The original documents are located in Box 13, folder "Energy - Energy Policy and Conservation Act: General" of the John Marsh Files at the Gerald R. Ford Presidential Library.

7, 6

THE ENERGY BILL

1. Bad bill versus no bill.
2. Distorted and imperfect legislation.
3. Legislation by label.
4. Hard core opposition doesn't mean strong support.
5. Americans satisfied with status quo.
6. Hard to explain a veto.
7. Adverse impact of no bill.
   a. prop~~o~~ane
   b. other
8. How do you explain 10 months of exhortation?
9. Where is the silent majority?
10. Can you explain a veto?
11. Can the opponents deliver solidarity for any other proposal?
12. Is the opposition a cross section or is it a particular sector of the energy scene?

marsh

SEP 16 1975

Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

September 15, 1975

Dear Colleague:

H.R. 7014, the Energy Conservation and Oil Policy Act, is on the calendar for Wednesday, September 17. We have closed debate on Title III and there is pending a motion by Congressman Clarence Brown to strike sections 301, 302, and 303, the pricing sections. We strongly urge that this motion be defeated.

Admittedly, the pricing provisions contained in H.R. 7014 are controversial. Members have strongly held and widely divergent views on this matter. Yet we can all agree that it is of fundamental importance that the Congress devote its full capacities to a resolution of our points of difference and complete work on a truly comprehensive national energy program.

If we should not retain a price policy determination in the bill, we would be subject to the justifiable criticism of having passed two emasculated bills. We will have neither bargaining position with the President nor credibility with the public if we do not spell out a complete energy program for the country, the best that we can devise.

It is of the utmost importance, therefore, that the House complete its work on H.R. 7014 promptly and commit this bill to a conference with the Senate. Because the Senate passed bill S. 622, upon which we will confer with our colleagues in the Senate, contains no sections related to pricing policy, it is essential that pricing provisions remain in our bill. Otherwise, the matter would be outside the scope of the conference and

Not true re: 622 It does contain a TP section

§ 107 - $7.50 of old
§ 123 - Jan 31, 1975 for new

we would lose the means for developing with the Senate a congressionally defined pricing policy. Should the Brown motion to strike sections 301, 302 and 303 succeed, we would strip from the bill the very vehicle for compromise that all parties to this debate so strongly hope for.

Sincerely,

Harley O. Staggers

Harley O. Staggers, Chairman
Interstate and Foreign
Commerce Committee

John Dingell

John Dingell, Chairman
Energy and Power Subcommittee

Rourk

Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

September 15, 1975

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Page Two

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Harley O. Staggers, Chairman
Interstate and Foreign
Commerce Committee

John Dingell

John Dingell, Chairman
Energy and Power Subcommittee

Mr. Marsh

THE WHITE HOUSE

WASHINGTON

October 2, 1975

MEMORANDUM FOR: MAX L. FRIEDERSDORF

FROM: WILLIAM T. KENDALL WTK

SUBJECT: The Jackson-Staggers letter

The Jackson-Staggers letter is an outrageous political document! The President did not express a desire to meet with the conferees: Tip O'Neill suggested it at the Bipartisan Leadership meeting on September 25 and the idea was seconded by Senator Moss.

The first sentence of the second paragraph is patronizing. No one suggested that the meeting be a formal session of the conference committee with the President in attendance.

Further it was the consensus of the meeting with the leaders that no meeting be held until the conferees had met and come to some tentative conclusions. All of these facts are substantiated by notes read to us by both Senator Mansfield and Senator Scott. Mansfield told us that he read his notes to the caucus. The last sentence of the letter--"Your commitment to that end, free from rigid and contentious rhetoric,"--is an absolute insult!

Bringing Jackson down here would give him a golden opportunity to engage in histrionics on the White House lawn.

* * * * * *

As a follow-up Pat and I sought advice from Mansfield and Scott. Mansfield seemed miffed that the letter was sent before he had a chance to correct what he admitted were errors. He feels that we should answer the letter and set the record straight. He said he thought the President ought to extend the Chairmen the opportunity to come down if they requested it.

