection, those will appear in the record in the appropriate place.

Mr. MORGAN. Thank you, Mr. Chairman.

This was the first such survey ever conducted and it is my understanding that this type of survey is now being conducted on a monthly basis by the Census Bureau for the Department of Energy.

I might add that this morning Secretary O'Leary pointed out that he hoped to have some figures later this month. It is my understanding that those figures will probably show what the stock levels were as of June 1.

The reason I am rather certain of that information, Mr. Chairman, is that several members of the council told me 2 weeks ago they received the form, they filled it out and sent it back, and it asked the same question we did, what the inventory level was as of June 1.

I would hope that the committee might look into this, and might get the Department to accelerate the pace at which they are surveying the storage of heating oil at the secondary level.

My point, however, is that the oil is being stored at the wrong place. The capacity for storing the oil nearest to its point of usage is definitely available but the Department of Energy, for reasons best known to itself, insists upon filling tanks which are mostly under the jurisdiction of the refiners.

This could be dangerous if we experienced a sustained cold snap early this winter because there would not be enough trucks and drivers to move unusually large amounts of oil to meet an unusually early demand.

It is important to note that the target of 240 million barrels is inordinately high and has only been achieved twice in the past 5 years and only on one occasion in the last month of the calendar year.

Let me also make this observation. If the heating oil is permitted to rest in refiners' tanks while the price of oil continues to rise, then the increased price will be passed on to the dealers and the consumers.

However, if the oil is permitted to flow now, not only will the consumer be secure from the standpoint of supply, but also from the standpoint of price.

The issue of price is more difficult for me to address since we do not collect retail price information. However, published information in the trade press of wholesale prices as recent as a few weeks old to 1 year old I think could be pertinent for your consideration.

In July and August of 1978 the reseller barge price in New York Harbor was 36 cents to 36.7 cents per gallon depending upon the supplier. This August the range was 56 cents to 69 cents per gallon, again depending upon the supplier.

I might add that that 56-cent figure has now gone to 59 cents as of last Friday. So it is now 59 to 69 cents as of today.

Such increases can only be explained by the individual refiners and suppliers. However, it is important for the public policymakers and consumers to understand that the wholesale price of oil has been rising sharply.

In addition to increased prices being passed on to the dealers, increasingly stringent credit terms have also been laid down. For example, traditional refiner summer fill programs permitted dealers to take delivery of their oil early, at a price that was assured throughout the summer, and pay after it was delivered to the dealers' customers in the fall.

Many suppliers have abandoned this practice and now require payment within 10 to 30 days. This means added expense to the dealer who wishes to receive some of his supply prior to the heating season.

A list of some of these summer programs is included at this point in my prepared remarks. [See p. 84.]

In addition to changes in the summer fill programs we have begun to see limitations on credit lines. While some companies have raised their credit lines they have not kept pace with the increases in the price of oil. This often requires retailers to borrow more money to obtain the same oil they bought in previous years.

Tighter credit terms are another factor confronting the heating oil dealer. Comparative data for the past 2 years is included at this point in my prepared remarks. [See p. 84.]

In closing, let me put the fuel oil dealer in perspective. There are approximately 8,000 dealers serving 50 million residents living in 16 million homes. While there are a handful of large dealers, by far most are small independent businessmen.

They must compete in the open market, not only with each other, but with the large Government-regulated monopolies that sell gas and electric heat, forms of heat far less efficient than fuel oil but nevertheless particularly in the case of gas, at lower costs due to the artificially low pricing of residential natural gas.

In the last 1½ years the heating oil dealer has seen the price of his product rising, protested such increases, asked for explanations of such increases from both the suppliers and the previous Secretary of Energy, all to no avail.

President Carter is now calling for the Government to subsidize the gas utilities in converting oil-heated homes to natural gas. If this latest aberration comes to pass most oil-heated homes will be dependent upon another fuel source whose supply is just as tenuous as oil and in time to see the Government monopolies exacting very high prices for their gas due to the impact of deregulated gas prices, a greater dependence upon a more costly source of gas—imported Canadian, Alaskan, and LNG.

The heating oil marketer is the last vestige of independent means for heating one's home. He has evolved from wood to coal to oil and now to solar. He enjoys a less than fair opportunity to compete in the open market and unlike his competition from utilities cannot levy a standby service charge when his customer seeks to use a renewable energy source such as the Sun.

The price, supply, location of supply, competition from both utilities and Government has not been easy to endure. If it is within the scope of this subcommittee to alleviate the burden of being best, we welcome your help.

[Testimony resumes on p. 90.]

[Attachments to Mr. Morgan's prepared statement follows:]

REFINER SUMMER FILL PROGRAMS

Amoco June, @5/10 days. July, 1-1/2%/10 days. August, 1%/10 days. Billing October 1 with approval of credit department.

Arco June 1 - September 30. Terms 1%/10 days. Billing October 10.

Ashland No program.

Chevron May 1 - August 31. Price protection. Billing October 1.

Citgo No program.

Conoco May 1 - September 30. Terms 1%/10 days. Billing November 1.

Exxon May 1 - September 30. Terms 1%/10 days. Price protection. Billing October 15.

Gulf No program.

Marathon No program.

Mobil May 1 - September 31. Terms 1%/10 days. Billing October 1.

Phillips May 1 - August 31. Billing October 10.

Sun June 1 - August 31. Terms 1%/10 days. Billing October 1.

Texaco Three options: (a)net 10 days; (b)posted price at delivery, payment October 10 with 2-1/2% surcharge; (c)invoice October 1 at October 1 price.

Union June 1 - August 31. Price protection. Billing September 30.

HEATING OIL CREDIT TERMS

Supplier	1978 Credit Terms	1979 Credit Terms
Amoco	1%/10 days, net 30	1%/10 days, net 30
Arco	1%/10 days, net 30	1%/10 days, net 30
Chevron	1%/10 days, net 30	1%/10 days, net 30
Citgo	1%/10 days, net 11	1%/10 days, net 11
Conoco	1%/10 days, net 11	1%/10 days, net 11
Exxon	1%/10 days, net 30	1%/10 days, net 30
Gulf	1%/10 days, net 30	Net 30 days
Hess	1%/10 days, net 15	1%/10 days, net 15
Marathon	*	Net 10 days
Mobil	1%/10 days, net 30	1%/10 days, net 30
Phillips	1%/10 days, net 30	1%/10 days, net 30
Sun	1%/10 days, net 30	1%/10 days, net 11
Texaco	1%/10 days, net 30	Net 10 days
Union	1%/10 days, net 30	1%/10 days, net 30

*Terms changed from 1%/10 days, net 30 to net 10 days on May 1, 1973 - fifteen days before price controls were imposed on distillate oil.

DISTILLATE STORAGE
DEALER AND CUSTOMER TANKS
JUNE 1, 1979

I. SUMMARY

The Department of Energy, which has announced a target of 230-240 million barrels of distillate oil in storage by October 1979 in order to meet the heating oil requirements for the upcoming winter, has not taken into account the amount of distillate in the tanks of heating oil dealers and customers in determining whether that target is being reached. In order to supply DOE and other interested parties with the data necessary to make that determination, the National Oil Jobbers Council has surveyed its members who deal in retail fuel oil sales to determine the level of distillate storage in dealer and customer tanks. Nearly 1300 dealers, representing 26% of the heating oil sold by independent marketers in the United States, provided data which indicates the following:

- o Dealer distillate storage tanks, which were 48% filled on June 1, 1978, were only 29% filled on that same date in 1979.
- o Customer heating oil tanks, which were 60% filled on June 1, 1978, were 51% filled on that same date in 1979.
- o Nationwide, an estimated 70 million barrels of heating oil (about 3 billion gallons) were stored in dealer and customer tanks on June 1, 1978. Only 54 million barrels were in storage one year later - a shortfall of 16 million barrels over the previous year.
- o Comments by heating oil dealers indicate that the shortfall in dealer tanks has not improved since June 1 of this year. Indications are that refiners of distillate oil have been holding back product from retail dealers and their customers, in order to meet DOE's October storage target.

II. METHODOLOGY

On June 27, 1979, the National Oil Jobbers Council sent a postcard-type questionnaire to its 6300 fuel oil dealer members. The questionnaire, which is reproduced in Appendix A of this report, asked for data on the amount of distillate oil being stored in dealer tanks and customer tanks on June 1, 1979 and June 1, 1978. A total of 1391 replies were received between June 27 and July 26, 1979. Of these replies, 1280 were usable for the purpose of this survey.
The information contained in the usable replies has been aggregated.

On the average, dealer distillate storage tanks were 28.7% filled on June 1, 1979, as opposed to 47.9% on June 1, 1978. Customer tanks are estimated to be filled at 51.2% on June 1, 1979, as opposed to 60.3% on June 1, 1978. The customer tank information is based on data which was generally estimated by the respondents. Furthermore, since not all of the respondents answered the customer tank question, only 5.3% of all 1978 independent retail heating oil sales were represented in this estimate.

According to the Energy Information Administration within DOE,[1] 538 million barrels of heating oil were sold in 1977, 77.2% of which was sold by independent retailers as opposed to large refiners. Although comparable data for 1978 is not yet available, NOJC does not project a substantial change in either figure for 1978, so the sales volume data supplied by surveyed dealers has been expanded based on 1977 totals. Sales figures for 1978, rather than 1977, were requested on the survey form on the basis that 1978 figures were more readily available to the surveyed dealers.

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[1]U. S. Department of Energy, Energy Information Administration, Sales of Fuel Oil and Kerosine in 1977, November 1978.

Of the 414 million barrels of heating oil sold by independent oil marketers in 1977, 107 million barrels (4.5 billion gallons)[2] were represented in this survey. However, not all of these respondents gave complete answers to all questions asked. Accordingly, the expansion factor for each item is as follows.

	1979		1978	
	Percent Coverage	Expansion Factor	Percent Coverage	Expansion Factor
Total Sales	25.8%	3.8760	XXX	XXX
Dealer Tank Capacity	19.5%	5.1282	19.5%	5.1282
Dealer Tank Storage	19.5%	5.1282	19.5%	5.1282
Customer Tank Capacity	6.0%	16.6667	6.0%	16.6667
Customer Tank Storage	6.0%	16.6667	6.0%	16.6667

Applying these expansion factors to the sample data yields nationwide estimates as follows:

	Expansion Factor		Sample Total (millions of gallons)		Nationwide Estimate (millions of gallo
1978 Sales	3.8760	X	4,495	=	17,423
1979 dealer tank capacity	5.1282	X	386	=	1,979
1978 dealer tank capacity	5.1282	X	377	=	1,933
1979 dealer tank storage	5.1282	X	111	=	569
1978 dealer tank storage	5.1282	X	181	=	928
1979 customer tank capacity	16.6667	X	203	=	3,383
1978 customer tank capacity	16,6667	X	200	=	3,333

[2] The printout in Appendix B indicates total 1978 sales of 4.06 billion gallons. However, 124 respondents did not indicate a sales figure on their reply. By applying the average of 3.5 million gallons on sales to thése marketers, an additional 434 million gallons in sales is represented.

