

The original documents are located in Box 14, folder “Federal Energy Administration - Meeting with Frank Zarb and Max Friedersdorf, June 1976” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

MEETING WITH FRANK ZARB AND
MAX FRIEDERSDORF
RE: FEA Extension

3:00 p.m.
Friedersdorf's Office



THE WHITE HOUSE
WASHINGTON

June 21, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON
FROM: JIM CONNOR *JEC*
SUBJECT: FEA EXTENSION LEGISLATION

The President reviewed your memorandum on the above subject (undated) and approved the following alternative:

Alternative #1 - Strongly oppose 90-day extension and dispatch a letter urging early conference and simple 18-month extension.

In addition the following notation was placed alongside the following paragraph:

"Try to keep in."

- Paragraph from page 2 of memo -
"The Senate-passed extension bill also includes provisions to exempt stripper well and secondary-tertiary petroleum production from composite price controls. However, these amendments by Bartlett and Montoya are unlikely to survive in conference."

Please follow-up with appropriate action.

cc: Dick Cheney



THE WHITE HOUSE

WASHINGTON

DECISION

June 19, 1976

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON
SUBJECT: FEA EXTENSION LEGISLATION

Issues

The issues for your consideration are:

- . The position you wish to take on a bill introduced on June 18, 1976 by Congressman Dingell (H.R. 14394) to extend FEA for three months -- which is scheduled to be taken up by the House under suspension on Monday, June 21, 1976.
- . Next steps for dealing in conference with the bills already passed by the House and Senate to extend FEA -- which bills include a large number of highly objectionable amendments.

Background

The House passed a bill on June 1 extending FEA for 18 months beyond its June 30, 1976 expiration date. The Senate passed a bill on June 16 extending FEA for 15 months. Twenty four amendments have been included. These are summarized briefly in an OMB analysis at TAB A. It identifies the most objectionable provisions, including:

- . Energy conservation loan guarantee and insurance programs (\$6.9 billion) sponsored by Senator Kennedy and 39 others (8 of the 16 Senate conferees were sponsors and 13 voted for it). Spending is authorized at \$1 billion over the next three years. Included are authorities similar to those you proposed in January 1975 for weatherization assistance (but half administered by Community Services Administration) and building standards with sanctions. A summary of the Kennedy provisions are attached at TAB B.



- . Sixty legislative day Congressional review for all FEA rules and regulations, with veto by concurrent resolution (House).
- . Requirement that price and allocation be dealt with separately in petroleum product decontrol plans submitted to Congress -- which will hinder deregulation (House).
- . New statutory energy information office within FEA with authority to:
 - obtain administratively protected data from BLS (thus threatening BLS' future ability to obtain data voluntarily).
 - begin immediately obtaining information from energy companies on revenues, profits, cash flow, investment, etc. (Senate).
- . Broadening of coal loan guarantee program (Senate).

The Senate-passed extension bill also includes provisions to exempt stripper well and secondary-tertiary petroleum production from composite price controls. However, these amendments by Bartlett and Montoya are unlikely to survive in conference.

The Senate conferees are listed at TAB C. The House has not yet appointed conferees. Congressman Bud Brown joined Dingell as a sponsor of the 90-day extension bill. However, in a discussion with Charlie Leppert earlier today, Brown indicated that we should press for the conferees to act on a longer extension bill.

If FEA authority were to expire on June 30:

- . functions transferred to FEA from other agencies would revert to those agencies (Office of Oil and Gas to Interior).
- . new functions assigned to FEA in the Energy Policy and Conservation Act (EPCA) of December 1975 -- as well as policy analysis, conservation and oil price and allocation controls -- could be assigned as you determine.
- . FEA Executive Level II, III, IV positions (total of 9) would be abolished.



Principal options for continuing FEA functions would be to: (a) recreate an energy office by Executive Order, (b) assign functions in tact to an existing agency, such as ERDA or Interior, or (c) distribute functions among several agencies.

The most serious problems from discontinuing FEA include: (a) disruption of current efforts to decontrol petroleum products and increase crude oil prices, (b) potential loss of management control over compliance programs and (c) administrative confusion.

Alternatives

Alt. #1. Signal strong opposition to the 90-day extension bill. Dispatch strong letter as early as possible Monday to the House and Senate which (a) urges that conferees meet quickly and report out a simple extension bill, and (b) states clearly our reasons for opposing the amendments that have been added by the House and Senate

- The principal argument for this approach is that, if successful, it will avoid another three months of protracted discussion over a large number of controversial energy provisions that are not needed, but which are likely to gain support as time passes because of their superficial appeal.
- The principal argument against this alternative is that, if unsuccessful, you might be faced with either:
 - o an unacceptable conference bill that warrants a veto, thus leading to the expiration of FEA on June 30. (However, some of your advisers believe that this eventuality would put you in a good position to highlight Congressional irresponsibility on energy matters.), or
 - o a simple 90-day extension bill on which a veto would be difficult to justify

Alt. #2. Signal that a simple 90-day extension bill would be preferable to a longer extension loaded with amendments. Dispatch a strong letter of opposition to the most objectionable provisions of the House and Senate passed bills and try to work out an acceptable compromise over the next 60-90 days.