Senator Scott was as outraged as were we at the tone and errors in the letter. His thought was that we should not only answer to correct the facts but also to respond to the political innuendo--particularly the last sentence. He also feels we ought to ignore their request for a meeting.

Senator Fannin had not seen the letter and was not at the meeting. He felt that having the meeting with Jackson and Staggers would not gain much but had no violent objection if the President felt he wanted to do it.

Senator Weicker feels such a meeting would do irreparable harm to our side and is vigorously opposed ot it.

I am attaching a confidential transcript from Senator Scott which details the discussion regarding the proposed conferees meeting with the President. Please do not attribute this to Scott.

I also attach a suggested draft for you to send to Jackson/Staggers. I spoke to Frank Zarb and he would like to go over this draft with you.

DRAFT

Dear Senator/Congressman:

This is in further answer to your letter of September 30 regarding the conference on H. R. 7014 and S. 622.

Perhaps a review of the matter as it was discussed at the Bipartisan Leadership meeting would be useful. You state that the President "desires" to meet with the conferees. Our transcript shows that Representative O'Neill suggested that the meeting take place. The idea was endorsed by Senator Moss. The President's response was that he would not rule out such a meeting. It was the consensus of those present that such a meeting would be most profitable if it took place after the conferees had had some preliminary meetings. To set the record straight the President, in considering such an informal meeting, certainly is aware of the "time-honored constitutional doctrine of separation of powers." One further point: it is my recollection that the leaders felt that <u>all</u> conferees be invited rather than the Chairmen of the House and Senate conferees so that all might have a voice in the meeting.

The President indicated at the end of the discussion that he would look to Frank Zarb to determine whether such a meeting would be useful and when it should be held.

Sincerely,

XXXXXXXXX

Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

September 30, 1975

The President
The White House
Washington, D. C.

My dear Mr. President:

We have been informed by the Congressional leadership that you desire to meet with the House and Senate conferees to discuss energy policy issues which attend consideration of S. 622 and H.R. 7014.

As you know the time-honored constitutional doctrine of separation of powers precludes the conferees from meeting in formal session with the Executive. Nonetheless, to assure that members have the fullest opportunity to consider your views and maintain a constructive dialogue on policy matters of this magnitude, we believe it would be useful and consistent with our legislative responsibilities to meet informally with you prior to convening the conference. Accordingly we stand ready to arrange a meeting for this purpose at your convenience. In this regard, however, we should point out that it is our intention to begin formal sessions of the conference on Tuesday of next week, October 7. Our discussion necessarily must precede that date.

Let us assure you that we will devote our full capacities to the task of concluding the development of a comprehensive, rational national energy program in the context of this upcoming conference. We are, of course, aware that our views of the public interest in the area of energy policy are in several respects sharply divergent. We are hopeful that reconciliation of these strongly held perspectives can and will be achieved. Your commitment to that end, free from rigid and contentious rhetoric, will be most welcome.

Sincerely yours,

Harley O. Staggers

HARLEY O. STAGGERS, CHAIRMAN
House Committee on Interstate and Foreign Commerce

Henry M. Jackson

HENRY M. JACKSON, CHAIRMAN
Senate Committee on Interior and Insular Affairs

O'Neill: You won't get anywhere with the 39 months plan. Not since the New Hampshire election. You've gotta give if you want a bill.

Speaker: We can't get the votes for a 39 month bill. We may just have to let nature take its course.

O'Neill: How do you justify $11.50 or $13.50 for oil?

President: Tip, I'd figure whether a given price is right, because Arabs are going to raise present price and 40% of our use is foreign oil.

O'Neill: You and Zarb could take the committee people, bring them down here and talk to them.

President: Is there a range of compromise within these bills?

Zarb: There is a range outside the 2 bills.

Moss: Hard to say what Senate bill is, since its evolving.

President: I won't rule out having the conferees come down.

Scott: There's a 5 year phaseout. Can anybody be sure oil won't be $20 or $25 then?

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

October 14, 1975

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR HONORABLE WILLIAM E. SIMON
HONORABLE DALE K. FRIZZELL
HONORABLE ROYSTEN C. HUGHES
HONORABLE ROGERS C.B. MORTON
HONORABLE WILLIAM T. COLEMAN
HONORABLE L. WILLIAM SEIDMAN
HONORABLE JAMES M. CANNON
HONORABLE ALAN GREENSPAN
HONORABLE JAMES T. LYNN
HONORABLE JAMES L. MITCHELL
HONORABLE RUSSELL E. TRAIN
HONORABLE JOHN A. HILL
HONORABLE ERIC R. ZAUSNER

FROM: FRANK G. ZARB Z

SUBJECT: Current Status of Congressional Conference Activities on Omnibus Energy Bill

As you know, the Conference Committee was established to resolve differences in five energy bills (H.R. 7014, S. 622, S. 677, S. 349 and S. 1833) and began mark-up last week prior to recess. A summary of the "tentative" results of Conference action for the week is enclosed. The results are only tentative at this point while Committee staff and our staff sort out policy decisions made by the Committee and reflect those decisions in draft language.

The Committee will not resume its work until Monday, October 20. I expect that they will finish their first round of work by the end of that week, and then go back through the bill line by line to take final votes the following week.

Pricing is being held until the last moment since it is the most controversial part of the bill within the Committee. Committee work on this part of the bill could take several days.

The results of the Committee's actions to date are generally not too discouraging, and we do have some degree of confidence that we can continue to receive favorable action on many of our concerns. The key at this point is the pricing provision.

In order to keep you informed about progress to date, I have set a meeting today at 4:30 p.m. in the Roosevelt Room. I would like to cover actions taken by the Committee thus far and get whatever views you may have on these actions and our position.

Enclosure

SUPPLY AVAILABILITY

ESECA

- Gas or oil to coal conversion
  - Extends authority to issue orders until June 30, 1977.
  - Extends authority to enforce orders until December 31, 1984.
  - Makes additional installations subject to prohibition orders as requested by FEA.
- Gas to oil conversion
  - Not discussed by the Conference. House provision also would allow FEA to require new installations to have oil burning capability if coal burning not practicable.

Coal Loan Guarantees

- Authorizes $750 million for guarantees of loans to small coal producers.
  - Treasury will sell the paper; FEA will administer the program.
  - Available for reopening closed mines, exploring existing mines, and open up new underground mines with preferance to new market entries.
  - 80% of guarantees are reserved for low sulfur coal.
  - Remaining 20% available to high sulfur coal if it can be environmentally burned without using scrubbers.
  - Terms of guarantee will be no longer than the term of a mine's supply contract.

Prohibitions on Exports

- Applicable to all oil and gas produced in the United States.
  - President may waive requirement if he finds it in the national interest or it is required by treaty, executive agreement, or interests of the foreign policy of the Nation.

- Energy Materials

  - President has discretionary authority to restrict exports.

- Coal, Refined Petroleum Products, Fossil Fuels and Petrochemical Feedstocks

  - President directed to restrict exports as necessary to achieve objectives of Section 4 B of the EPAA.

  - Exemption for historical trading relationships with Canada and Mexico.

Materials Allocation

- Requires President to allocate supplies of materials and to require the selective performance of contracts if he finds that:

  - Supplies are scarce, critical and essential to maintaining or furthering exploration and production.

  - These objectives cannot be "reasonably accomplished" without exercising such authority.

  - Requires President to report to Congress within 60 days on how the authorities will be administered.

Leasing Policy for Oil, Natural Gas, and Coal on Public Lands

- Staff was directed to draft language incorporating Senate legislation (not part of the Conference) on OCS oil leasing and coal leasing into the House language.

  - The House would provide that leases contain the following requirements, most of which are currently specified in DOI Regulations:

    - Plans and timetables for exploration and development.

    - Notices of discovery and estimates of reserves.

    - Filing of all production plans.

    - Forfeiture of leases if conditions are not met.

    - Authorizes renegotiation of existing leases to incorporate the above.

Production at Maximum Rates and Unitization

- The Secretary of Interior is directed to establish MER and TEPR on all Federal lands (report language will give Secretary some discretion).

- With respect to Federal lands:

  - MER may be mandated in non-emergency situations.

  - TEPR may be mandated only in emergencies.