	Expansion Factor		Sample Total (millions of gallons)		Nationwide Estimate (millions of gallons
1979 customer tank storage	16.6667	X	104	=	1,733
1978 customer tank storage	16.6667	X	121	=	2,017

The first set of data items in the printout in Appendix B contains those respondents who answered for both years; the second set (the 5000-series respondents) answered only for 1979. By including the second set and basing the data upon all respondents the nationwide estimates are as follows:

	Expansion Factor		Sample Total		Nationwide Estimate
1978 sales	3.8760	X	4,495	=	17,423
1979 dealer tank capacity	3.8760	X	479	=	1,857
1978 dealer tank capacity	5.1282	X	377	=	1,933
1979 dealer tank storage	3.8760	X	147	=	569
1978 dealer tank storage	5.1282	X	181	=	928
1979 customer tank capacity	12.1007	X	277	=	3,352
1978 customer tank capacity	16.6667	X	200	=	3,333
1979 customer tank storage	12.1007	X	143	=	1,730
1978 customer tank storage	16.6667	X	121	=	2,017

In the interest of consistency, the data representing both years has been presented in the summary section of this analysis, and will be referred to as the established nationwide estimates of dealer and customer tank storage.

III. GEOGRAPHICAL DISTRIBUTION

Replies were received from the following states.

STATE	BOTH YEARS	ONLY ONE YEAR	TOTAL
California	1	0	1
Connecticut	23	10	33
Delaware	6	1	7
District of Columbia	3	4	7
Florida	1	6	7
Georgia	2	0	2
Idaho	5	1	6
Illinois	10	3	13
Indiana	12	3	15
Iowa	4	1	5
Kentucky	1	0	1
Maine	11	4	15
Maryland	8	7	15
Massachusetts	49	18	67
Michigan	61	35	96
Minnesota	34	19	53
Missouri	2	2	4
Montana	1	0	1
Nevada	2	0	2
New Hampshire	14	2	16
New Jersey	62	3	65
New York	92	35	127
North Carolina	55	1	56
North Dakota	8	0	8
Ohio	19	0	19
Oregon	15	5	20
Pennsylvania	86	17	103
Rhode Island	3	4	7
South Carolina	11	3	14
South Dakota	3	1	4
Vermont	10	4	14
Virginia	20	4	24
Washington	18	4	22
Wisconsin	41	22	63
No State Indicated	235	133	368
TOTAL	928	352	1280

APPENDIX A

SURVEY FORM SENT TO FUEL OIL DEALERS

DISTILLATE STORAGE DATA			Check here if data is estimated
1. Total amount of distillate oil (No. 1, 2, and 4 oil) sold in 1978 (gallons)	____________ (number of gallons)		
	June 1, 1979	June 1, 1978	
2. Total Distillate Bulk Plant Capacity	________	________	______
3. Total Amount of Distillate in bulk plant storage	________	________	______
4. Total Distillate Customer Tank Capacity (if known)	________	________	______
5. Total Amount of Distillate in Customer Tank Storage (if known)	________	________	______

NAME ____

COMPANY ____

Appendix A-1

Mr. DINGELL. Thank you, Mr. Morgan. You have given us a very helpful statement.

Without objection, the additional information you have submitted to us on heating oil storage dealer and customer tanks will be submitted for the record.

Just before I recognize my colleagues, can you tell me how reliable that is in terms of giving us figures as regards the national level of supply and secondary and tertiary storage; that is, in the hands of the dealers and in the hands of the consumer.

Mr. MORGAN. Mr. Chairman, are you addressing yourself to the June 1 survey or the more recent one which we just completed over the weekend?

Mr. DINGELL. The June 1 survey appears to be a pretty carefully done one. Your comments as regards the September one indicate that it was done rather more speedily in order to assist the committee, I think, and also had a smaller sample and had some difficulty in reaching your tertiary storage.

Could you comment on both, please?

Mr. MORGAN. Yes. The June 1 survey is one that we feel is statistically valid. However, because the survey showed that storage level was so low, people in the Department of Energy and elsewhere questioned it, thinking that only those who were in short supply this year compared to last were the ones who responded.

That in fact was not the case. We had several that responded who indicated their storage levels were somewhat higher. But for the most part storage levels were down.

Mr. DINGELL. Pardon me. What percentage sample was your June 1?

Mr. MORGAN. In the June 1 survey, we sent out a questionnaire to approximately 6,300 marketers. We received responses from 1,300.

Mr. DINGELL. Approximately a fourth.

Mr. MORGAN. That is correct.

Mr. DINGELL. Now, that 6,300 sample, was that the entirety——

Mr. MORGAN. Of the membership. That went all over the country.

Mr. DINGELL. What percentage of the total oil sales are at that level or petroleum sales are at that level?

Mr. MORGAN. That is between 78 and 80 percent of all the heating oil that is sold in the United States.

Mr. DINGELL. So you could then make a pretty good extrapolation from that figure, is that correct?

Mr. MORGAN. That is correct, Mr. Chairman.

Mr. DINGELL. All right.

Mr. MORGAN. Which we did.

Mr. DINGELL. And your study does do that?

Mr. MORGAN. Yes.

Mr. DINGELL. I see.

Now, with regard to your September 1 survey.

Mr. MORGAN. All right. We planned to do an identical survey to the June survey as of September 1. However, in meeting with the staff last week, of your subcommittee, it was felt that you wanted to have this information as soon as possible.

So we endeavored to undertake a telephone survey. We called 125 randomly selected people, dealers, in the New England and the Middle Atlantic States. We received a response that we could use from 53 of these marketers.

This was done in a period—actually, the responses came in last Friday, and yesterday.

Mr. DINGELL. You are saying your sample now is down to around 1 percent?

Mr. MORGAN. That is right. I would like to point out, however, that the survey indicated that we have a situation that is somewhat worse than it was before because while on September 1 of 1978 the dealers had a storage of 62.5 percent, this past September 1 their storage was filled only to about 27 percent.

Mr. DINGELL. That is about half what they had in storage last year at this time.

Mr. MORGAN. Yes, it is under half.

Mr. DINGELL. All right.

Mr. MORGAN. Now, we asked them to give us estimates because they have records, with regard to delivery of oil. We asked them to give us estimates with regard to their customer's tanks. That was a little higher. That showed that last September 1, the tanks were filled to a level of about 76 percent of capacity. This September 1 they were filled to a level of 45.5 percent.

Now, we know how difficult it is to get this information, and I noticed again that Mr. O'Leary referred to a survey DOE did of storage in single family dwellings. I must say I am hard pressed to find out how they could have any degree of accuracy because home owners don't usually know how much they have in their tank at any time and are not accustomed to going out there with a dip stick and measuring it.

While they might be able to give you that information this year, I question how they would be able to compare it to a figure of last year for the same date. This has been an area that just has not been surveyed before this summer.

We have been working with the Department of Energy, we have been urging them to undertake this type of survey. In fact, in some instances there are some places in the Department where they were attempting to do the survey work, and other areas of the Department didn't know that was being done.

Ultimately they threw up their hands and asked the Census Bureau to come in and do it for them.

All of the time the discussions were going on—and we were part of those discussions—we proceeded to conduct the first survey. That was as of June 1. Many people said that was too early in the season, we needed more current information, so we endeavored to get that information for you, albeit on a more limited basis.

Mr. DINGELL. Of course the June 1 survey is not as useful as need be because of the time passage that has occurred since. But coupled with a September 1 survey of fairly good breadth could give us some fairly good working judgments on which we might make some fairly good judgments, is that right?

Mr. MORGAN. That is correct.

Mr. DINGELL. I see.

The Chair will recognize my colleague from Connecticut, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman. I would like to thank the witnesses for their testimony.

This is the Watson memo, which I assume most of you are familiar with, Middle Distillate Situation, June 6, 1979, DOE.

Don't be alarmed if you are not intimately familiar with it. There is one suggestion in here that I think I would like to focus on for a moment.

Dealer storage—they say a number of the refiners surveyed indicated they were not renewing their distillate contracts with terminal operators and some were discontinuing their summer fill programs.

"DOE believes it would be counterproductive for refiners to build up primary stocks at the expense of normal stock building in terminal and dealer storage. Accordingly, DOE is jawboning with major refiners to continue to supply last year's customers in preparation for and during the coming heating season. If these efforts are not successful, DOE will consider other appropriate measures to accomplish this purpose.

Now, Dr. Bowman, did Gulf at any time withhold deliveries to its normal distribution system in order to meet the goals set by DOE?

Dr. BOWMAN. Mr. Chairman, we have had, as I testified in the prepared remarks, to go on what we have referred to as allocation beginning in the month of July.

So the short answer to your question is, yes, we were forced to curtail current deliveries for that month and continuing into the present. The low point was about 75 percent of demand. Right now we are delivering roughly 90 percent of our customer's demands.

Mr. MOFFETT. Did the DOE officials, any DOE officials, ever speak to Gulf concerning this withholding—and I don't mean that in a negative sense—but hold back on supplies?

Dr. BOWMAN. I understand your meaning of the term, Mr. Chairman.

Yes, they have. They were certainly aware. We have spoken with Mr. O'Leary, and a number of his aides, including Mr. House, who was here this morning as well, and they were urging us to build our share of the inventory up to 240 million barrels, while at the same time not taking anything away from current deliveries.

The whole must equal the sum of its parts. When we looked at where we were sitting inventorywise at the beginning of the build program, what our customer commitments were, what our refining capability was, it didn't add up to enough. Something had to give. What had to give was current deliveries.

Mr. MOFFETT. Well, many people are now questioning, as you know, whether home heating oil supplies should be moving now from primary to secondary storage. Do you have any doubts whether this supply would be sold to consumers if it moved to secondary storage?

Dr. BOWMAN. Certainly all of us have expressed some concern over that. We don't have any evidence to suggest certainly that any kind of short circuiting of the system has been going on.

At this point in time I would certainly not expect any significant amount of that to happen.

We are equally concerned—and forgive me, but I believe this was one of the points of your question—that as to the wisdom of short circuiting current deliveries now, and by that I meant reducing the volumetric amount of current deliveries in the interest of building the inventory toward a peak point in early October, we would prefer that peak to occur in late November, early December, which is normal industry practice.

