

may be taken into account in applying any indefinite price escalator clause (as defined in section 3315(b)(3)(B)¹ of this title, as such section was in effect on January 1, 1989).

(Pub. L. 95-621, title III, §313, Nov. 9, 1978, 92 Stat. 3392; Pub. L. 101-60, §3(b)(3), July 26, 1989, 103 Stat. 159.)

REFERENCES IN TEXT

Sections 3315 and 3317 of this title, referred to in text, were repealed effective Jan. 1, 1993, by Pub. L. 101-60, §2(b), July 26, 1989, 103 Stat. 158.

AMENDMENTS

1989—Pub. L. 101-60 inserted “, as such section was in effect on January 1, 1989” in four places.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-60 effective Jan. 1, 1993, see section 3(b) of Pub. L. 101-60, set out as a note under section 3372 of this title.

§ 3374. Clauses prohibiting certain sales, transportation, and commingling

(a) General rule

Any provision of any contract for the first sale of natural gas is hereby declared against public policy and unenforceable with respect to any natural gas covered by this chapter if such provision—

(1) prohibits the commingling of natural gas subject to such contract with natural gas subject to the jurisdiction of the Commission under the provisions of the Natural Gas Act [15 U.S.C. 717 et seq.];

(2) prohibits the sale of any natural gas subject to such contract to, or transportation of any such natural gas by, any person subject to the jurisdiction of the Commission under the Natural Gas Act [15 U.S.C. 717 et seq.], or otherwise prohibits the sale or transportation in interstate commerce (within the meaning of the Natural Gas Act) of natural gas subject to such contract; or

(3) terminates, or grants any party the option to terminate, any obligation under any such contract as a result of such commingling, sale, or transportation.

(b) Natural gas covered by this chapter

For purposes of subsection (a) of this section, the term “natural gas covered by this chapter” means—

(1) natural gas which is not committed or dedicated to interstate commerce as of November 8, 1978;

(2) natural gas, the sale in interstate commerce of which—

(A) is authorized under section 3362(a) or 3371(b) of this title; or

(B) is pursuant to an assignment under section 3372(a) of this title; and,

(3) natural gas, the transportation in interstate commerce of which is—

(A) pursuant to any order under section 3362(c) or section 3363(b), (c), (d), or (h) of this title; or

(B) authorized by the Commission under section 3371(a) of this title.

(Pub. L. 95-621, title III, §314, Nov. 9, 1978, 92 Stat. 3392.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(1), (2), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.

§ 3375. Filing of contracts and agreements

The Commission may, by rule or order, require any first sale purchaser of natural gas under a new contract, a successor to an existing contract, or a rollover contract to file with the Commission a copy of such contract, together with all ancillary agreements and any existing contract applicable to such natural gas.

(Pub. L. 95-621, title III, §315, Nov. 9, 1978, 92 Stat. 3393; Pub. L. 100-439, §§1, 2(a), (b)(1), Sept. 22, 1988, 102 Stat. 1720; Pub. L. 101-60, §3(a)(2), July 26, 1989, 103 Stat. 158.)

AMENDMENTS

1989—Pub. L. 101-60, in section catchline, substituted “Filing of contracts and agreements” for “Contract duration; filing of contracts and agreements”, and in text, struck out subsec. (a) designation, heading “Contract duration”, and text relating to power of Commissioner to specify minimum duration of contracts for purchase of natural gas and requiring nondiscriminatory exercise of such authority, and struck out subsec. (b) designation and heading “Filing of contracts and ancillary agreements”.

1988—Pub. L. 100-439, §2(b)(1), struck out “right of first refusal;” after “Contract duration;” in section catchline.

Subsec. (a)(1). Pub. L. 100-439, §1, struck out last sentence which directed that provisions of par. (1) did not apply to contracts of natural gas subject to requirements of par. (3).

Subsec. (a)(3). Pub. L. 100-439, §1, struck out par. (3) which related to contracts for purchase of natural gas produced from reservoirs on Outer Continental Shelf.

Subsecs. (b), (c). Pub. L. 100-439, §2(a), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to certain rights of first refusal with respect to certain natural gas committed or dedicated to interstate commerce on November 8, 1978.

SUBCHAPTER IV—NATURAL GAS CURTAILMENT POLICIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 8235e.

§ 3391. Natural gas for essential agricultural uses

(a) General rule

Not later than 120 days after November 9, 1978, the Secretary of Energy shall prescribe and make effective a rule, which may be amended from time to time, which provides that, notwithstanding any other provision of law (other than subsection (b) of this section) and to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless such curtailment—

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c) of this section; or

(2) is necessary in order to meet the requirements of high-priority users.

(b) Curtailment priority not applicable if alternative fuel available

If the Commission, in consultation with the Secretary of Agriculture, determines, by rule or order, that use of a fuel (other than natural gas) is economically practicable and that the fuel is reasonably available as an alternative for any agricultural use of natural gas, the provisions of subsection (a) of this section shall not apply with respect to any curtailment of deliveries for such use.

(c) Determination of essential agricultural use requirements

The Secretary of Agriculture shall certify to the Secretary of Energy and the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production.

(d) Authority of Secretary of Agriculture to intervene

The Secretary of Agriculture may intervene as a matter of right in any proceeding before the Commission which is conducted in connection with implementing the requirements of the rule prescribed under subsection (a) of this section.

(e) Limitation

The Secretary of Agriculture may not exercise any authority under this section for the purpose of restricting the production of any crop.

(f) Definitions

For purposes of this section—

(1) Essential agricultural use

The term “essential agricultural use”, when used with respect to natural gas, means any use of natural gas—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production.

(2) High-priority user

The term “high-priority user” means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day;

(C) uses natural gas in any school, hospital, or similar institution; or

(D) uses natural gas in any other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property.

(Pub. L. 95-621, title IV, § 401, Nov. 9, 1978, 92 Stat. 3394.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3391a, 3392, 3393 of this title.

§ 3391a. “Essential agricultural use” defined

For the purposes of section 3391 of this title, the term “essential agricultural use” shall—

(1) include use of natural gas in sugar refining for production of alcohol;

(2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and

(3) for the 5-year period beginning on June 30, 1980, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on June 30, 1980, which do not have the installed capability to burn coal lawfully.

(Pub. L. 96-294, title II, § 273, June 30, 1980, 94 Stat. 711.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in par. (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

CODIFICATION

Section was enacted as part of the Biomass Energy and Alcohol Fuels Act of 1980 which is title II of the Energy Security Act, and not as part of the Natural Gas Policy Act of 1978 which comprises this chapter.

§ 3392. Natural gas for essential industrial process and feedstock uses

(a) General rule

The Secretary of Energy shall prescribe and make effective a rule which provides that, notwithstanding any other provision of law (other than subsection (b) of this section) and to the maximum extent practicable, no interstate pipeline may curtail deliveries of natural gas for any essential industrial process or feedstock use, unless such curtailment—

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c) of this section;

(2) is necessary in order to meet the requirements of high-priority users; or

(3) is necessary in order to meet the requirements for essential agricultural uses of natural gas for which curtailment priority is established under section 3391 of this title.

(b) Curtailment priority applicable only if alternative fuel not available

The provisions of subsection (a) of this section shall apply with respect to any curtailment of deliveries for any essential industrial process or feedstock use only if the Commission determines that use of a fuel (other than natural gas) is not economically practicable and that no fuel is reasonably available as an alternative for such use.

(c) Determination of essential industrial use requirements

The Secretary of Energy shall determine and certify to the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof)