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Review Of Complaints Concerning The Mandatory Petroleum Allocation Program And The Regulation Of Petroleum Pricing

B-178205

Federal Energy Office

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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MAY 3, 1974

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-178205

The Honorable Robert Dole
United States Senate

Dear Senator Dole:

In response to your November 21, 1973, request about the Federal mandatory petroleum allocation program and the regulation of petroleum pricing, and in accordance with agreements with your office which modified your request, we interviewed (1) several persons who had written complaints to you concerning the petroleum allocation program and (2) responsible Federal officials. Appendixes I through VI summarize the information from each complainant.

You also asked for an investigation of petroleum exports, and we will send you a copy of our report to Representative Lester Wolff on this subject when the report is released to him.

THE GOVERNMENT FUEL ALLOCATION PROGRAM

Your request stated that Government measures to deal with the fuel crisis seemed totally inadequate to meet the task and that, although the program had been in effect for over a month, little or no beneficial action was forthcoming. You suggested that the Federal allocation program be implemented with sufficient manpower resources and authority to insure that program objectives are met.

Most of the complaints which you referred to us were written within a month of the beginning of the Federal petroleum allocation program in October 1973. Since that time many changes have occurred in the program's organization, staffing, policies, and procedures. Most of the complainants advised us that the situations they had complained about had improved in recent months.

At the time of your request, the Office of Petroleum Allocation, Department of the Interior, which had been established on November 13, 1973, was administering the petroleum allocation program. On December 4, 1973, the Federal Energy Office (FEO) was established to manage and coordinate Federal energy resource activities, including petroleum allocation and pricing. FEO has revised most of the petroleum allocation regulations which were in force at the time of your request.

In the early months, only propane and middle distillates (kerosene, home-heating fuel, range oil, and diesel fuel) were allocated and the Federal program was administered with limited manpower resources. For example, the program's Kansas City region--Missouri, Nebraska, Iowa, and Kansas--had a professional staff of only nine as of early December 1973. Also the Federal program lacked a data system on supplies.

By February 1, 1974, FEO had established allocation programs for crude oil, propane, butane, gasoline, middle distillates, aviation fuel, residual fuel oil, and petrochemical feedstocks and had designated priority users. For example, the petrochemical industry was a nonpriority user under the early propane allocation program but later was designated as a priority user and therefore could receive 90 percent of the quantity it used during a designated base period.

By February 1, 1974, the Kansas City FEO staff had increased to 77 and, as of the first week in March 1974, FEO had 2,340 employees.

Data systems designed to provide FEO with data on where and when different petroleum products are needed are now operating or are expected to be operating in the near future. When the systems are fully operational they will gather information on:

--Bureau of Customs daily reports of tanker arrivals.

--U.S. Navy forecasts of tanker arrivals in the United States.

--Home-heating fuel consumption on a sample basis.

--The consumption and stock of all fuels used to generate electricity based on reports to and forecasts by the Federal Power Commission.

--Periodic reporting on production and inventories by refiners, major bulk terminal operators, and pipeline companies.

Under the present program, available supplies are allocated in accordance with priorities established by FEO. The program was designed to let normal supply channels distribute products from suppliers to wholesale distributors. A distributor's allocation depends on the volume it purchased from the supplier during a designated base period. FEO permits a wholesaler's base period volume to be adjusted for unusual growth, new customers, and requirements of certain FEO-designated priority customers.

The procedure to be followed by an end user unable to obtain fuel in the quantities provided for in the guidelines depends on whether the user's need is permanent or temporary. All end users who require permanent adjustments in the amount of the product provided must notify their distributor that a permanent adjustment in the distributor's allocation level is needed. The distributor then submits a request to its supplier for the additional fuel. If the supplier disapproves the request, the distributor sends the disapproved request to FEO for review. If FEO approves the request, it directs the supplier to adjust the distributor's base period volume or assigns a new supplier.

End users requiring temporary allocations to offset hardships are to notify the State fuel allocation office. FEO does not have any major involvement in the State allocation program, except for determining the basis for the amount of fuel available for allocation by the State office.

The FEO Administrator stated in January 1974 that although he believed FEO had sufficient authority to require reporting of data to FEO, he believed specific legislation providing for mandatory reporting requirements and containing sanctions and enforcement provisions was needed. The Kansas City FEO Regional Administrator told us that he requested FEO headquarters to issue a regulation to require oil companies to respond to allocation directives within 5 working days. The head of the Kansas City FEO said that the lack of this authority was causing the office some problems in carrying out its responsibilities.