- The principal argument for this approach is that it permits the least amount of confrontation over the next few weeks in attempting to resolve the issue.
- The principal argument against it is that it is more likely to lead to a bill with a large number of superficially attractive, but highly objectionable, energy provisions that would have to be dealt with in September.

Alt. #3. Do not signal a position on the 90-day extension at this time. Send a strong letter opposing objectionable provisions of the House and Senate bills. Reassess situation after two to three days. If the House has passed the 90-day extension, then signal strong opposition or seek a short (30 day) extension in the Senate as a means of keeping pressure on the Congress for an early decision on a longer extension bill.

- The principal arguments for this approach are that:
 - o it would defer problems that might accompany the expiration of FEA.
 - o it keeps your options open to accept a short-term extension (30-90 days) during which Frank Zarb could try to get an acceptable conference bill.
- The principal arguments against this alternative are that:
 - o it merely defers the date of confrontation.
 - o It provides more time for opponents to line up support for superficially attractive provisions that may emerge from the conference.

Recommendations and Decisions

<p>_____</p> <p>Buchen, Cannon, Friedersdorf, Green- span, Hartmann, Marsh, O'Neill, Seidman</p> <p>_____</p> <p>(No votes)</p>	<p>Alt. #1. Strongly oppose 90-day extension and dispatch a letter urging early conference and simple 18-month extension.</p> <p>Alt. #2. Signal that a simple 90-day extension would be preferable to a longer extension loaded with amendments. Work to clean up the bills in conference over the next 90 days.</p>
---	---



Zarb (Hill)

Alt. #3. Do not signal a position on the 90-day extension now. Reassess situation after 2 or 3 days and then take hard line or go for 30-day extension in the Senate.

Frank Zarb is in Japan. John Hill indicates that he is confident that Frank feels very strongly that FEA should not be allowed to terminate on June 30. He also believes that an acceptable compromise can be worked out on the energy conservation provisions.

Attachments



TAB A

FEA Act Extension

Attachment 1
6/17/76
Lum

	House Bill	Senate Bill	Comment
1. Length of extension	18 months	15 months	
2. Author. for 1977 funding	Basically, same as Pres. bud., but authorizes \$62.5M for regulatory programs instead of \$47.8M, and \$13.1M for rate demos as opposed to \$0.	Basically, same as Pres. bud., but auth. \$40.6M for conserva. instead of \$12.6M, and \$10M for rate demonstrations.	No cause for veto.
3. \$3 million solar commercialization authorization	Stricken from bill on the floor.	Amendment adopted by Senate.	No cause for veto.
4. Computer services to public on Project Indep. Eval. Model	Approved by House. FEA required to provide computer time on reimbursable basis for those who want to run PI model on computer.	No provision.	Places FEA in competition with private firms in providing computer services.
5. Transfer of FEA functions when Act expires	No provision.	<ul style="list-style-type: none"> ° storage to Interior ° policy analysis to ERC ° data collection to Commerce ° voluntary and mandatory conservation to Commerce ° coal conversion to EPA ° price controls to FPC ° allocation to Interior ° international programs to State 	
6. Appliance labelling program	No provision.	Transferred to Commerce.	Richardson wouldn't sign letter opposing.
7. Plan and report on energy and natural resources reorganization	No provision.	Due to Congress by 12/31/76.	
8. ERC extension	No provision.	To Sept. 30, 1977.	

	House Bill	Senate Bill	Comment
9. Annual report on Federal conservation programs	No provision.	Approved by Senate. 1st report due 7/1/77.	Could require special analysis for energy. Will give FEA conservation staff opportunity to propose new programs.
10. Joint annual report by FEA-ERDA	No provision.	Single report required to maximum extent feasible.	
11. 15-day EPA review of FEA regulations affecting the quality of the environment	No provision.	Percy amendment to delete was approved. Review period remains at 5 days.	
12. 60-day Cong. review of FEA rules and regulations	Adopted on floor by 226 to 147. Congress can veto any FEA regulation by concurrent resolution within 60 days.	No provision.	Cause for veto, but FEA thinks will be dropped in conference.
13. Separate plans to exempt price and allocation decontrol of petroleum products	Adopted on floor by 200-175.	No provision.	Possible cause for veto.
14. Restrictions on retroactive use of new interpretations of regulations to bring civil actions or remedial orders against marketers of petroleum products	Adopted on floor in objectionable form.	Percy amendment adopted. FEA believes it will bring this issue into line with FEA compliance manual.	