Mr. MOFFETT. Well, you heard Mr. Morgan suggest that if you leave the fuel oil in primary storage, you are feathering your nest economically; it should be moved on because that tends not only to treat the supply problem, but the price problem as well.

Dr. BOWMAN. I can't disagree with that, Mr. Chairman. While it is certainly true that if you just look at the numbers, if the price goes up while we are holding a barrel in inventory obviously we can sell it for more. However, the cost of holding that barrel in inventory was not zero. There was a working capital charge.

Mr. MOFFETT. Of course.

Dr. BOWMAN. Basically the economics of our business do not give us a driving motivation to hold refined products in storage.

Mr. MOFFETT. Mr. Morgan, would you like to respond to that in any way?

Mr. MORGAN. Well, let me just say with regard to the question that was raised as to whether the dealers would in fact move it out and sell it when they got it, or would hold it, the only reason that the customer tank levels are as high as they are is because the dealers, as soon as they are getting the fuel now, are moving it out directly to the customer at the expense of building their own inventory.

They are doing that because they would just as soon get it out now, when it is easier, and they have the drivers and trucks available to do it.

So that in point of fact, the survey in June and our followup indicate that the dealers would not be holding this in order to benefit pricewise later on.

Mr. MOFFETT. Now, Dr. Bowman, does Gulf have any plans to withdraw from the heating oil market in the Northeast?

Dr. BOWMAN. We are not endeavoring to withdraw from the heating oil market in the Northeast. We have ever since about—don't hold me to the exact date, roughly late spring—stopped taking on what is termed new business. That is, at that point in time our own contracted customer commitments and historic customer requirements were equal to or exceeding our ability to deliver. So we have not been selling in the spot market.

Mr. MOFFETT. Now, with regard to your credit, see if I understand what is taking place. Originally, as a dealer, if I paid within 10 days, I would receive a 1 percent discount. Otherwise, I would have to pay within 30 days, and, third, you had a seasonal financing program; is that correct?

Dr. BOWMAN. That is correct.

Mr. MOFFETT. Then Gulf proposed to move to a system where if you were a dealer you had to pay within 10 days, the 30 days was dropped and the discount was dropped, and the seasonal financing was dropped under that proposal, and now Gulf had decided that if you are a dealer you pay within 30 days, no discount, no 10 days, and the seasonal financing program has been reinstated; is that correct?

Dr. BOWMAN. That is correct. The bottom line of that is that the change in Gulf credit terms, after an abortive and I think in retrospect, unfortunate false step, was to remove the 1 percent 10 day prompt pay discount. So we are on a net 30 day basis. The seasonal financing program remains in effect.

Mr. MOFFETT. I was among those who pleaded for backing off from that proposal. I am glad that you did it and I appreciate it. But don't the companies—you can only speak for your company—can't the companies give a little more leeway, particularly to those dealers who are in tough shape?

You are dealing obviously with your own economics and your own need to maximize your profit, and I understand that. Anybody who knows me reasonably well knows I very seldom get angry at companies. It is the Government that I blame for not having more control over the situation. But can't you help out a little bit? Can't you bend a little bit more with regard to these dealers, giving them some assistance?

Dr. BOWMAN. Well, I think, Mr. Moffett, one of the unfortunate aspects of the moves that were made was that to endeavor to change credit terms, particularly the removal of the prompt pay discount on very, very short term basis, i.e., you announce it today and it is in effect tomorrow, caused a lot of people a lot of trouble in the area of arranging their open financing. I think given a longer lead time that probably could have been accomplished with a lot less trouble for all concerned.

I appreciate your remarks concerning the economic motivating forces in a business. I think one of the factors that is driving this is of course, that the decision on our part on credit is a competitive business decision, one not out of step, when we get to the bottom line, with that of most of our other major competitors.

The thing that has been going on, I think, in large measure that has been driving this, is that the crude producers have been doing the same thing to us. We basically suffered a reduction from 60 to 30 days in the terms under which we pay for most of the foreign crude oil, which is roughly half of the barrels in Gulf's case. So that puts another 30 days of working capital on our books and then we have the driving force to get it back off the books or to improve our profitability to reflect a reasonable return on the added capital.

In that case, what has been done has been to push, if you will, the revised credit policy downstream where inevitably the consumer has to pay for it.

Just as a matter of interest, the change in credit policy represents roughly 23/100ths of a cent per gallon for us based on a more or less average selling price.

Mr. MOFFETT. I understand it can mean the difference between a dealer on margin and staying in business and not staying in business. That is the critical thing. We are losing what little competition we have in this industry.

Dr. BOWMAN. Certainly we, and I would be presumptive to speak for the industry, do not have that as the motivating factor to drive these people out of business, because they are our lifeblood. We sell about 90 percent of our home heating oil through resellers. We are only a very minor factor in direct marketing.

Mr. MOFFETT. Thank you.

Mr. DINGELL. The Chair recognizes Mr. Kostmayer.

Mr. KOSTMAYER. Ms. O'Reilly, you charged the companies with price gouging. Can you document that? There has been so much confusion. We talked about it with Mr. O'Leary and he said he thought that these increases could not be regarded as gouging, that they are the acquisition costs to the refineries, inflation, increases in wages, that increases in the price of OPEC oil and domestic oil, all of this was justifiable.

Do you agree? Can you document that?

Mr. PODHORZER. The basic documentation for it, as brought out earlier in the earlier hearing, is not comprehensive or systematic but when you look at the rate at which heating oil prices have been increasing, look at the rate at which crude prices have been increasing and then wholesale prices have been increasing, what has been happening to the margins becomes obvious that increased——

Mr. KOSTMAYER. Some contend that is because the price was held down for so long and lifted, and I think, as Dr. Bowman has said, that their rate of profitability was lower for those prior years and has improved.

Mr. PODHORZER. Between 1976, July 1976, when controls were taken off, and today, the price of heating oil which was uncontrolled and the price of gasoline which was controlled, went up at very different rates. The price of heating oil went up about one half times the rate that gasoline prices went up and certainly no one feels gasoline prices went up too slowly——

Mr. KOSTMAYER. How much has it gone up since July 1976 until today, home heating oil?

Mr. PODHORZER. About 75 percent.

Mr. KOSTMAYER. How much of that is justifiable?

Mr. PODHORZER. To put an exact figure on that, it is hard to say. If you took the price of gasoline over the same period of time, as a controlled product, so that out of the blue the right price for the right rate of increase for heating oil, then it would be—what I can't think off the top of my head would lead to a one and a half times—a third of the price would be, the price increase would have been unjustified.

Mr. KOSTMAYER. Unjustified?

Mr. PODHORZER. Right.

Mr. KOSTMAYER. Dr. Bowman, do you agree with that? They are saying the price of heating oil has gone up since July of 1976 when controls were removed, about 75 percent. What portion of that do you think is indeed profit improvement, as you call it? What portion is unjustified, if any?

Dr. BOWMAN. I am not sure that I could respond to that without doing a little arithmetic first.

Mr. KOSTMAYER. Can you give me some general idea?

Dr. BOWMAN. Well, I think since July——

Mr. KOSTMAYER. You disagree with Ms. O'Reilly's charge there is gouging?

Dr. BOWMAN. I believe I would disagree with the use of that particular terminology although as I have testified, it is an undeniable fact that profits, and specifically our profits on home heating oil, have improved. Principally they have improved over the period of the last year.

Now, except for certain modest changes derived from the crude oil prices, profit margins have been basically flat from decontrol until sometime last year. That should be no surprise, because we basically had adequate supply of both crude oil and refined products at that time.

Mr. KOSTMAYER. You are talking about net profit over the last year, wages and inflation?

Dr. BOWMAN. Yes.

Mr. KOSTMAYER. Can you give me the approximate figure, that profit improvement figure over the last year for Gulf?

Dr. BOWMAN. I really do not have adequate statistics to provide you with a meaningful number at this time as to the specifics of the change over that particular period of time.

Our average profit on a gallon of refined product sold is a little over 2½ cents. Now, that doesn't necessarily tell you a whole lot because we sell gasoline, we sell jet fuel, diesel, distillate et cetera, et cetera, et cetera.

But that is the number on an average basis and if you get into looking at profits and specific products, which we do not do, actually for our own management purposes in the way that we are looking at them here, you get into the inevitable contest of how do you allocate costs and Mr. O'Leary, the Deputy Secretary, who was referring to DOE's hearing that is being conducted next week, was referring to one method of allocating costs which the Department of Energy forces us to use for cost passthrough purposes. It is a pure volumetric allocation, and that is about as close as I can come. I don't have those numbers with me.

We will be giving those to the Department in next week's hearings.

Mr. KOSTMAYER. Are you able to break down, again according to the Post editorial, in this area, the Washington-Baltimore area, the price has gone up about 34 cents and they break that down, about 34 cents, they say the overwhelming portion of 22 cents went to the companies that transport, refine, store and distribute oil.

There has been a gigantic widening of operating margins along the complex system that gets the oil to your furnace. Do you agree with that, that it has gone to the companies that transport, refine, store and distribute? Are we talking about several different kinds of companies?

Dr. BOWMAN. The short answer to your first question is yes, basically I do agree with what that editorial says. Our own numbers are not terribly dissimilar to those, give or take a penny or so a gallon.

When they talk about the companies who refine, store, transport, distribute, and et cetera, you are talking about everybody from a major refiner down through a very small local retailer.

Mr. KOSTMAYER. Then we have to break down the 22 cents?

Dr. BOWMAN. Yes. That is not an easy thing to do. In fact, frankly, we have been relatively unable to break it down ourselves except that we know what portion is the refiner's portion, if you track it against increase in crude oil cost.

Again, I would reiterate that, broadly speaking, I do agree with the conclusions of that editorial, that the gross margin to the industry has increased over and above the crude oil cost.

Now, where has that gross margin gone. This, I think, is what you were trying to get at in your previous question. A large piece of it has gone to pay the refiners for increased fuel and other operating expenses. A portion has gone to pay increased transportation costs and what have you, other expenses incurred, resellers and retailers and portion has gone to the profit line for each of these segments of the business.

Mr. KOSTMAYER. Do you think that any segment of the industry is receiving unjustifiably high profits?

Dr. BOWMAN. No sir, I do not. I can only speak for my own segment. I won't hide under Gulf Oil per se, but as opposed to the downstream segments, the refiner segments, where we are pricing competitively, I can only presume that profits are roughly competitive and I don't think that is unjust.

I think that from 1973 when we were controlled, which was you may recall a period when we all had a long supply situation, up through 1978, profits on distillates were inadequate to justify new investment.

In our case, they are now adequate and we have publicly committed to a fairly sizable new investment to increase our ability to make middle distillates. So I would say yes, they are justified, they are justified in terms of fairness to our shareholders in reinvesting their money.

Mr. KOSTMAYER. Thank you.

Ms. O'Reilly, any information you can provide us to the contrary?

As you know, I have introduced legislation to reimpose price and allocation controls. May I make my survey earlier in the day a part of the record?

Mr. DINGELL. Without objection, so ordered.

[The survey referred to follows:]

HOME HEATING OIL PRICES AND SUPPLIES AT THE SECONDARY LEVEL
A SURVEY CONDUCTED BY REP. PETER H. KOSTMAYER
AUGUST 1-15, 1979

BACKGROUND

The survey was conducted by mail between August 1st and 15th among all 700 heating oil distributors in Pennsylvania. The response level was 20 percent, or two and one half times higher than the eight percent level which would be needed for the sample to be valid, according to the Library of Congress.

Secondary storage, or inventories held by fuel oil marketers, is a critical link in the home heating oil distribution system. If secondary storage is below normal levels, the entire distribution system becomes vulnerable to transportation delays, massive rundown of primary, or refinery level, stocks, and consequent shortages to consumers.

In the past, the Department of Energy has monitored primary inventories only. While DOE has recently begun to monitor secondary and tertiary supplies, preliminary results will not be available until mid-September at the earliest.

Furthermore, below normal stocks at the secondary level would indicate that the President's goal of 240 million barrels of home heating oil in primary storage by the end of October was being met at the expense of secondary storage. Increases in primary storage would thus indicate a reduction in distribution, rather than an increase in total supply.

SURVEY RESULTS

Supplies - Dealers responding were falling behind their summer-fill programs to residential customers by an average of 40 percent. Dealers predicted that they will have completed only 80 percent of their summer-fill programs by October 1, when the summer-fill is normally completed.

Allocations - The average allocation for Pennsylvania dealers was 76 percent of 1978 deliveries. At the same time, only 54 percent of the dealers responding had notified customers that there might be shortages this winter.

Prices - As of July 31st, heating oil was selling at an average price of 65 cents per gallon at the wholesale level, compared to 41 cents per gallon in July 1978. This represents an increase of 59 percent. Retail prices have risen to 75 cents per gallon, up from 49 cents per gallon a year ago. This is an increase of 53 percent.

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CONCLUSIONS

Home heating fuel dealers polled by Rep. Peter H. Kostmayer complained of a confusing, patchwork allocation system set up by the major oil companies and independent suppliers. Small dealers said the widely varying allocations and wholesale prices have placed them in a competitive disadvantage with larger dealers.

Many fear the present system will lead inevitably to serious local shortages throughout the state during the coming months. Dealers saw no wisdom in permitting heating oil to be stockpiled in refineries while customer tanks remain half empty during the summer fill season.

Consumers, who already face retail prices 50% and more above 1978 prices, will certainly confront even higher prices if oil companies are allowed to hold back stocks until a winter crisis.

Dealers have reported allocations based on 1976 contracts, reductions in deliveries as high as 85% and unfilled contracts for as long as six months. Dealers say they have no where to turn for assistance.

Even the nineteenth century lifestyle of the Amish may be affected by this modern problem. A dealer supplied by Exxon reported that he no longer has enough diesel fuel to supply commercial accounts, mostly Amish farms.

Although 87% of the dealers have been notified by their primary suppliers that deliveries will be reduced, more than half of the local dealers have not notified consumers about interruptions or delays in home service. Consumers do not have the marketplace information that might help them find dealers with the lowest prices and highest allocations.

DEALER COMMENTS

"Our company may not be in business next year due to cost increases. The small guy cannot make a good profit. The big companies are buying out the little guys, storing the oil, underselling us then making larger profits."

A DEALER IN HARRISBURG

"Allocations for May thru September 1979 have been reduced to only 15% of 1978 purchases by Texaco. This 85% reduction in fuel oil has not allowed me to continue my summer fill program. Customer tanks empty going into the heating season is a serious problem."

A DEALER IN OREFIELD

"I cannot see the advantage of the refineries stockpiling oil! What better way to assure the public having oil than having their tanks filled and getting the dealers' tanks filled?"

A DEALER IN NORTHAMPTON

"I am an independent dealer that has served our customers for over eighteen years. Now I find it necessary to find additional suppliers to meet our community needs. To date I have met our customers' needs, but summer fill is on us and I soon will feel the pinch."

A DEALER IN NORVELT

"One of my suppliers has not supplied any heating oil since last February. I contacted the Governor's Energy Council concerning this matter. They in turn told me to get in touch with the Federal Energy Office in Philadelphia to get an adjusted allocation supply. There I was told they could do nothing. I don't know where to turn."

A DEALER IN SCRANTON

A sample questionnaire and tabulated survey results are attached.

SURVEY RESULTS

Response: 150 of 705 (21%)
An 8% response is required for valid analysis, according to the Library of Congress.

FUEL AND HEATING OIL DEALERS
QUESTIONNAIRE

1. A. What kind of dealer are you?
Retailer 73%
Wholesaler-Reseller 10%
Both 17%

B. If both, how many gallons do you handle in each category?
Retailer 72% gals.
Wholesaler-Reseller 28% gals.

C. Have you been notified by your principal suppliers that your purchases over the coming period will be curtailed or allocated?
87% Yes
13% No

If YES what is your allocation fraction? 77% %

2. A. Gallons of fuel and home heating oil purchased last year.
For residential use 73% gals.
For commercial use 23% gals.
For industrial use 4% gals.

B. How many gallons of heating oil did you receive from your primary suppliers for the seven-month period of Jan. 1 to July 31 for the year? '78 100% gals. '79 93% gals.

C. What were you contracted to purchase? * gals.
*RESPONSE NOT ADEQUATE FOR POLL

D. Does your allocation fraction apply to the contracted amount or what you actually purchased?
Contracted 34%
Actual 42%
Both 8%
No Answer 16%

3. A. What is your present storage capacity? 17% gals.
BASED ON 1978 PURCHASES

B. Do you plan within the next year to increase your storage capacity?
16% Yes
84% No

If YES by how many gallons +9% gals.
BASED ON 1978 PURCHASES

4. Status of your summer-fill program:

A. In comparison to last year what percentage of your summer-fill program is completed? 62% %

B. What percentage do you expect to be complete by 10/1? 80% %

5. How do this year's prices compare to last season

		1978	1979
+55%	Wholesale	$ 41	$ 65 /gals.
+53%	Retail	49	75 /gals.

6. Have you notified your consumers about your ability to serve them this winter and/or any changes in your delivery patterns?
46% Yes
54% No

Mr. DINGELL. The Chair observes we have a vote on the floor. We will for that reason, adjourn the meeting. The Chair observes we have approximately completed the testimony to be received today. We thank you, Dr. Bowman, Ms. O'Reilly, and Mr. Morgan, and your associates for your assistance.

The committee stands adjourned.

[The following statement and letter were received for the record.]

CONSUMER ENERGY COUNCIL of AMERICA
1990 M Street NW Suite 620 Washington DC 20036-202-659-0404
Formerly Energy Policy Task Force of the Consumer Federation of America

The Impact on Consumers of the Escalating
Price of Home Heating Oil Since Decontrol,
With Special Emphasis on
Refiners' and Distributors' Margins

Overview

As the heating oil season approaches, it becomes more and more evident that the country will face a crisis in home heating oil prices, a crisis which will rival in both scope and intensity the OPEC embargo increases of 1973 as well as the runaway gasoline price increases of this past summer.

This report examines the impact on consumers of the prices of home heating oil since they were decontrolled in July 1976 and assesses the outlook for this winter and next. The report particularly focuses on the exorbitant, unexplained increases in refiners and dealers' margins since decontrol.

Signs of the crisis are already at hand. Heating oil prices have risen 36¢ in the past year, a dramatic increase of 73%. With this increase, a family in a cold climate, using HEW's estimate of 1500 gallons of heating oil per year, will spend $540 more this year than last just to buy the same amount of heating oil. This is a conservative estimate, since there is no reason to expect that prices will not continue to surge beyond the 73% increase.

Last year, with heating oil prices at 49¢ a gallon, a family using 1500 gallons paid $735. With the $540 increase this year, that family will pay $1275 for heating oil. And if prices average $1.00 a gallon this year -- not an unlikely possibility -- that same family will pay $1500.

If prices continue this winter to be 36¢ per gallon more than last year, then consumers will pay <u>$7.9 billion more than last year</u> -- $7.9 billion transferred from consumers to oil companies in just one year, since each penny increase in heating oil prices costs consumers $220 million just on residential heating oil purchases.

In this report, we examine these price increases by looking at dealer and refiner margins and distinguishing between actual prices and prices which can be justified by costs of crude oil and other factors.

Using three different methods of analysis which take into account inflation and crude oil price increases, and giving refiners every benefit of the doubt on margins, we calculate that heating oil should cost between 19¢ and 27¢ per gallon less than it sells for today.

If this 19¢-27¢ unjustified price increase continues for the next year, consumers will be overcharged an additional $4.2 - $5.9 billion on home heating oil in just 12 months. These figures represent the unjustified price increases consumers will pay -- not the total increase, which is still higher.

In addition, we have calculated the cumulative overcharge to consumers since heating oil decontrol in July 1976 through September 1979. Oil companies and heating oil distributors have charged consumers to date at least $2.5 billion more on heating oil sales than they would have had continued controls held prices to cost-justified levels.

This report also looks to the future, examining several possible price scenarios for January 1981. Our calculations reveal that if prices in the next year continue at the same rate of increase as they did for the past year, heating oil could cost consumers as much as $1.69 per gallon in January 1981, almost double the current price. If heating oil and crude oil controls were reimposed and prices rolled back to cost-justified levels, we project that home heating oil would cost 81¢ per gallon in January 1981.

To afford some protection to consumers who have been ravaged by unjustified prices, to permit equitable allocations of supplies in times of shortage, and to ensure fair provision of credit terms to low-income consumers, the Consumer Energy Council of America recommends that the Department of Energy or the Congress reimpose controls on both heating oil and crude oil. We recommend that prices of home heating oil be returned to levels which can be justified by cost plus reasonable profit.

I. INTRODUCTION

The bizarre gasoline crisis of this past summer with unexplained gas lines and skyrocketing prices devastated American consumers. As the driving season comes to an end, and the heating season approaches, signs of a new crisis are already at hand.