FEO's current authority is derived from the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799); the Emergency Petroleum Allocation Act of 1973 (Public Law 93-159, 87 Stat. 627); and the Defense Production Act of 1950 (50 U.S.C. App. 2061). On March 11, 1974, Senate bill 3151 was introduced to assist FEO in gathering data. Among other things, the bill authorizes the coordination of acquisition and analysis of energy information and provides for the prompt acquisition of accurate energy information for formulating public policy.

PROPANE AND MIDDLE DISTILLATE ALLOCATION

Your request stated that you had received reports that the mandatory propane allocation program was being blatantly abused or ignored to the effect that:

--Oil companies were discriminating against regions of the country by complying more completely with priority allocations in some regions than in others.

--Nonpriority users were continuing to receive and consume propane while the needs of priority users were left unfilled.

--Black market or excessive prices were being charged by some suppliers.

--Large amounts of propane were being stored by corporations for nonpriority use. The administrator of the petroleum allocation program apparently does not have sufficient authority to direct these supplies to the intended priority users.

You also stated that Federal directives to oil companies had been contradictory and that you had received reports that oil companies had taken advantage of the resulting confusion to improve their own position at the expense of consumers.

The complainants we interviewed could not furnish documentation which would enable us to substantiate or determine the extent of the above problems.

Concerning the propane program, the Regional Administrator of the Kansas City FEO advised us on January 31, 1974, that at present the needs of priority customers were being met; complaints on suspected excessive prices were being investigated by Internal Revenue Service agents; and, under curent regulations, companies can store propane for nonpriority use but FEO has the authority to redirect these supplies to priority users should the need arise.

Also Federal regulations amended on January 30, 1974, restrict oil companies from allocating to propane more than its proportionate share of overall refining costs. In the past, propane could be allocated a disproportionate share of refining costs, which caused much greater price increases for propane than for other petroleum products. FEO had permitted this disproportionate cost allocation as an incentive to oil companies to produce more propane.

GASOLINE PRICING

You stated that you had received reports indicating that the pricing structure for gasoline administered by the Cost of Living Council had resulted in financial squeezing of retail sellers by the oil companies to increase profit for themselves.

In our discussions with station operator complainants and the executive director of the Mid-America Gasoline Dealers Association, we were advised that station operators' earnings were affected by

--the Cost of Living Council's freeze on gross profit markups,

--the oil companies' discontinuance of rental payments to non-company-owned stations, and

--the reduction in the volume of gasoline delivered.

Cost of Living Council regulations issued in October 1973 restricted gasoline station gross profit markups to those in effect on May 15, 1973. These regulations were revised in January 1974 to permit an increase up to 1 cent a gallon for increased overhead costs and again in February 1974 to permit an additional increase of 2 cents a gallon.

To protect the station operators' gross profit margin, the Council's regulations also prohibited oil companies from increasing the rents charged to the lessees of company-owned stations. However, no provision was made to protect the gross profit margin of non-company-owned stations, where the oil companies paid the station owner a per gallon rent for marketing their product. In the case of two complainants, oil companies canceled their lease agreements. One oil company voluntarily continued the rental payments but the other company did not.

A Council official said that, when the rental regulations were adopted, the Council was unaware of the lease agreements which provided for the oil companies paying rent to station owners and therefore did not consider including a provision in the regulations covering this situation. The executive director of the Mid-American Gasoline Dealers Association told us that the association did not keep statistics on the number of cancellations affecting its members or the amount of rental income lost.

In March 1974 an FEO official informed us that FEO was gathering data to determine the extent of this problem before taking any action to amend the regulations.

The Kansas City FEO Regional Administrator said that current gasoline allocation regulations require distributors to treat company-owned and non-company-owned stations equitably in allocating gasoline supplies. A distributor must allocate gasoline proportionately to all stations.

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As requested, we did not obtain FEO's formal comments on this report; we did, however, discuss these matters with the Kansas City FEO Regional Administrator. We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

INTERVIEWS WITH OFFICIALS OF TWO PLASTIC-MANUFACTURING INDUSTRIES

PEERLESS PLASTICS, INC.