	House Bill	Senate Bill	Comment
15. Kennedy amendments re: energy conservation	No comparable provision.	See attachment TAS B See attachment for details.	Cause for veto.
16. Haskell amendment to establish Office of Energy Info. & Analysis	No provision.	Adopted 46-45. Creates separate office in FEA: <ul style="list-style-type: none"> - headed by level 5 confirmed by Senate. - authorizes 10 new supergrades. - requires annual supply-demand forecasts for 1, 5, 10, 15, and 25 years, not subject to FEA review. - requires line-of-commerce reporting by major energy companies of revenues, profits, cash flow, investments, etc. - gives FEA, and thus Congress, access in law to BLS data now protected administratively. 	Possible cause for veto.
17. Coal loan guarantees (Randolph)	No provision.	Extends eligibility for loan guarantees to expansion of existing underground coal mines and reopening of closed mines.	Possible cause for veto.
18. Entitlements for small refineries in construction phase (Allen)	No provision.	Benefits Wallace & Wallace firm in Alaska.	Established firms would be subsidizing refineries built by competitors.
19. Stripper well exemption (Bartlett)	No provision.	Amendment adopted 61-29. Exempts strippers from composite price controls.	
20. Secondary-tertiary production exemption (Montoya)	No provision.	Amendment adopted 58-35. Exempts from composite price controls.	
21. BTU tax study	No provision.	Required by 1/31/77. FEA must evaluate need for and impact of.	

House Bill

Senate Bill

Comment

22. Voluntary rate structure guidelines for State regulatory commissions

No provision.

FEA required to prepare such within 180 days and update annually.

23. Grants to States for consumer office representation at State rate hearings

No provision.

\$2M in 1977.

24. TVA consumer services office (Brock amendment)

No provision.

Independently operated consumer services office established by TVA would qualify for assistance under #22 above.

25. Uniform system of standards, procedures, and methods for the accounting for and measurement of all phases of production and marketing of crude oil.... (Dole)

No provision.

Amendment approved by Senate.

TAB B

Kennedy Energy Conservation Amendments

- Authority for FEA to guarantee up to \$4 billion in loans and other obligations made to businesses, State and local governments, and non-profit institutions. At least 40% -- \$1.6 billion -- would be directed to governments and non-profit institutions. Workers making conservation improvements must be paid at prevailing wage rates.
- Revolving fund for Small Business Administration to make energy conservation loans (\$300 million) and subsidy payments (\$60 million).
- New HUD Title I program for insuring home improvement loans (\$2.5 billion) and interest subsidies (\$500 million over 3 years).
- New State energy conservation grant program, including requirement that States provide energy audits at no cost to homeowners. Energy audits are prerequisite for HUD loans; however, States can have "audits" that only require homeowners to fill out a questionnaire.
- Weatherization assistance for low-income families to be implemented through the Community Services Administration. At least 50% of funds go to community action agencies.
- Energy conservation standards for new buildings. Same as original Administration bill. Includes sanctions, except for Hawaii.

Total spending authorization for these programs is \$1 billion over 3 years. This includes only \$120 million to cover loan defaults.

TAB C

Senate Conferees on FEA Extension Act

Government Operations

Ribicoff
Jackson
Metcalf
Glenn
Percy
Javits
Brock

Banking

Proxmire
Cranston
Tower

Commerce

Magnuson
Hollings
Pearson

Interior

Church
Haskell
Hansen

Note: 13 of the 16 Senators voted for the Kennedy energy conservation amendment, and 8 were sponsors.



Why John - feels been handled

Feb 6 (A) late Friday ~~leaves coming~~
up on Thursday

1) did dinner w/ Bill - used to
live in

2) Reasoner was part of drafting
" " satisfied - all pts

in was

3) Hill called Sunday - one
additional pt - ~~at~~
New function note added



4) Hill said Cannon's report &
he contacted - "not necessary" - he
comes March for Feb

5) Norman / ~~Johnson~~ - inevitably
6) Athlete - contract to FEA as is

Auto-FEA
recruitment -
being prepared -

6:30 Sat

Recon formation -
comes note

THE WHITE HOUSE

WASHINGTON

June 22, 1976

TO: JIM CANNON
JIM CAVANAUGH
MIKE DUVAL
MAX FRIEDERSDORF
BILL GOROG
BILL KENDALL
ED SCHMULTZ
PAUL O'NEILL

FROM: GLENN R. SCHLEEDE

SUBJECT: FEA EXTENSION

Here is a copy of the letter that
Charlie Leppert delivered to the hill
this morning.

John Hill will get an identical letter
to Senator Mansfield.





FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

June 22, 1976

OFFICE OF THE ADMINISTRATOR

The Honorable Carl Albert
The Speaker
U.S. House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

The purpose of this letter is to urge strongly that Conferees meet quickly on bills that have passed the House (H.R. 12169) and the Senate (S. 2872) to extend the life of the Federal Energy Administration (FEA), that highly objectionable provisions of those bills be dropped, and that the Congress pass quickly a bill which extends the FEA for a reasonable time beyond its current expiration date of June 30, 1976.

In January 1976, the President proposed that the FEA be extended for 39 months. His proposal would have provided the continuity needed to insure FEA's ability to implement the complex programs contained in the Energy Policy and Conservation Act of 1975 (EPCA) and adequately administer oil price controls until their termination in 1979. Although the Administration continues to favor a simple 39-month extension, we recognize that Congress cannot now pass such an extension by June 30. It can, however, pass an acceptable simple extension of FEA for 18 months.

These two bills which have passed the House and Senate include a large number of provisions which are highly controversial. Many are not necessary to the extension of FEA, have not been considered adequately in public hearings, and are strongly opposed by the Administration. It is unrealistic to expect that agreement can be reached on such provisions by June 30, within 90 days, or perhaps, by the end of the current session of Congress. These provisions should be dropped so that the 18-month extension can be enacted into law by June 30.

The provisions in H.R. 12169 and S. 2872 to which the Administration objects most strongly include those outlined below.



1. The requirement for 60 days while Congress is in session for Congressional review of all FEA regulations is unrealistic and of doubtful constitutionality.

H.R. 12169 requires FEA to submit major rulemakings to the Congress. These rulemakings can only go into effect if Congress fails to pass a concurrent resolution rejecting the rulings after they have sat in Congress for 60 legislative days. This provision would be entirely inconsistent with the timely, efficient, and responsible execution of programs which FEA must implement under existing law, including such programs as the 150 million barrel early storage program, reform of its price and allocation control programs, appliance efficiency labels and targets, and conversion of oil and gas fired utility boilers to coal. In addition, there is substantial legal doubt as to the constitutionality of this provision which subjects actions by the Executive pursuant to existing law to Congressional veto by means other than enactment of another law. There were no hearings on this requirement in either House.

2. The \$6.8 billion Energy Conservation loan guarantee and insurance programs are unnecessary, duplicative in some respects, and would not achieve the intended results.

- The need for, and the effectiveness of, the proposed \$4.0 billion in loan guarantees to industry to purchase and install already proven conservation equipment -- as distinct from assisting the development of emerging technologies -- have not been demonstrated. In addition, large, energy intensive firms -- which account for over 80 percent of industrial sector energy use -- with adequate financial ratings would not find the program attractive or useful, particularly with some of the provisions contained in the bill. Most such firms already have conservation programs. Firms with inadequate financial footings, on the other hand, might utilize the program, but the default rates of the program could be high if it only appealed to the least credit worthy firms. No assessment of the energy savings of this provision has been conducted; consequently, the economic wisdom of this program has not been determined.
- The proposal for loan subsidies and insured loans for homeowner energy conservation improvements, with commitments totalling about \$2.5 billion, would not be as effective as tax proposals now being actively considered by the Congress.



- . The proposal for loans totalling about \$300 million and subsidies for small business firms would entail considerable administrative and default costs. The procedural requirements are likely to make it unattractive to small business firms in any case. Energy savings have not been estimated but are likely to be small.
 - . The proposal for state energy conservation implementation plans is duplicative of existing programs and would unnecessarily involve the Federal Government in matters that should be left to the discretion of States.
 - . Hearings were not held in the Senate on the current version of these provisions and there have been no House hearings.
3. Many of the provisions of the independent Office of Energy Data and Analysis would duplicate existing law and have adverse impacts on the government's data collection efforts.

FEA has already separated its energy policy and energy data activities. However, there are other serious problems with this provision, including the duplication of financial reporting systems provided for in the EPCA, and possible adverse effects on the statistical efforts of agencies such as BLS that collect considerable voluntary information from organizations that have been assured that it will be protected from disclosure.

4. The requirement that separate proposals be submitted for decontrol of prices and removal of allocation is burdensome and violates an understanding reached in the agreement leading to the Energy Policy and Conservation Act.

This requirement of H.R. 12169 would make even more burdensome the complex task of streamlining the FEA regulatory program, which streamlining was mandated by the Energy Policy and Conservation Act. It would also alter one of the essential elements of the compromise between the Administration and the Congressional leadership that resulted in approval of the EPCA. No hearings were held in either House on this proposal.

5. The provision for the transfer of FEA programs to other agencies is premature.

The provisions of S. 2872, immediately transferring the appliance labelling program to Commerce and scattering FEA functions to seven other agencies if FEA is not extended is premature, not adequately thought through, and unacceptable. Furthermore, it is inconsistent with another



provision of the bill which requires a study of Federal energy organization by December 31, 1976. No hearings have been held on this proposal in the House and only limited hearings, with inadequate opportunity for Administration testimony, were held in the Senate.