Heating oil prices have jumped 36¢ in the last year -- an increase of 73%, rivalling the price increases during the oil embargo of 1973-74. There is every reason to expect heating oil prices to continue to rise in the coming winter. Not only are prices high and climbing, but there could be supply problems as well. Assuming refineries continue to build up their stocks of heating oil at a steady pace and that the weather is not too cold, heating oil supplies should be adequate this winter, but there may be very little margin of safety and spot shortages could occur again.

The Department of Energy has the power to avert this crisis. Under its existing statutory authority, it can impose price and allocation controls on heating oil to ensure that prices are fair, that consumers get the oil they need, and that shortages are borne equally by all regions of the country and income classes. Congress, of course, also has the power to impose price and allocation controls.

Unlike gasoline, there are at present no government controls on home heating oil. Along with all other petroleum products, home heating oil came under price regulation during the 1973-74 oil embargo, but in June, 1976, those controls were lifted from heating oil and diesel fuel, which together make up a class of petroleum products known as middle distillate. This lack of controls means that the federal government is powerless to prevent profiteering on heating oil, to allocate supplies, and to ensure that all heating oil customers are treated equitably in a shortage.

This report deals strictly with the impact of decontrol on heating oil, which accounts for 44% of middle distillates. The impact of decontrol on the remaining 56% of distillate, including diesel oil and fuel burned by utilities, is not addressed by this report.

II. PRICE

A. Current Prices

Heating oil prices have risen sharply in the past six months to unprecedented levels. Heating oil now costs 85¢ per gallon, up 36¢ from an average of 49¢ per gallon last year. This represents an increase of 73% in just one year, and there is no indication that prices will not continue to rise. A particularly ominous sign is that heating oil prices have continued to rise sharply this summer. Traditionally, the low demand summer months are marked by very small price increases. This year, however, prices increased 20% between April and July, while over the same period for the past four years, prices never rose more than 3%. If supply during the coming heating season just matches demand, as is likely, then conditions will be ripe for continued profiteering and further unjustified price increases.

Given the current pace of price increases, the prospect of tight supplies, and the high cost (over $1.00 per gallon) of imported heating oil, it is not at all unreasonable to assume that heating oil prices will break the dollar-a-gallon limit this winter, and they could go as high as <u>$1.10 per gallon</u>. This would represent a doubling of heating oil prices in little more than a year, with disastrous consequences for all who heat with oil. Middle-class consumers would be severely strained, while low income consumers would be wiped out financially. Deputy Secretary of Energy John O'Leary himself admitted in testimony September 5, 1979 that, "There may be many people who will be faced this winter with a cruel choice between food or heat."

An example will serve to illustrate the impact of higher heating oil prices: As noted above, heating oil currently costs 36¢ per gallon more than it did last year at this time. If heating oil prices this season continue to be 36¢ higher than during last heating season, a family in a cold climate using 1,500 gallons of heating oil a year 1/ will pay an additional $540 this year just to buy the same amount of heating oil. Last year, at 49¢ per gallon, this family would have paid $735. If prices increase $540, it will pay $1,275. And if prices this winter average $1.00 per gallon, rather than the current 85¢, then this same family will pay $1,500 to heat its home this winter. This burden will fall on families regardless of their ability to pay. Each penny increase in heating oil prices nets the oil companies $220 million just on

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1/ <u>Energy Assistance Fact Sheet, Draft Report</u>, August 30, 1979, prepared by the Department of Health, Education and Welfare, estimating consumption of low income families in cold climates.

residential heating oil purchases. Therefore, the 36¢ per gallon difference between this heating season's price and last would transfer $7.9 billion away from consumers to oil companies in one year. Moreover, higher heating oil costs to industry and utilities are also passed on to consumers, adding to this burden.

B. Cost-Justified Prices vs. Actual Prices

Heating oil price increases during the last year are far in excess of what could be justified by higher costs of crude oil or refinery operations, leaving no conclusion but that the higher prices are the result of oil companies widening their profit margins on an essential commodity in a period of short supply.

At issue here are the margins charged by refiners and distributors for heating oil. The refiners' margin is the difference between the cost of crude oil to the refiner and the price at which the refiner sells heating oil -- the refiners' markup, in other words. Likewise, the distributors' margin is the difference between the price the distributor pays for heating oil and the selling price to consumers.

CECA has computed refiner's and distributor's margins using three different methods of analysis. When heating oil was decontrolled in 1976, the Federal Energy Administration (FEA), predecessor to the Department of Energy, justified decontrol with the claim that competition in a decontrolled market would keep heating oil prices at or below the prices that controls would have allowed. At worst, FEA said, prices would rise only as much as would be necessary to cover increased costs of crude oil. FEA assured Congress and the nation that overall refiners' and distributors' margins would not increase.

1. Cost-Justified Price Using FEA's Assumptions

Obviously, these predictions have borne no resemblance to reality. CECA estimates that crude oil now costs refiners on the average no more than 45¢ per gallon or $18.90 per barrel. In June, 1976, crude oil cost refiners 25.9¢ per gallon; thus, crude oil now costs refiners 19¢ per gallon more than it did at the time of decontrol. This is a dramatic increase, but nothing compared to the increase in the price of heating oil. If heating oil prices had in fact risen only as much as the increase in crude oil prices, as FEA predicted, heating oil would now cost around 58¢ per gallon, 27¢ per gallon less than what it costs now. (See Table 1, p. 17).

2. Cost-Justified Price Including Inflation Adjustments

It might be argued, however, that refiners and distributors ought to be allowed to increase their margins to keep pace with inflation. Of course, FEA did assure Congress that margins would not increase after decontrol, but for the sake of discussion let's look at two cases of what the margins would be if they were adjusted for inflation. We offer these calculations even though oil companies have no special right to escape the ravages of inflation when ordinary consumers cannot do so.

First we increase refiners' and distributors' margins 31.3% to keep pace with increases in the Consumer Price Index and add to these adjusted margins today's higher crude oil prices. The result: Heating oil should cost roughly 64¢ per gallon -- 21¢ per gallon less than today's price of 85¢ per gallon (see Table 2, p. 18).

3. Cost-Justified Price Including Special Refinery Inflation Adjustments

Oil companies undoubtedly will contend that the costs of operating a refinery have increased faster than the Consumer Price Index. To deal with this objection, we adjust refiners' margins by the oil industry's own inflation index -- the Nelson Refinery Operation Index. This index, compiled and published monthly by the Oil and Gas Journal,[2/] accounts for the labor and energy needed to run a refinery, investment in refining facilities, and chemicals used in refining. It does not cover the cost of crude oil to be refined. The Nelson index is respected by the industry as a reliable gauge of refinery operation costs.

The Nelson Index has increased 53% since June, 1976, in contrast to the 31.3% increase CPI. Therefore, we have increased refiners' margins by 53%. Since there is no comparable specialized index for distributors' costs, we have increased their margins by the 31.3% CPI rise. Making these adjustments for inflation and adding in current higher crude oil prices, we find that heating oil today would cost roughly 66¢ per gallon -- still 19¢ per gallon less than today's actual cost. (See Table 3, p. 19).

2/ See Oil and Gas Journal, March 3, 1958, p. 167 and January 10, 1977, p. 86 for discussion of the Index.

Giving the industry the benefit of every conceivable doubt, still we cannot escape the conclusion that refiners' and distributors' exorbitant margins cannot be justified by costs.

These higher margins: 1) 27¢ per gallon above what crude oil costs would justify, 2) 21¢ per gallon above crude oil costs with margins adjusted for CPI increases, and 3) 19¢ per gallon above crude oil costs, with refiners' margins adjusted for increases in the Nelson index -- are a measure of the toll exacted from consumers by the failure to control heating oil at cost-justified levels. The beneficiaries of the 27¢, 21¢, or 19¢ per gallon difference are obviously the oil companies and heating oil distributors.

It is important to note that these figures do not include the increased profits to major oil companies due to higher crude oil prices, yet the major crude oil producers tend also to be the major refiners of heating oil.

C. Total Cost to Date

The cost to consumers since the time of heating oil decontrol has been enormous. CECA has computed the cumulative cost to consumers of heating oil decontrol from July, 1976 to September, 1979 using the most conservative assumptions. For each month after decontrol, CECA calculated what heating oil prices would have been based on actual crude oil costs. With refiners' margins adjusted upward using the Nelson Index and distributors' margins adjusted by the CPI, the difference between this adjusted price for a given month and the actual price of heating oil constitutes the unjustified price increase in that month. This unjustified price increase was multiplied by the number of gallons of heating oil sold in the month,3/ to give the total overcharge for each month.

3/ Sales figures are available only for distillate fuel oil, and not for heating oil *per se*. To arrive at a heating oil sales figure, CECA took 44% of distillate fuel oil sales for each month since heating oil constituted 44% of distillate sales in 1977. Naturally in the winter more than 44% of distillate is used for heating and in the summer less than 44%. However, these differences average out.

On this basis, oil companies and heating oil distributors have charged consumers at least $2.5 billion more on heating oil sales since decontrol than they would have had controls been in place to hold prices to cost-justified levels. This assumes an effective control system, unlike the previous control system which was poorly conceived and poorly enforced.

This calculation of $2.5 billion in overcharges uses the most conservative of our estimates. Actual overcharges based on FEA's assurances that heating oil prices would rise only as much as crude oil costs would be significantly higher.

If the current 19¢ per gallon gap between actual heating oil prices and prices justified by crude oil increases plus the refinery inflation index continues for the next twelve months, consumers will be overcharged an additional $4.2 billion on heating oil. If we take FEA's prediction and assume that prices should only have increased with crude oil costs, and continue the current 27¢ per gallon gap between what prices would have been under that assumption and what they actually are now, consumers will be overcharged $5.9 billion in the coming year -- just for heating oil price increases.

The huge gap between the cost-justified price of 58¢ per gallon (without inflation increases) to 66¢ (with inflation increases) and the actual price today of 85¢ per gallon (the 19¢ - 27¢ gap) for heating oil demonstrates that the competitiveness the Administration counted on to restrain prices when heating oil was decontrolled is nonexistent. This comes as no surprise. Last fall DOE's Office of Hearings and Appeals (OHA) reported that "significant doubts have been raised . . . that workable competition exists in the refining sector of the (heating oil) industry."4/ OHA went on to

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4/ Department of Energy, Office of Hearings and Appeals, Decisions and Recommendations No. 2 (Home) Heating Oil, November 20, 1978, p. 131.

recommend that controls be reimposed on heating oil if these doubts could not be dispelled. In spite of this, DOE has virtually ignored the competition question, offering consumers no assurances that competition will protect them from price gouging and profiteering by big oil.