Peerless manufactures plastic pipe primarily for irrigation and oil field use. Peerless obtains its raw materials from the petrochemical industry, which manufactures the raw materials using propane. A 1973 expansion of the Peerless plant almost doubled production capacity; but, due to lack of raw materials, this capacity has not been fully used. In January 1974 the plant was operating at about 65 percent capacity.

Peerless's September 6, 1973, letter to you requested assistance in maintaining a priority position in the allocation of propane.

The first propane allocation regulations, issued on October 3, 1973, did not give the petrochemical industry priority in propane allocation. Revised regulations, issued on January 15, 1974, gave the industry priority status for 90 percent of the volume used from October 3, 1972, through April 30, 1973.

Our discussions with a Peerless official disclosed that company officials had no complaints against the raw material supplier. He stated that the supplier agreed to custom process resins for Peerless if Peerless purchased and delivered propane to them.

At the time of our review, the Peerless official was concerned primarily about whether Peerless and other pipe manufacturers would be entitled to a greater allocation of raw materials because their product was used for priority purposes. An FEO official told us that FEO had control over the allocation of only certain of the raw materials used by plastic products manufacturers.

SUNSET PLASTIC PRODUCTS, INC.

Sunset manufactures plastic lids and margarine bowls for the food industry. It obtains raw materials from the petrochemical industry, which manufactures them using petroleum products, including propane. Before the petroleum shortage, normal employment at Sunset was 100 to 130 employees; in mid-January 1974 employment was 30 to 40 employees.

A Sunset official stated that, to continue producing on a limited basis, Sunset bought raw materials on the black market, where prices ranged from 30 to 55 cents a pound, compared with the normal price of 14 to 14.5 cents a pound. The official also stated that, although Sunset had to reduce employment due to a lack of raw materials, a local competitor was not experiencing a raw material supply problem and was advertising for more employees.

A Sunset official suggested to us that the Federal Government needed to

--withdraw part of the allocation to a petrochemical raw material manufacturer that stops manufacturing a product,

--establish an allocation program to distribute raw materials equitably so as to maintain some semblance of competition within the plastics industry, and

--establish controls over exports so that more raw materials are available to domestic companies.

Concerning the first two suggestions an official of FEO's Office of General Counsel stated that FEO was responsible for allocating petroleum products to petrochemical manufacturing plants but that it had no control over the production or distribution of raw materials.

As for the third suggestion, the Cost of Living Council established price controls over domestic sales of petrochemical raw materials. As a result manufacturers increased their exports, which made less materials available for domestic producers. Because a severe shortage of certain petrochemical products was seriously disrupting the market, the Council exempted the sale of certain petrochemicals from phase IV price regulations, effective January 30, 1974.

On February 4, 1974, a Sunset official told us that the Council's actions had not alleviated Sunset's shortage of raw materials. He stated that Sunset's one remaining supplier had advised Sunset that it could expect further reduction in deliveries of raw materials.

INTERVIEWS WITH CONSTRUCTION INDUSTRY REPRESENTATIVES

KANSAS CONTRACTORS ASSOCIATION, INC.

The association, a chapter of the Associated General Contractors of America, Inc., is made up of 120 individual construction firms that are engaged in (1) the building of dams, reservoirs, highways and bridges, (2) railroad construction, and (3) municipal work, such as sewer and water purification plants.

The association complained primarily that there was no provision in FEO's past regulations or in its December 1973 proposed regulations which would give the construction industry priority for its needs for diesel fuel. The association also complained that in the proposed regulations the base period for allocating fuel would create chaos for the Kansas contractors because very little construction was done during the base period due to weather conditions.

An association official cited a reservoir and a highway project as examples of where construction was halted because of a lack of fuel. In these two cases, about 140 construction workers were laid off. In another case, the official stated that work on a railroad project was curtailed due to insufficient supplies of diesel fuel.

An association official stated that the association had been working through the Kansas State Fuel Allocation Office and that the State had helped it locate fuel, although some of the amounts were rather small.

An association official advised us that the association was encouraged by FEO's new regulations published on January 15, 1974. The Kansas City FEO Regional Administrator said that these regulations provide that fuel be allocated to a construction project in accordance with the allocation level established for the project's end use. For example, projects relating to the end uses of agricultural production, sanitation services, and energy production would receive 100 percent of their current requirements for diesel fuel, since this was the allocation level established for these end users.