6. Expansion of the Coal Loan Guarantee program to abandoned and existing mines is premature.

Because there has been no experience with the coal loan guarantee program established last December, expansion in coverage to abandoned and existing mines is premature. This amendment was added on the floor, has not been subjected to adequate analysis or review and could lead to a subsidy for inefficient operators.

7. The Weatherization Assistance grant program provision divides up the program in a way that would increase administrative burdens and costs.

The provision of S. 2872 would require that FEA seek concurrence of the Community Services Administration (CSA) on regulations and that 50 percent of funds be allocated to community action agencies. This would increase the administrative burden and costs and divert funds from actual insulation of homes and achievement of the energy conservation goals of this legislation. (The Administration strongly favors Title I of H.R. 8650 which has already passed the House and provides weatherization assistance.)

8. The requirement that FEA provide computer services to the public and the Congress is unnecessary and would result in an uncontrollable burden.

H.R. 12169 would require that FEA provide computer services to the public and Congress, at its request, for processing the FEA Project Independence Model. FEA is making the Project Independence Model available through the National Technical Information Service -- the organization designated by the Congress to make such information available to the public. To make an exception for the Project Independence Model would be an undesirable precedent and place an uncontrollable workload on FEA's computer facilities and limited personnel resources.

9. The amendment providing special entitlements for refiner-constructors is unacceptable.

This amendment is unacceptable on grounds that it would not achieve the purposes for which it is intended and would require some companies to subsidize their competitors

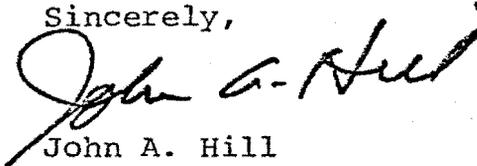
through direct payments. Any effort to move the entitlements program beyond its narrow objective of equalizing crude oil costs for all refiners has serious implications for public policy and should be rejected.

10. The authorization for FEA to establish voluntary rate guidelines for State regulatory commissions, and to fund consumer agencies which can then challenge these before these commissions is unacceptable.

FEA is now conducting voluntary rate structure demonstrations. Evaluation of their results is underway to see if innovative structures are effective and if State regulatory commissions and utilities would be willing to adopt them. This authorization is therefore premature.

The Administration recommends strongly that these and other objectionable provisions of the two bills be dropped in conference and that a bill extending FEA for 18 months be reported promptly and then passed by both the House and Senate. I would be pleased to provide additional information on the objectionable features outlined above and on other provisions of the two bills.

Sincerely,



John A. Hill
Acting Administrator

cc: Congressman John J. Rhodes

NOTE FOR:

✓ JOHN HILL
✓ JIM CANNON
MIKE DUVAL
BILL GOROG
BILL KENDALL
CHARLIE LEPPERT
JIM MITCHELL
ED SCHMULTS
GLENN SCHLEEDE

FROM:

SUBJECT:

ROUGH DRAFT MEMO ON FEA
EXTENSION ISSUES

Attached as promised yesterday is a very rough draft of a decision memo. It has not been reviewed or commented upon by anyone.



MEMORANDUM FOR:

FROM:

SUBJECT: EXTENSION OF THE FEA

This memorandum is to:

- . Report on events since your decision last weekend to (a) oppose Dingell's 90-day extension for FEA, and (b) notify the Congress of strong objections to many amendments that were added to the House and Senate-passed bills to extend FEA for 18 and 15 months, respectively.
- . Present for your consideration two current issues:
 - First, would you accept an unencumbered bill to extend FEA for a period of about 9 months--to get the issue in the next session of Congress, thus avoiding a Christmas-treed bill this year? If so, should the Administration take the initiative in getting such a bill?
 - Second, assuming no legislation will pass between now and next Wednesday, June 30, what should be the disposition of FEA functions and resources?

DEVELOPMENTS THIS WEEK AND OUTLOOK

- . The House Republican leadership was notified of Administration opposition to the 90-day extension bill and letters were dispatched Tuesday to the House and Senate detailing strong opposition to many provisions of the bills already passed (HR 12169, S. 2872), urging prompt conference, and urging passage of a simple 18 month extension. (Copy at Tab A).
- . The House voted 216 against and 194 for the Dingell 90 day extension bill when it came up under suspension on Tuesday.
- . Congressmen Dingell and Staggers are upset and Dingell has asked that you be advised that an Executive Order should be prepared covering FEA functions after June 30.
- . The House and Senate Conferees met Wednesday but took no substantive action (or votes) and adjourned until Friday.
- . (John Hill's current assessment that passage of extension legislation by June 30 is unlikely.) (John please verify or change this.)