The 15 major oil companies control 70% of the heating oil market in the U.S., and in some states as few as four companies dominate the heating oil market. These companies cooperate with each other in "joint ventures" on oil wells and pipelines. As a result, each knows what the other is doing and price competition is discouraged, since the oil companies, as partners in exploration and transportation, don't want to be antagonists in selling.

D. Price Outlook

We have looked at the record of heating oil prices since decontrol. Now let's look at what heating oil prices are likely to be in the future. CECA has projected possible heating oil prices using four different assumptions; all are based on past price trends.

Although heating oil prices have increased faster than production costs ever since decontrol, the really large price increases have come since January, 1979. We have used September, 1978 through September, 1979 as a base period for projecting future prices. Recent price hikes by Nigeria indicate that the OPEC price increases of the past year may not have been an aberration but are continuing, with the upcoming OPEC meeting in December, 1979 promising further increases. Moreover, President Carter's decontrol of domestic crude oil is putting further upward pressure on oil prices. Since half of this base period was before the 1979 OPEC price increases, and since crude oil decontrol had only begun at the end of this period, we consider the period September, 1978 - September, 1979 to be a reasonable if not conservative base period for price projections.

Assumption 1

One method of projecting future prices is to assume that heating oil prices will continue to increase at the same rate as they did during the period September, 1978 through September, 1979. Based on this assumption, heating oil will cost $1.69 per gallon in January, 1981. (See Figure 1, p. 22). A family using 1,500 gallons of heating oil would spend $2,535 in 1981 if prices went to $1.69 per gallon.

Assumption 2

Two additional methods of price projection build on DOE's assumption that crude oil will cost up to \$28.15/bbl in 1981.5/ This price corresponds to 67¢ per gallon for crude oil. To this crude oil cost must be added refiners' and distributors' margins. One way to calculate these margins is to assume that refiners' and distributors' margins will continue to grow in the next 16 months as they have in the past year. Using a trend line analysis, we find that margins will come to 91.4¢ per gallon in January, 1981. With 67¢ per gallon crude oil, this would make heating oil cost \$1.58 per gallon in January, 1981. While it is unlikely that margins would continue to rise as rapidly as they did over the past year, the past year should show us that almost anything can happen to heating oil prices. (See Figure 2, p. 23). If prices were to go up to \$1.58 per gallon, a family using 1,500 gallons would spend \$2,370 in 1981.

Assumption 3

Another way of calculating the margins to add to the 67¢ per gallon crude oil is to assume that the ratio of margins to crude oil costs will continue to be .88 to 1, as they currently are. This would add 59¢ per gallon to 67¢ per gallon crude oil; thus, heating oil would cost \$1.26 per gallon in 1981. (See Table 4, p. 20). This would mean a cost in 1981 of \$1,890 for a family using 1,500 gallons.

Assumption 4

In contrast to these high priced scenarios, we project what heating oil prices would be if controls were reimposed on heating oil to roll back prices to levels justified by crude oil increases since decontrol plus the Nelson Index and if controls are reimposed on crude oil. If crude oil were controlled, we estimate that the price of controlled domestic crude oil would average \$12.18 per barrel in January, 1981. This represents the average control price for June, 1979 of \$10.48 plus inflation at 10% per year. In line with our previous projection, we assume that uncontrolled domestic and foreign crude oil will cost \$28.15 per barrel. Further, we assume that controlled oil will account for 35% of U.S. oil consumption, declining from its 40% share in May, 1979.

5/ Telephone communication, Energy Information Administration, September 21, 1979. Price quoted was \$25.59 per barrel in 1979 dollars; adjusting for a low 10% rate of inflation, the price is \$28.15/bbl.

Thus, the refiners' acquisition cost of crude oil in January, 1981 would be $22.56 per barrel or 54¢ per gallon.

(12.18 x .35) + (28.15 x .65) = $22.56

With price controls on heating oil, we assume that refiners' and distributors' margins would be rolled back to levels justified by increases in the CPI and the Nelson Index since June, 1976. Using trend line analysis to project the CPI-adjusted distributors' margins and the Nelson-adjusted refiners' margins, we obtain composite margins of 27¢ per gallon under controls in January, 1981. Adding to the margins the 54¢ per gallon controlled price of crude oil, heating oil would cost 81¢ per gallon in January, 1981 if crude oil and heating oil controls are reimposed, with heating oil prices rolled back to cost-justified levels. (See Table 5, p. 21, and Figure 3, p. 24).

Contrasted to the 1981 price in the first assumption of $2,535 , if prices were kept to cost-justified levels using the generous inflation increases for margins in the Nelson Index, then a family using 1,500 gallons would spend $1,215 on heating oil -- less than half as much.

If controls are not instituted to hold heating oil prices to cost-justified levels, this winter will see widespread social and economic catastrophe as low income families are unable to afford even the bare minimum of fuel needed to maintain health.

III. SUPPLY SITUATION

The supply outlook is better than that for price. Indications are that while supplies may be tight this winter, they should be adequate. The danger exists, however, that supplies will be tight enough to permit further price gouging.

The Department of Energy has set a target of 240 million barrels of heating oil in storage by the beginning of this year's heating season. Large stocks of heating oil at the beginning of the heating season are essential since during the winter months heating oil is consumed faster than refineries can produce it. Oil companies traditionally begin the heating season with large stocks of heating oil, then draw down the stocks as winter progresses. DOE initially set a target of 240 million barrels of distillate fuel oil in storage by October 1, but later revised the target to between 230 and 240 million barrels of distillate fuel oil in storage by the end of October.

It appears that the present stock target will be met on schedule. At the end of August, stocks were two million barrels above last year's level, and if current rates of additions to stocks continue, stocks will exceed 240 million barrels by the end of October. If for some reason the buildup falters, DOE has the power to order refineries to change their "yield" -- the mix of refined products they produce -- so that heating oil production is maximized. Stocks of 240 million barrels are fairly high compared to stock levels in previous years.

DOE also appears to have the authority to order refineries to increase their output by operating at a greater percentage of capacity. Refineries, during the gasoline crisis, were often operating at only a fraction of capacity.

The 240 million barrel target does not tell the entire story of supply, however. The target refers to primary stocks -- oil stored at refineries, in pipelines, or in tank terminals with capacity of 50,000 barrels or more. In normal times a considerable amount of heating oil is stored at other points in the supply chain. In addition to primary stocks, heating oil is also stored in so-called secondary stocks held by wholesalers and retailers of heating oil, and in tertiary stocks -- heating oil stored at the site of consumption, as in a household's oil tank. Unfortunately, data on secondary and tertiary stocks are not regularly gathered.

Indications are that secondary and tertiary stocks are substantially lower than normal. The National Oil Jobbers Council (NOJC), a trade association of fuel oil dealers, surveyed oil dealers nationwide and reported that dealers' storage tanks were only 29% full as of June 1, 1979, compared to 48% full on June 1, 1978, and that customer tanks were 51% full on June 1, 1979, compared to 60% full one year earlier. NOJC estimated that the lower levels of storage mean that there was a 13 million barrel shortfall in secondary and tertiary stocks compared to the previous year. NOJC undertook a limited update of its survey on the first of September. The update showed that for a sample of northeastern fuel oil dealers, dealer tank storage was at 26.9% of capacity compared to 62.5% in the previous year, and customer tank storage was 45.5% full compared to 75.8% a year before. Since the sample was smaller than the June 1 sample, NOJC did not attempt to calculate how much of a shortfall this represented. However, if the results of the stock levels indicated by the survey prevail across the country, the shortfall at secondary and tertiary levels would be greater than the 13 million barrels estimated for June 1.

The levels of secondary and tertiary stocks indicate that some of the increase in stocks at the primary level is coming at the expense of secondary and tertiary stocks -- refiners have been stockpiling heating oil to increase primary stocks, cutting back deliveries to distributors who in turn have been delivering less to consumers. As a result, the 240 million barrels of stock may not provide as great a cushion as expected. If the shortfall in secondary and tertiary stocks over last year is 15 million barrels, the possibility for shortages exists, since that shortfall would reduce the stocks figure to 225 million barrels. That would be lower than last October's stocks of 233 million barrels, which did not prevent some spot shortages from occurring.

Low secondary and tertiary stocks cause problems beyond short supplies. Unless heating oil stored in primary stocks is moved out soon to retailers and consumers, the transportation system will not be able to handle the surge in demand when everyone tries to fill empty tanks at the onset of cold weather. Moreover, the cold weather itself can interfere with the delivery of heating oil as harbors freeze and roads become blocked by snow. In addition, heating oil prices are continuing to escalate, so the longer oil remains in refiners' storage tanks, the more expensive it will be when it is finally delivered to consumers. For these reasons, refiners must start immediately moving out heating oil to distributors, who should increase deliveries to consumers.

One last supply problem is that some small heating oil distributors have not merely received reduced allocations of oil, but have been entirely cut off by refiners, forcing them out of business. When a distributor goes out of business and supplies are tight -- as they are now -- the distributor's customers often have no alternative supplier to turn to for heating oil, since distributors serve their established customers first and are unwilling to take on new accounts during a shortage period. To compound the problem, the small distributors who are being cut off by refiners tend to be the ones that serve low income customers, so low income groups will feel the effects of the cutoffs most acutely.

IV. CREDIT PRACTICES AND CUSTOMER SERVICES

At the same time prices go up, changed credit practices and customer services make it even harder for consumers to meet their oil bills.

Some refiners have not expanded their lines of credit to dealers to accommodate higher oil prices, forcing some dealers to borrow money to obtain heating oil, and adding extra credit costs to the oil. Some refiners have also imposed more stringent credit terms on the dealers they supply with heating oil, and the dealers in turn have tightened credit terms for residential customers. The discontinuation of summer fill programs, with their easy payment terms, has further squeezed dealers.

It is now difficult for a new customer to obtain credit from a heating oil dealer, and nearly impossible for low income consumers to do so. Ironically, with prices as high as they are, credit is now more important than ever. Without credit, low income families and families of modest means cannot take advantage of budget plans that allow heating oil expenses to be spread out over an entire year. Without credit, families must raise the cash necessary to pay for the minimum delivery of oil, generally 100 gallons, before they can obtain the fuel. With heating oil at 85¢ per gallon, these families must raise $85, a substantial sum for the poor, before they can get a delivery of oil. Without credit, heating oil customers cannot get automatic fill service from dealers. Thus, they are not on a dealer's normal delivery schedule and must pay a premium for unscheduled deliveries. If a low income family runs out of oil at a time when it is low on cash, it often cannot obtain a delivery at all. All of these problems are exacerbated each time the price of heating oil goes up.