Regional FEO officials stated that they had explained the program to the association and had outlined the procedure to be followed in obtaining fuel. The procedures provide that, after a construction contract is awarded, the contractor should submit the appropriate FEO forms to a local distributor of its choice. The local distributor indicates on the form whether it does or does not have sufficient fuel to fill the request. If it does not, the contractor should submit its request to FEO so that fuel can be located and delivered to the local distributor for the contractor's account at the allocation level established for the project's end use.

CHARLES E. STEVENS, PRESIDENT OF STEVENS, INC., AND EVE, INC.

Stevens and Eve are firms engaged in constructing outside utilities, such as streets and sewers. Stevens has about 60 employees year round, and Eve has about 60 employees in the summer and 25 in the winter. Fuel requirements are primarily for propane, gasoline, and diesel.

Mr. Stevens had complained that

--the Government's fuel allocation program gave no priority to the construction industry,

--the price of petroleum products was high, and

--the Government's allocation of aviation fuel for private airplanes was too low.

Mr. Stevens said that, because the construction industry was given no priority for its fuel requirements, competitive bidding on projects had lessened since many firms were reluctant to bid because of the uncertaintly of obtaining enough fuel. Also bid prices were being inflated to take into consideration anticipated fuel price increases.

Mr. Stevens said that his firms continued to bid on projects because they had purchased and had on hand sufficient quantities of fuel to meet their 1974 requirements. These purchases were made outside normal supply channels.

Mr. Stevens said that his firms tried to obtain fuel in accordance with FEO instructions but met with only limited success. For example, in January 1974 he said that he obtained 500 gallons of diesel fuel and heating oil, which represented less than 7 percent of the firms' needs. As of February 7, 1974, he had received no fuel for February and the local distributor had no idea how much might be allowed.

After the January 15, 1974, regulations were issued Mr. Stevens reported that some relief had been granted to the construction industry.

Mr. Stevens gave us the following information on high fuel prices. Propane purchased in 1972 averaged 7.9 cents a gallon; propane purchased in 1973 cost 22 cents a gallon; and in January 1974 propane cost 28.7 cents a gallon. A petroleum product known as AC-5 is used in making asphalt. Before the energy crisis, AC-5 cost 10 cents a gallon; however, by January 1974 the price ranged from 22 to 26 cents a gallon.

Mr. Stevens said that his firms have an airplane used exclusively for business and that the FEO program for aviation fuel was providing for only 55 to 60 percent of the firms' requirements. Mr. Stevens stated that the Government should allocate more fuel for airplanes used only for business. Also he said that the plane consumes less fuel per mile than many automobiles which, on the basis of travel destinations, would be the alternate source of transportation used by Stevens and Eve. The most recent regulations issued on January 15, 1974, provide for general aviation aircraft used for business to receive 90 percent of their base period consumption whereas aircraft used for personal pleasure are to receive 75 percent.

FEO comments on the allocation program for the construction industry were previously discussed in this appendix. FEO advised us that, as of March 6, 1974, 442 Internal Revenue Service employees had been engaged full time on FEO activities. Effective January 30, 1974, FEO no longer permitted refiners to allocate a disproportionate share of their cost to propane, since the cost of propane had risen at a rate much greater than that of other petroleum products.

INTERVIEWS CONCERNING GASOLINE PRICING WITH ARTHUR WINTERS, GAS STATION OWNER-OPERATOR; FENTON DIETZ, GAS STATION LESSEE-OPERATOR; AND JOHN COSTELLO, EXECUTIVE SECRETARY, MID-AMERICA GASOLINE DEALERS ASSOCIATION (MAGDA)

Mr. Winters owns and operates a service station which he leased to an oil company for $1 a month plus 2 cents a gallon on all gasoline delivered by the lessee to the station. The lease was for a 5-year period beginning January 1, 1972, and gave certain cancellation privileges to both parties. Mr. Winters actually operates the station; the lease, however, gives the oil company the right to market its products at the station.

Mr. Dietz leased his station from a development company and in turn subleased the station to an oil company for a monthly gallonage rental equal to 1.65 cents for all gasoline and other motor fuels sold through the retail product dispensers. The initial sublease was for 1 year beginning March 1, 1969, and had been extended four times, with the latest termination date being March 1, 1974.

Messrs. Winters and Dietz are members of MAGDA. MAGDA and the members' complaints pertained to the (1) oil companies' cancellation of their leases and (2) Cost of Living Council's phase IV controls on service station gross profit margins.