- . FEA is preparing a legal analysis of the implications of FEA's expiration and that will be completed and available to the White House and OMB by _____.
- . Work is underway in FEA and OMB on (a) analysis of the alternatives for handling FEA functions and resources after June 30 and (b) an Executive Order. Mr. Buchen's staff is participating and the Justice Departments will be consulted on the Executive Order.

IMPLICATIONS OF FEA EXPIRATION

- . Legal analysis completed thus far indicates that:
 - Functions transferred to FEA from other agencies when FEA was created would revert to those agencies. The meaning of this is somewhat unclear because of (a) the abolition of the COLC, from which price controls were transferred, and (b) enactment of the EPCA last December. Functions in this category may include only the Office of Oil and Gas (transferred from Interior) or may include other functions.
 - The EPCA indicates that "the President shall designate where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this act and amendments made thereby after the termination of" the FEA. The full scope of authority conveyed by the EPCA is now being considered by FEA, OMB and White House Counsel. If it can be interpreted as broadly as FEA staff initially believes is possible, most functions and resources of FEA could be either (a) kept intact as an FEO established by Executive Order, (b) assigned to an existing agency such as Interior, ERDA or Commerce, or (c) divided among several agencies.
 - FEA Executive Level II, III, IV positions (total of 9) would be abolished. If FEA were later reestablished, occupants of those positions would have to be reconfirmed.
- . Problems resulting from the discontinuance of FEA include:
 - disruption of current efforts to decontrol petroleum products and increase crude oil prices.
 - potential loss of management control over compliance programs.
 - considerable administrative confusion.

ACCEPTANCE OF EXTENSION LESS THAN 18 MONTHS

It simply is not yet clear how the Congress will move in



in the next few days. Possible actions include:

1. Revival of the 90 day extension(or perhaps 60 days).
This seems unlikely in the House in view of the 216 - 194 defeat last Tuesday. The Senate might pass such a bill and the House then accept it. If so, it would have the same disadvantages as those identified earlier, particularly the increased probability of a "loaded" extension bill within the next 90-days.
2. Conference Agreement on a 15 or 18-month bill. It's too early to tell whether this is likely. The Friday Conference should provide a better indication.
3. A compromise bill of shorter duration--6 or 9 months. This alternative has not yet emerged on the hill, but it would appear to head off for this session the possibilities of a "loaded" bill.

DECISION ON SEEKING SHORTER TERM EXTENSION

Your guidance is needed as to whether an effort by the Administration should be made to get a 9 month bill:

_____ Promote 9-month extension _____ No action now.

OPTIONS FOR DEALING WITH FEA FUNCTIONS AND RESOURCES IF IT EXPIRES

(A very preliminary analysis of this is attached at Tab B).

(Must find way to appoint and pay top people, which as matters now stand, might have to revert to pay level of \$37,800.)

DECISION

- _____ Prepare Executive Order creating an FEO.
- _____ Prepare Executive Order assigning all possible functions to:
- _____ Interior
- _____ Commerce
- _____ ERDA
- _____ Prepare Executive Order assigning functions to

A



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

June 22, 1976

OFFICE OF THE ADMINISTRATOR

The Honorable Carl Albert
The Speaker
U.S. House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

The purpose of this letter is to urge strongly that Conferees meet quickly on bills that have passed the House (H.R. 12169) and the Senate (S. 2872) to extend the life of the Federal Energy Administration (FEA), that highly objectionable provisions of those bills be dropped, and that the Congress pass quickly a bill which extends the FEA for a reasonable time beyond its current expiration date of June 30, 1976.

In January 1976, the President proposed that the FEA be extended for 39 months. His proposal would have provided the continuity needed to insure FEA's ability to implement the complex programs contained in the Energy Policy and Conservation Act of 1975 (EPCA) and adequately administer oil price controls until their termination in 1979. Although the Administration continues to favor a simple 39-month extension, we recognize that Congress cannot now pass such an extension by June 30. It can, however, pass an acceptable simple extension of FEA for 18 months.

These two bills which have passed the House and Senate include a large number of provisions which are highly controversial. Many are not necessary to the extension of FEA, have not been considered adequately in public hearings, and are strongly opposed by the Administration. It is unrealistic to expect that agreement can be reached on such provisions by June 30, within 90 days, or perhaps, by the end of the current session of Congress. These provisions should be dropped so that the 18-month extension can be enacted into law by June 30.

The provisions in H.R. 12169 and S. 2872 to which the Administration objects most strongly include those outlined below.

1. The requirement for 60 days while Congress is in session for Congressional review of all FEA regulations is unrealistic and of doubtful constitutionality.

H.R. 12169 requires FEA to submit major rulemakings to the Congress. These rulemakings can only go into effect if Congress fails to pass a concurrent resolution rejecting the rulings after they have sat in Congress for 60 legislative days. This provision would be entirely inconsistent with the timely, efficient, and responsible execution of programs which FEA must implement under existing law, including such programs as the 150 million barrel early storage program, reform of its price and allocation control programs, appliance efficiency labels and targets, and conversion of oil and gas fired utility boilers to coal. In addition, there is substantial legal doubt as to the constitutionality of this provision which subjects actions by the Executive pursuant to existing law to Congressional veto by means other than enactment of another law. There were no hearings on this requirement in either House.