Changed service policies have also made it harder on low income heating oil customers. Many low income families need small deliveries of oil, either because they live in buildings with small tanks, or because they have no credit and cannot accumulate enough cash to pay for a large delivery. Before the oil embargo and during the period of controls, deliveries of 50 gallons of heating oil were not uncommon for low income families. Since the end of controls, it has become harder for these families to obtain small deliveries. Many dealers refuse to deliver less than 100 gallons at a time, and many of the dealers who in the past would deliver small quantities of oil are small dealers who have been cut off by refiners and forced out of business.

V. LOW INCOME ASSISTANCE

Higher heating oil prices and lack of credit hurt the poor the most. A report by the Fuel Oil Marketing Advisory Committee to the Department of Energy finds that, in 1978 alone, as a result of higher energy prices, low income households suffered a loss of purchasing power of $4 billion beyond what they would have suffered had energy costs just risen at the rate of inflation. Since heating oil prices have nearly doubled since 1978, energy costs this year will drain off even more of the poor's meager income. In fact, a draft report by the Department of Health, Education and Welfare dated August 30, 1979 estimates that the poor will spend $10 billion more in 1981 on energy related needs than they did in 1978 just as a result of decontrol and OPEC increases.

Unfortunately, very little public assistance will be available to help low income families this winter. Both Houses of Congress have tentatively appropriated $250 million for the Community Services Administration's Crisis Intervention Program, but final approval has been held up by a House-Senate dispute over abortion language in the appropriations bill. The Administration has requested another $150 million for the program, but no action has yet been taken on the request. As a result, this Crisis Intervention aid will probably come much too late in the heating season to be of any real help. At any rate, even the full $400 million scarcely begins to cover the increases in heating oil costs to the poor, let alone cost increases in gas and electricity.

The Administration has also proposed a $1.6 billion low-income energy assistance program for this year and a $2.4 billion program for future years to deal with the impact of decontrol, but these programs would be financed out of the "windfall profits tax" which is still far from final approval and the contents of which are tenuous at best. The delay necessary to see whether the windfall tax will be approved, secure an appropriation from general revenues if necessary, and set up the program will be so great that it is highly unlikely that this program could provide effective relief to the poor this winter. Moreover, even if the entire program is funded as the Administration proposes, it will provide just $100 per low income household of one or $200 per low income family of two or more, barely enough to make up for exorbitant energy price increases.

The Fuel Oil Marketing Advisory Committee (FOMAC) recommended a low income assistance program of $3.2 billion to deal just with 1978, pre-decontrol prices. This program would allow $500 per family. If one adds to the $3.2 billion program recommended by FOMAC the understated $2.4 billion program which the Administration says is needed to help offset the impacts of decontrol, then it's easy to see that a $5.6 billion program would be the barest minimum needed to cope with energy price increases. This would mean more than doubling the funds projected by the Administration. It would also mean that any real commitment to helping the poor would advocate appropriating funds out of general revenue sources, not holding poor people hostage to the nebulous future of the windfall profits tax.

VI. IMPACT OF DECONTROL ON OTHER FUELS

High heating oil prices and the devastation caused by them give us a taste of what the future will be like when the full impacts of crude oil decontrol have been felt and when natural gas has been fully deregulated. Oil prices tend to set the level of other energy prices; as oil prices rise because of decontrol and OPEC rapacity, other energy prices rise accordingly. As a result of Congress' action to deregulate natural gas last year, gas prices are increasing faster than inflation. From July, 1978 to 1979, natural gas prices increased 17.7%. By contrast, the CPI for the same period increased 11.3%. Since January, 1979, natural gas prices have been increasing at an annualized rate of 18.4%. Since that same period, the CPI has been increasing at an annualized rate of 14.4%. By 1985, gas will be fully deregulated and will cost as much as or more than heating oil. Electricity rates are climbing steeply and will continue to do so, since the gas and oil the utilities buy are much more expensive as a result of decontrol. Coal prices have also increased in step with higher oil prices. The hardships that heating oil customers now suffer will be suffered by consumers using other energy sources in the near future unless the country regains control over its energy future from OPEC and the major oil companies.

VII. RECOMMENDATIONS

A. Reimposition of Controls on Heating Oil

A system of price and allocation controls on heating oil, coupled with price controls on crude oil, is the best, if not the only, solution for dealing with the problems of supply, price, and credit discussed above. Controls would ensure that the prices consumers pay for heating oil are based on the cost of refining and marketing, plus a reasonable profit margin, in contrast to the present situation, where prices far exceed cost-justified levels. Controls would enable government to distribute heating oil supplies fairly, on the basis of need and historical use, and not according to wealth and ability to pay. Controls would ensure that any shortages that occur would be borne fairly by all regions and income classes.

Finally, controls would allow the establishment of fair credit policies. Most state Public Utility Commissions require regulated utilities to offer budget plans to their customers; there is no reason why heating oil consumers should not be afforded budget plans as well. Likewise, controls would ensure that dealers would take on new customers and make small deliveries when necessary.

Reimposing controls would not require action by Congress. The Department of Energy, under the Emergency Petroleum Allocation Act, has the authority to reimpose controls. However, if DOE refuses to use its authority, then Congress could require DOE to take action.

The Consumer Energy Council of America has petitioned the Department of Energy to hold a hearing to examine the necessity of reimposing controls on home heating oil. The Attorneys General of the states of Massachusetts, Connecticut, Maine, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont have filed a similar petition. So far there has been no response from DOE to either of the petitions.

On September 26, DOE will hold a hearing on heating oil prices since the advent of decontrol, but the hearing will focus on a DOE report finding that prices for heating oil today are close to what the old control system would have allowed. The report, however, does not address the issue of whether an effective system of controls would have ensured that prices were justified by the costs of production, and totally ignores the question of what the actual cost of producing heating oil is. Since the report virtually exonerates refiners, one should not expect the hearing to result in a recommendation of reimposition of controls.

Congress is a better place to look for relief. The House Democratic Caucus passed a resolution September 19 in favor of reimposing controls. The vote adds momentum to legislative efforts to reimpose controls. Rep. Toby Moffett (D-Conn.) has been spearheading efforts in the House to reimpose controls. Additionally, Rep. Peter H. Kostmayer (D-Pa.) has introduced a bill, H.R. 4830, directing DOE to reimpose controls. Rep. Bruce F. Vento, (D-Minn.) plans to amend the DOE Authorization bill, H.R. 3000, to require a study of whether the market conditions that had to exist to permit decontrol of heating oil in 1976 still exist today. If they do not exist, controls would be reimposed. In the Senate, Sen. John A. Durkin (D-N.H.) has introduced S. 1799.

B. Reimposition of Controls on Crude Oil

Heating oil controls must be coupled with crude oil controls to be effective. President Carter has begun decontrolling domestic crude oil; this policy must be reversed. Decontrol will allow oil that was found and brought into production when oil prices were low, and that can be produced at low cost, to be sold at exorbitant OPEC-dictated prices. Because of the expected ineffectiveness of the so-called "windfall profits tax," oil producers will reap enormous profits. One-third of domestic oil is already selling for $26 per barrel. Latest estimates are that decontrol will cost consumers, by 1981, over $40 billion; this figure will increase as OPEC prices continue to climb. Reimposition of controls will provide a buffer against OPEC rapacity and help keep crude oil, the raw material of heating oil, at reasonable levels.

TABLE 1

COST-JUSTIFIED PRICE USING FEA ASSUMPTIONS

(Not adjusting margins for inflation)

June, 1976 Price of Heating Oil	+	Crude Oil Cost Increase	=	Cost-Justified Price (September, 1979)
39.3¢/gallon	+	19¢/gallon	=	58.3¢/gallon

TABLE 2

COST-JUSTIFIED PRICE INCLUDING

INFLATION (CPI) ADJUSTMENTS

A) Consumer Price Index

Average 1976	September, 1979	% Increase
107.5	223.8 (projected)*	31.3

B) 1979 Crude Oil Cost-Justified Heating Oil Prices, With Margins Adjusted for Inflation, Compared to Actual Prices

	1976	September, 1979 (Adjusted for crude oil price increases and 31.3% inflation)	Actual September, 1979
Cost of Crude Oil	25.9¢	45.0¢	45.0¢
Refiners' Margin	6.7¢	8.8¢**	40.0¢
Distributors' Margin	8.0¢	10.5¢**	
Retail Price	40.6¢	64.3¢***	85.0¢

*Trend-line Analysis

**Adjusted for 31.3% inflation increase.

***1979 price justified by crude oil price increases and by inflation.

TABLE 3

COST-JUSTIFIED PRICE INCLUDING

SPECIAL REFINERY INFLATION (NELSON INDEX) ADJUSTMENTS

A) Nelson Refinery Index

1976	September, 1979	% Increase
207.2 (June)	316.5 (projected)*	53

B) 1979 Crude Oil Cost-Justified Heating Oil Prices, With Margins Adjusted for Nelson Index, Compared to Actual Prices

	1976	September, 1979 (Adjusted for crude oil price increases and 53% Nelson Index Inflation)	Actual September, 1979
Cost of Crude oil	25.9¢	45.0¢	45.0¢
Refiners' Margin	6.7¢	10.3¢**	40.0¢
Distributors' Margin	8.0¢	10.5¢***	
Retail Price	40.6¢	65.8¢****	85.0¢

*Trend-line Analysis
**Adjusted for 53% Nelson Index Inflation
***Adjusted for 31.3% CPI Inflation
****1979 price justified by crude oil price increases and by Nelson Index inflation.