The Cost of Living Council issued regulations in August 1973 providing that a lessor, such as an oil company which leased real property to a gasoline retailer (company-owned station), could not increase the rent over that charged on May 15, 1973. The regulations made no provision for the rentals paid by oil companies to non-company-owned stations, such as those operated by Messrs. Winters and Dietz.

Messrs. Winters and Dietz received notices that their leases were being canceled on January 1 and March 1, 1974, respectively, but that the oil companies would enter into leases for successive 30-day periods. Mr. Winters' lease cancellation notice provided that rental payments would continue to be made until the Council allowed rental provisions to be changed. Mr. Dietz said that his lessee was discontinuing his rental payments of about $15,000 a year. Even though their long-term leases had been canceled, Messrs. Winters and

Dietz continued to receive gasoline from their respective oil companies. The gas station owners and Mr. Costello viewed the oil companies' actions as greedy and designed to eliminate non-company-owned stations, thereby permitting higher volumes of gasoline to be pumped through company-owned stations where rent is collected rather than paid. MAGDA has no statistics on the number of cancellations affecting association members or the amount of rental savings accruing to the oil companies.

Mr. Costello pointed out the inequity in the phase IV regulations. He said that in November 1973 he had written to the Cost of Living Council proposing that the Council revise its regulations to prohibit oil companies from canceling leases for the duration of the emergency and to require retroactive rental payments through May 15, 1973. At the time of our interview, he had not received a reply.

A Council official said that the purpose of the rent freeze was to protect the gross profit margin of the lessee of a company-owned station. He also said that, when this regulation was being drafted, the Council was unaware of the rent being paid by oil companies to non-company-owned stations.

In March 1974, an FEO official informed us that FEO was gathering data to determine the extent of this problem before taking any action to amend the regulations.

The other complaint pertained to the Council's phase IV freeze on gas stations' gross profit margins. In August 1973 the Council set gross profit margins (markups) at the level applied on January 10, 1973. This regulation was revised and the allowable markup was changed to that in effect on May 15, 1973. Under these regulations, station operators were not permitted to pass on to the consumer increases in overhead costs incurred after May 15, 1973.

In December 1973 the Council transferred its petroleum products activities to FEO. In January 1974 FEO amended the price regulations to permit retailers to recover certain nonproduct costs which had increased since May 15, 1973. The revised regulations permitted these nonproduct costs to be passed to the consumer beginning in January 1974 through a one-time increase up to 1 cent a gallon. The regulations were revised in February 1974 to permit an additional increase of 2 cents a gallon.

INTERVIEW WITH MR. FRANK MOSIER,

STATE EXECUTIVE DIRECTOR, KANSAS STATE OFFICE OF THE

AGRICULTURAL STABLIZATION AND CONSERVATION SERVICE (ASCS)

ASCS, a Federal agency in the Department of Agriculture, participates in the Federal petroleum allocation program by helping farmers and fuel distributors file for increases in fuel allocations, verifying specific information as requested by Federal and State governments, and working with farmers and food and feed industries to obtain needed fuel supplies.

ASCS, serving as a point of contact for farmers, complained that

--major oil companies were refusing to deliver or were being unduly slow in delivering FEO-approved hardship allocations of diesel fuel and

--prices for diesel fuel and propane were increasing at exorbitant rates, and the legality of these increases had been widely questioned.

ASCS was also concerned about the possible impact on agricultural production resulting from a local distributor discontinuing business.

HARDSHIP ALLOCATIONS OF DIESEL FUEL

Effective November 1, 1973, the Government established a mandatory allocation program for middle distillate fuel, which includes diesel fuel. Although no priorities were established in the initial allocation program, regulations were issued, effective November 15, 1973, directing that current actual requirements for diesel fuel be allocated to agricultural end users for a 60-day period.

Mr. Mosier cited three cases, all involving one oil company which had failed to give approval to the local distributor to permit the delivery of FEO-approved hardship allocations of diesel fuel. The allocations were for agricultural production which, according to Federal regulations, was eligible to receive actual current requirements. Mr. Mosier had no record of the number of hardship applications processed in the State for agricultural purposes or the status of such applications, except for the three cases cited above.

Mr. Mosier suggested that oil companies be required to respond immediately on hardship allocations and to state that either delivery will be made or that fuel is unavailable.