2. The \$6.8 billion Energy Conservation loan guarantee and insurance programs are unnecessary, duplicative in some respects, and would not achieve the intended results.

- . The need for, and the effectiveness of, the proposed \$4.0 billion in loan guarantees to industry to purchase and install already proven conservation equipment -- as distinct from assisting the development of emerging technologies -- have not been demonstrated. In addition, large, energy intensive firms -- which account for over 80 percent of industrial sector energy use -- with adequate financial ratings would not find the program attractive or useful, particularly with some of the provisions contained in the bill. Most such firms already have conservation programs. Firms with inadequate financial footings, on the other hand, might utilize the program, but the default rates of the program could be high if it only appealed to the least credit worthy firms. No assessment of the energy savings of this provision has been conducted; consequently, the economic wisdom of this program has not been determined.
- . The proposal for loan subsidies and insured loans for homeowner energy conservation improvements, with commitments totalling about \$2.5 billion, would not be as effective as tax proposals now being actively considered by the Congress.



- . The proposal for loans totalling about \$300 million and subsidies for small business firms would entail considerable administrative and default costs. The procedural requirements are likely to make it unattractive to small business firms in any case. Energy savings have not been estimated but are likely to be small.
 - . The proposal for state energy conservation implementation plans is duplicative of existing programs and would unnecessarily involve the Federal Government in matters that should be left to the discretion of States.
 - . Hearings were not held in the Senate on the current version of these provisions and there have been no House hearings.
3. Many of the provisions of the independent Office of Energy Data and Analysis would duplicate existing law and have adverse impacts on the government's data collection efforts.

FEA has already separated its energy policy and energy data activities. However, there are other serious problems with this provision, including the duplication of financial reporting systems provided for in the EPCA, and possible adverse effects on the statistical efforts of agencies such as BLS that collect considerable voluntary information from organizations that have been assured that it will be protected from disclosure.

4. The requirement that separate proposals be submitted for decontrol of prices and removal of allocation is burdensome and violates an understanding reached in the agreement leading to the Energy Policy and Conservation Act.

This requirement of H.R. 12169 would make even more burdensome the complex task of streamlining the FEA regulatory program, which streamlining was mandated by the Energy Policy and Conservation Act. It would also alter one of the essential elements of the compromise between the Administration and the Congressional leadership that resulted in approval of the EPCA. No hearings were held in either House on this proposal.

5. The provision for the transfer of FEA programs to other agencies is premature.

The provisions of S. 2872, immediately transferring the appliance labelling program to Commerce and scattering FEA functions to seven other agencies if FEA is not extended is premature, not adequately thought through, and unacceptable. Furthermore, it is inconsistent with another

provision of the bill which requires a study of Federal energy organization by December 31, 1976. No hearings have been held on this proposal in the House and only limited hearings, with inadequate opportunity for Administration testimony, were held in the Senate.

6. Expansion of the Coal Loan Guarantee program to abandoned and existing mines is premature.

Because there has been no experience with the coal loan guarantee program established last December, expansion in coverage to abandoned and existing mines is premature. This amendment was added on the floor, has not been subjected to adequate analysis or review and could lead to a subsidy for inefficient operators.

7. The Weatherization Assistance grant program provision divides up the program in a way that would increase administrative burdens and costs.

The provision of S. 2872 would require that FEA seek concurrence of the Community Services Administration (CSA) on regulations and that 50 percent of funds be allocated to community action agencies. This would increase the administrative burden and costs and divert funds from actual insulation of homes and achievement of the energy conservation goals of this legislation. (The Administration strongly favors Title I of H.R. 8650 which has already passed the House and provides weatherization assistance.)

8. The requirement that FEA provide computer services to the public and the Congress is unnecessary and would result in an uncontrollable burden.

H.R. 12169 would require that FEA provide computer services to the public and Congress, at its request, for processing the FEA Project Independence Model. FEA is making the Project Independence Model available through the National Technical Information Service -- the organization designated by the Congress to make such information available to the public. To make an exception for the Project Independence Model would be an undesirable precedent and place an uncontrollable workload on FEA's computer facilities and limited personnel resources.

9. The amendment providing special entitlements for refiner-constructors is unacceptable.

This amendment is unacceptable on grounds that it would not achieve the purposes for which it is intended and would require some companies to subsidize their competitors

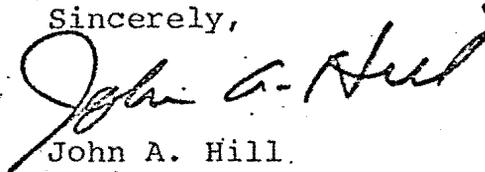
through direct payments. Any effort to move the entitlements program beyond its narrow objective of equalizing crude oil costs for all refiners has serious implications for public policy and should be rejected.