TABLE 4

PROJECTED JANUARY, 1981 PRICE OF HEATING OIL ASSUMING $28.15/bbl CRUDE OIL, PLUS CURRENT MARGINS MAINTAINED AT EXISTING RATIO TO CRUDE OIL COST

Crude Oil	$0.67
Margins	$0.59
Selling Price	$1.26

TABLE 5

PROJECTED JANUARY, 1981 PRICE OF HEATING OIL
ASSUMING HEATING OIL AND CRUDE OIL CONTROLS,
WITH MARGINS ADJUSTED SINCE SEPTEMBER, 1978
ACCORDING TO NELSON INDEX

A. Crude Oil Costs @ $22.18/bbl = 54¢/gallon

B. Refiners' and Distributors' Margins, Projected From Cost-Justified Levels Using Trend-Line Analysis of Period September, 1978-September, 1979 (For trend line analysis, see Figure 3, p. 24)

Crude Oil	54¢/gallon
Margins	27¢/gallon
Selling Price	81¢/gallon

FIGURE 1

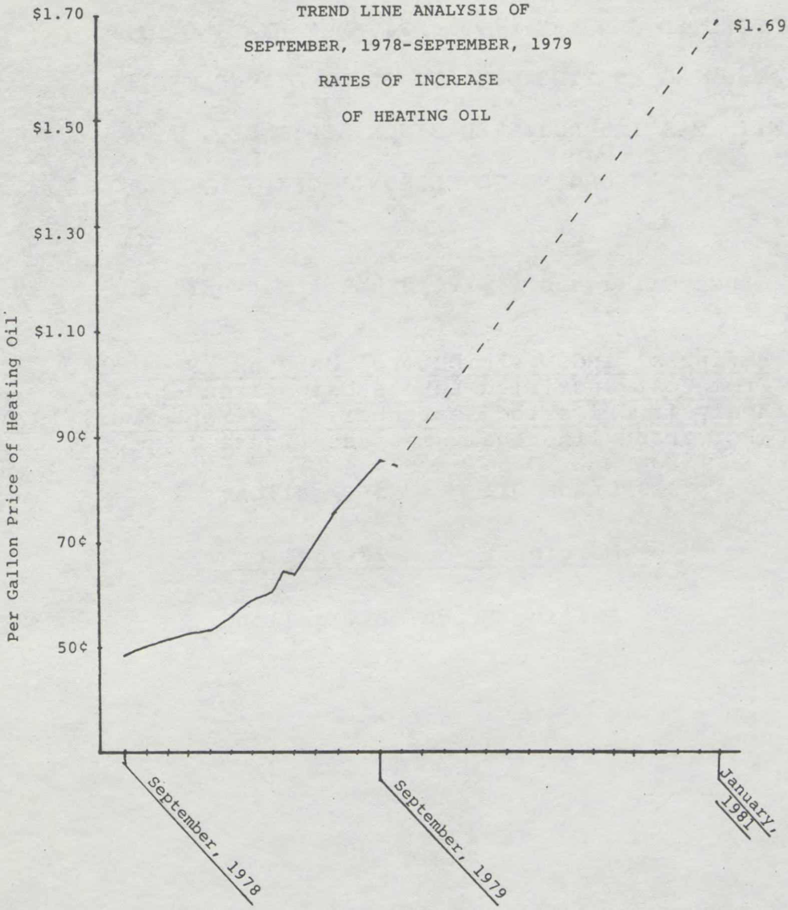
PROJECTED JANUARY, 1981 PRICE BASED ON

TREND LINE ANALYSIS OF

SEPTEMBER, 1978-SEPTEMBER, 1979

RATES OF INCREASE

OF HEATING OIL

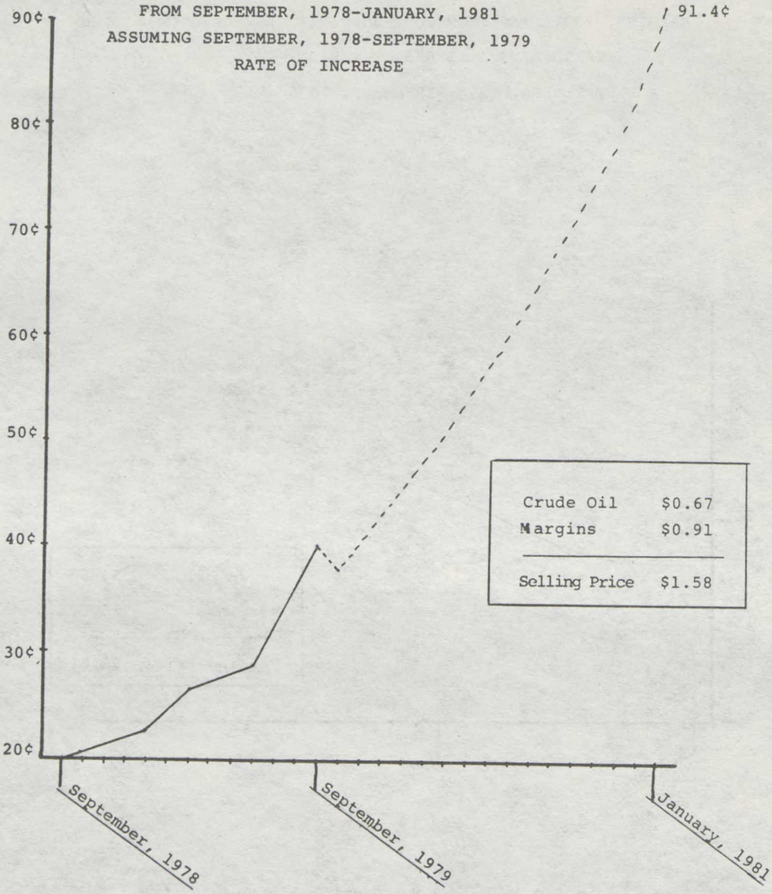


———— solid line is actual price figures

------- dashed line is trend line projection

FIGURE 2

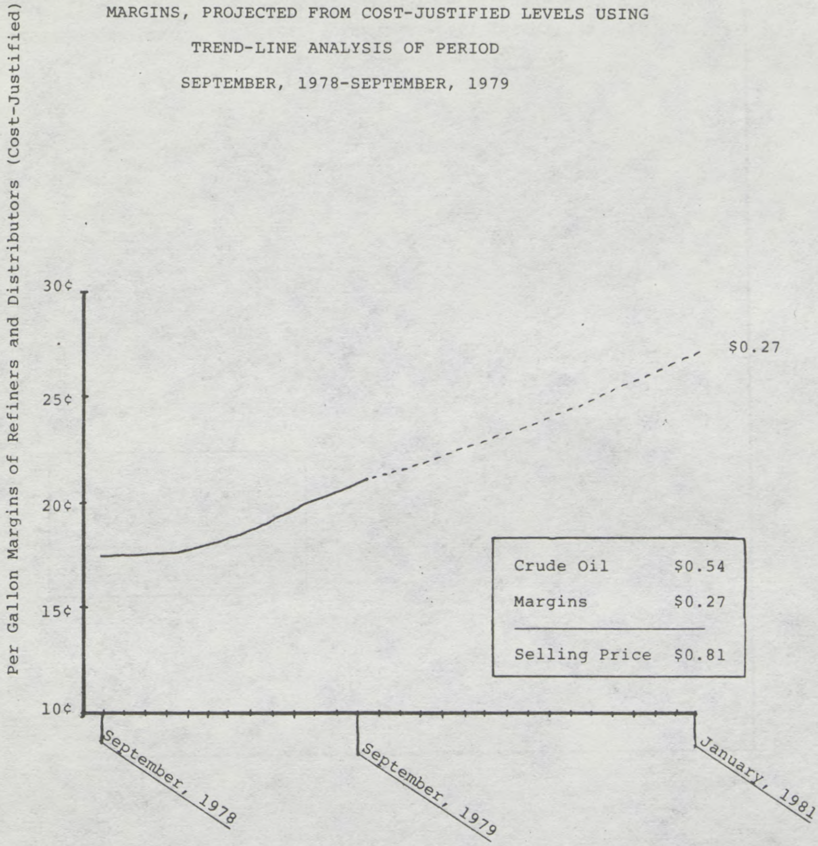
TREND LINE ANALYSIS OF MARGINS
FROM SEPTEMBER, 1978-JANUARY, 1981
ASSUMING SEPTEMBER, 1978-SEPTEMBER, 1979
RATE OF INCREASE



——— solid line is actual price figures
-------- dashed line is trend line projection

FIGURE 3

TREND LINE ANALYSIS OF REFINERS' AND DISTRIBUTORS' MARGINS, PROJECTED FROM COST-JUSTIFIED LEVELS USING TREND-LINE ANALYSIS OF PERIOD SEPTEMBER, 1978-SEPTEMBER, 1979



——————— solid line is actual price figures

-------- dashed line is trend line projection

AMERICAN TRUCKING ASSOCIATIONS, INC.

1616 P Street, N.W., Washington, D. C. 20036

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October 9, 1979

Honorable John D. Dingell
Chairman
Subcommittee on Energy and Power
House Committee on Interstate and Foreign
Commerce
Washington, D.C. 20515

Dear Chairman Dingell:

The American Trucking Associations, Inc., the national organization of the trucking industry, is a federation of 51 state trucking associations and 13 national conferences representing both private and for-hire carriers, large and small.

Trucks use 20 billion gallons of fuel per year, approximately half is diesel. Therefore, ATA is vitally interested in any energy policy which will affect the operation and performance of motor carriers. The Research and Economics Division of ATA has been long active in the study of fuel prices, consumption and energy conservation.

The Department of Energy has established a middle distillate primary storage goal of 240 million barrels by October 31. But, the target figure is based exclusively on primary storage--it ignores the fill condition of secondary and tertiary storage facilities.

It has become apparent that secondary and tertiary storage levels of home heating oil are significantly below levels at this time last year. The National Oil Jobber Council (NOJC), a representative of the nation's retail heating oil industry, released a study which showed dealer distillate tanks to be only 29% full on June 1, 1979, compared to 48% the same time last year. They estimate a short fall of 16 million barrels over 1978.

When these secondary and tertiary storage tanks are filled in November, there will be a dramatic drop in the statistical primary middle distillate inventory levels. Prices will rise as the media learns of this change, creating a panic. Furthermore, spot shortages will occur at the local level as supply will not be where it is needed.

It is clear that repeated references to the amount of fuel in primary storage is irrelevant. It appears that the increased level of stocks in primary shortage may be due to reduced shipments of distillate to secondary and tertiary storage facilities. In other words, what we may be seeing is a reduction in distribution, rather than an increase in total supply.

Consequently, if further action is not taken immediately, the distillate shortage of May and June will be mild compared to January and February of 1980. Distillate supplies at the primary level must be directed to secondary storage facilities, where it is needed. This process will take time, and therefore, must be initiated before spot shortages develop. If there is, in fact, going to be shortages, the trucking industry must be given adequate warning so as to inact emergency measures--such as increasing the imports of refined product into the country.

Once the shortage is here, hard decisions must be made. And if history is any indication of possible actions, we are afraid that the shortage will be made up from motor carrier fuel needs. It happened in 1973/74 and again last May and June. But, it must be remembered that motor carriers move the nation's freight and its the economy of this nation that will falter if the trucks don't roll.

Furthermore, in light of the tight fuel supply conditions, it is difficult to understand the ICC's policy of encouraging entry into the trucking industry. In fact, 99% of all applications for operating authority are now being granted. Such a policy merely exacerbates the current situation.

The ATA urges that your Subcommittee recommend the immediate distribution of middle distillate to local markets.

Sincerely,

Lana R. Batts

Lana R. Batts
Director

[Whereupon, at 1:15 p.m., the subcommittees were adjourned.]

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