The Kansas City FEO was aware of the delays and attributed the problems to the oil company's failure to designate an official at the local level to act on hardship allocations. The Kansas City FEO Regional Administrator told us that he had talked with the company about the delays and was requesting FEO headquarters to issue a regulation to require oil companies to respond to allocation directives within 5 working days. On February 13, 1974, Mr. Mosier advised us that hardship allocations were being made more promptly.

FUEL PRICES

Mr. Mosier gave us the following information on fuel prices. In one county, the price of diesel fuel before the energy crisis ranged from 18 to 20 cents a gallon but in December 1973 ranged from 34 to 38 cents a gallon. In Manhattan, Kansas, the price for propane was 13 cents a gallon on October 19, 1972, and 24.7 cents on November 23, 1973; the quoted price in December 1973 was 28.6 cents. Mr. Mosier said that, although farmers expected some price increases, they considered this increase excessive.

Mr. Mosier said that he obtained his information through discussions with farmers throughout the State. Mr. Mosier stated that he did not have documentation to support any allegation of illegal price increases. Also Mr. Mosier did not know whether suspected violations were referred to FEO or to the Internal Revenue Service for investigation.

FEO advised us that price complaints were being investigated by Internal Revenue Service agents. Also FEO amended the regulations on February 1, 1974, to restrict oil companies from allocating a disproportionate share of their costs to propane, which in the past had caused much greater price increases for propane than for other petroleum products. FEO had permitted this disproportionate cost allocation as an incentive to oil companies to produce more propane.

FUEL DISTRIBUTOR GOING OUT OF BUSINESS

The third item reported by ASCS concerned the possible impact on farmers of a fuel distributor going out of business on January 1, 1974. Approximately 200 to 250 farmers requiring an estimated one million gallons of gasoline and one-half million gallons of diesel fuel would be without a supplier.

On February 13, 1974, Mr. Mosier advised us that State and Federal fuel allocation officials had found new distributors to supply fuel for the former distributor's customers.

INTERVIEW WITH MR. JIM FERRELL, FERRELLGAS, INC.

Ferrellgas buys propane from oil companies and resells it to wholesale purchasers and major end users. Ferrellgas is also a local distributor of propane for home heating and commercial purposes in parts of Missouri, and Kansas, and Iowa.

Mr. Ferrell had the following complaints concerning the Government's propane allocation program:

--FEO threatened legal action against Ferrellgas for failure to supply customers although it was out of product. At the time, the Federal petroleum allocation officials had assigned certain oil companies to supply Ferrellgas but none of these companies had complied with the Federal orders.

--Mr. Ferrell was aware that some oil companies were serving some nonpriority customers in certain areas but failing to supply priority customers in other areas.

--Some large nonpriority customers had continued to consume huge supplies of propane while the needs of priority customers had not been filled. FEO had not taken steps to stop this.

SUPPLY PROBLEMS

Ferrellgas was ordered by Federal petroleum allocation officials to deliver specified quantities of propane to its customers. Certain oil companies had been directed to sell Ferrellgas specified quantities of propane so that it could fill these orders. The oil companies did not make deliveries to Ferrellgas, and as a result Ferrellgas could not comply with allocation directives. When Ferrellgas failed to comply, Federal petroleum allocation officials threatened Ferrellgas with legal action. Mr. Ferrell stated that he was unable to obtain an appointment with Federal petroleum allocation officials. In the early months the allocation program was administered by a very limited staff.

Mr. Ferrell said that after he complained to Senator Dole, he met with two allocation officials and convinced them that he could not meet FEO demands until the oil companies made supplies available to Ferrellgas.

Mr. Ferrell said that by February 1974 his propane supply situation had improved. According to him, Ferrellgas had received only about 36 percent of its requirements in October and November 1973 but by February was receiving all of its requirements. Mr. Ferrell added that present working regulations with other oil companies and with FEO were much improved.

The Kansas City FEO Regional Administrator said that Ferrellgas' priority needs were being filled and, in turn, Ferrellgas was complying with FEO allocation directives. The Regional Administrator also said that some of the early problems Ferrellgas encountered were attributable to the fact that Ferrellgas followed its normal procedure for placing orders which did not conform with procedures required by the suppliers assigned to it under the Federal allocation program.

REGIONAL DISCRIMINATION AND CONSUMPTION BY A NONPRIORITY CONSUMER

Mr. Ferrell alleged that surplus propane supplies existed in Texas while in the Midwest propane was in short supply. However, he had no documentation to help us substantiate the allegation.