10. The authorization for FEA to establish voluntary rate guidelines for State regulatory commissions, and to fund consumer agencies which can then challenge these before these commissions is unacceptable.

FEA is now conducting voluntary rate structure demonstrations. Evaluation of their results is underway to see if innovative structures are effective and if State regulatory commissions and utilities would be willing to adopt them. This authorization is therefore premature.

The Administration recommends strongly that these and other objectionable provisions of the two bills be dropped in conference and that a bill extending FEA for 18 months be reported promptly and then passed by both the House and Senate. I would be pleased to provide additional information on the objectionable features outlined above and on other provisions of the two bills.

Sincerely,



John A. Hill
Acting Administrator

cc: Congressman John J. Rhodes

B

1. Relating FEA Disposition to ERC/OMB Organization Study

The Study of Organization for Energy and Natural Resources is moving toward the following selected alternatives which would then be studied in greater depth.

A. A limited DENR

Combining ERDA, FEA, Interior and possibly one or two other smaller pieces, e.g., Pipeline Safety, - some bits of FEA could go elsewhere.

(limited means not reaching out for Forest Service, Corps, etc., at this time and leaving FPC, NRC separate.

B. A Department or Agency for Energy

Combining ERDA and FEA and possibly energy functions of Interior and possibly some smaller pieces like Pipeline Safety

C. Structure as is - but disperse FEA functions to other existing agencies, including ERC, Interior, ERDA and others

Each of these three is arguable, but it is too soon to call any of these a clear favorite. However, A and B are more likely than C and both A and B involve keeping functions of FEA basically intact within one framework.

2. First Choice to be Made

- keep functions together
- or
- disperse functions

Second Choice to be Made:

- if together -- where
- if dispersed -- where per function

TABB

3. On the Question of -- together or disperse

Pro - Together

- ° once dispersed - individual functions could become internalized to agency to which assigned and pose problem of reassembling later if desired (which is likely)
- ° Administratively difficult to disperse in terms of funds control, administrative support, physical locations, employee morale, etc.
- ° If dispersed, the regulatory functions could be targeted by Congress for FPC or other independent Commission.
- ° Existing top level of FEA would disappear if functions dispersed and the coordinative role they play would be lost -- untimely.
- ° ~~Dispersal~~ of FEA functions and terminating FEA could dispel the support for larger energy reorganization and weaken President's opportunity for a major initiative.

Pro - Dispersal

- ° opens possibility for reassigning some of FEA's functions to an agency more favored by the Administration - i.e., appliance labeling to Bureau of Standards.
- ° Terminating FEA by dispersal of its functions could end energy organization as a political issue until next session.

4. If together -- where?

- ° To ERDA - to Interior - to Commerce - to an FEO or equivalent.

To ERDA

- ° ultimately we may recommend ERDA and FEA be joined together under a larger entity - either DoE or DENR. But, to assign FEA to ERDA to be legally responsible to that agency is quite another thing. ERDA could quickly "take over" especially the data and forecasting, conservation and commercialization functions which



are already at issue between them. ERDA is a player in the energy reorganization action -- putting FEA in ERDA now would constrain eventual position taken by President.

To Interior

- A better choice than ERDA - especially since some functions came out of Interior and legally revert to them.
- However, total FEA is not what "came from Interior" as Interior people like to say. Doing this would also tend to constrain study options because of fait accompli.

To Commerce

- Some logic by virtue of the role of Richardson as Chairman of ERC.
- However, Commerce is not a real contender for these functions in an ultimate resolution. Therefore, assigning functions there now keeps options more open by not tilting toward any reorganization answer.

To a new FEO (or equivalent)

(NOTE: While allocation functions legally revert to Interior - believe they could be redelegated by Secretary to an FEO established by President - hence remain together)

- Some confusion to affected public to terminate FEA and create an FEO but not more so than the other options above.
- Keeping together and separate from any existing agency gives full flexibility administratively and legally for President to select any of the major study options including all energy matters not just those relating to FEA. Helps provide continuity of leadership over functions.

5. Disperse functions

- There are two or more possible dispositions for each of the individual functions of FEA.
- Some of these dispositions make sense individually but some of the possibilities are probably undesired - e.g., regulatory functions to FPC.
- In any case, dispersal of FEA functions would be in accord with only one of the three options to be studied in detail and, on balance, probably the less favored of the three. Thus, from point of view of study and where it may lead, dispersal tends to go in the wrong direction.
- For the President to disperse FEA functions with no other plan to announce at this time could be perceived by the public as downgrading the importance of energy issues.