Mr. Ferrell stated that one of the suppliers assigned to him by Federal petroleum allocation officials was owned by a petrochemical company and had been furnishing its parent company with 100 percent of its propane requirements. During the period that this occurred, Ferrellgas was supplied with only 10 percent of the volume assigned by the Federal program. According to Mr. Ferrell, his customers were priority users.

Mr. Ferrell said he had written to regional Federal petroleum allocation officials in Kansas City about this matter. At that time, the Federal petroleum allocation program was administered by the Department of the Interior's Office of Oil and Gas.

An official of FEO's Kansas City region informed us that the three Office of Oil and Gas employees who administered the program in the Kansas City region were no longer with the allocation program. He stated that, during the early months of the program, followup on many complaints was handled by telephone and records may not have been kept on all conversations. Therefore it could not readily be determined what, if any, followup was done on Mr. Ferrell's complaint.

The petrochemical industry was not classified as a priority user in the October 1973 guidelines. However, the revised regulations issued in January 1974 classified the petrochemical industry as a priority user for 90 percent of the quantity used during a designated base period. As noted above, Mr. Ferrell stated that by February 1974 Ferrellgas was receiving all of its requirement.

INTERVIEW WITH OFFICIALS OF FARMLAND INDUSTRIES, INC.

Farmland is a manufacturing and marketing cooperative serving agriculture. Its products are marketed through 2,100 local farm supply cooperative associations throughout 15 midwestern States. During 1973 Farmland sales of refined fuels to agricultural producers amounted to more than $156 million.

Farmland officials complained that FEO required them to continue supplying diesel fuel to nonmember customers. These customers had purchased excess fuel during the base period when farmer demand was low. Farmland officials also complained that they had idle refinery capacity due to the lack of crude oil. Senator Dole stated that reports coming to him indicated that other refineries had excess crude oil.

SUPPLYING NONMEMBER CUSTOMERS

Under the Government's middle distillate program, published in the Federal Register on October 16, 1973, each supplier was required to provide middle distillates to the customers served during the 1972 base period. During this period, demand for diesel fuel by agricultural users was low because of adverse weather and Farmland had marketed excess diesel fuel to nonmember customers. The initial program did not establish any priorities for allocating diesel fuel. Since Farmland's sole purpose is to serve agriculture, Farmland applied to Federal petroleum allocation officials for an exemption from supplying these nonmember customers. Farmland officials said that the exemption request was denied.

Subsequently some relief was given Farmland when Federal petroleum allocation officials found new suppliers for some of the nonmember customers. Also amendments to the middle distillate regulations in November 1973 and January 1974 provided for priority allocation to certain end users, including agricultural producers.

IDLE REFINERY CAPACITY

Farmland officials had no documentation to support the allegation that other oil companies had excess crude oil. They stated that the January 1974 fuel allocation program should insure that agriculture's priority needs were met.

Farmland owns and operates three oil refineries having a total capacity of 60,000 barrels a day. The refineries were being expanded at the time of our interview and would increase capacity to 75,000 barrels a day. The refineries can handle only low-sulphur crude.

Up until the fall of 1972, Farmland had exchanged foreign crude import rights for domestic crude oil. This was a routine exchange arrangement with major U.S. oil companies for many years. It allowed inland refiners access to domestic crude oil recovered in the U.S. interior. In return, the major oil companies received rights to import less expensive foreign crude oil for processing at their coastal refineries.

As a result of the increase in the price of imported crude and environmental restrictions placed on refineries, Farmland could not obtain enough domestic crude oil for refining. It therefore imported refined petroleum products and borrowed crude oil from other oil companies which it is obligated to repay. Also Farmland has refined crude oil on a custom basis, whereby Farmland returns a portion of the refined products to the owner of the crude oil.

At the time of our interview in December 1973, Farmland officials said that Farmland's refineries were operating at about 90 percent of capacity but that only about 82 percent was in support of agriculture.

In December 1973 Farmland submitted comments on the proposed fuel allocation regulations. Farmland officials said that most of their suggested changes were incorporated into the regulations issued in January 1974, including a crude oil allocation program that provides for a proportionate distribution of crude oil to all refineries. Also, Farmland said that the fuel allocation program adopted in January 1974 should insure that agriculture's priority needs are met.

On February 12, 1974, Farmland officials said that many changes had occurred since the time of their complaint and that their relations with FEO were much improved. The officials stated that the changes permitted Farmland to better meet its sole purpose--serving agriculture.