- With respect to State lands:

  - The Secretary of Interior may mandate increased production during emergency situations only if State has established MER's or TEPR's.

- In unitized fields containing both State and Federal lands, the Secretary may set MER's or TEPR's only if the State does not do so.

- Unitization

  - President is given discretionary authority to require the unitization of production of any oil and gas producing properties on Federal lands.

Joint Ventures

- Incorporates the recent DOI OCS joint venture regulations into law, but grants exceptions with respect to:

  - High-risk areas.

  - Where necessary to permit more efficient development.

- Would include exploration and development, but not production.

- Directs DOI to report to the Congress on the feasibility of extending such regulations to:

  - On-shore oil and gas.

  - Oil shale.

  - Coal.

Recycled Oil

- Promotes the use of recycled or re-refined oil and directs the Federal Government to encourage procurement of such oil.

  - National Bureau of Standards to set performance standards.

  - Federal Trade Commission to set labeling standards.

Strategic Reserves

- Policy to establish a reserve not less than the Senate version (approximately 560 MM BBLS), but not more than the House version (1 billion barrels).

  - Does not mandate size or a schedule.

- No-year authorization of a specific amount (not yet determined) which would be sufficient to:

  - Construct and fill the Early Storage Program (150 MM BBLS).

  - Construct facilities for the long-range program.

- Authorizes the Early Storage Program.

  - Plan to be submitted within 90 days.

- Construction of facilities for the long-range problem is subject to the presentation of an overall plan within one year.

  - Plan is subject to an either-House disapproval within 45-60 days.

  - Size could differ from policy outlined in bill.

- Filling of the long-range program facilities is subject to additional authorizing legislation.

- Authorizes Senate Interim Industry Storage (3% of imports or refinery throughput), which could be part of either the Early Storage or Long-Range Programs.

- Authorizes mandating of refinery yield during an emergency.

STANDBY EMERGENCY AUTHORITIES

- Both rationing and conservation plans would be sent to Congress within 180 days.

- Such plans would have to be approved according to an expedited procedure (60 days).

- When a supply emergency exists:

    - Conservation plans may be implemented without further Congressional action, but rationing plans could be implemented only if either House does not disapprove within 10 days.

- No International Energy Agreement (IEA) trigger.

- $100 million grants to the States to fund conservation programs were deleted.

- All standby authorities would expire June 30, 1985.

VOLUNTARY AGREEMENTS

These decisions with respect to the Voluntary Agreement provisions should, with one exception, be acceptable to the Administration. The Conference Committee decided to accept the Senate approach with respect to coverage, i.e., both Voluntary Agreements and plans of action formulated pursuant to Voluntary Agreements are specifically covered. The procedural requirements of the House and Senate bills do not differ in major respects. The Conference decided to accept the House version in terms of allowing meetings of bodies created by the IEA to be closed to the public. However, with respect to the ability to protect notes or minutes of such meetings, the Conference decided not to grant a separate foreign policy authority to protect such materials, but rather indicated that the basic exception from the Freedom of Information Act for classified documents (Section 552(b)(1) of Title V U.S. Code) would be sufficient for the same purposes if the President issued a new Executive Order requiring such materials to be held confidential or secret.

Other decisions include:

- Committees of Congress must be given access to meetings.
- The Attorney General must approve both agreement and plans of action.
- Antitrust immunity extended until June 30, 1979.

With respect to the basic antitrust immunity provision, where the question of a requirement of "good faith" has been a major issue, the Conference adopted a provision similar to the Senate bill (which was acceptable) but with an additional requirement that a defendant must be able to establish that actions taken were either specifically mentioned in plan of action approved by the Attorney General or were within the reasonable contemplation of such a plan. This provision should be acceptable to the companies as providing an adequate scope of antitrust immunity.

The one decision which creates a major problem involves the decision to adopt the House language relating to transmission of information to the IEA. Under the House bill, such information may only be provided to the IEA in aggregated form, while under the IEP agreement, it may be necessary to provide the IEA unaggregated data if they adequately protect it from further disclosure to individual countries or companies. The final language will go back to the Conference, and it may be possible to reopen this issue at that time.

The Conference also deleted any Congressional override of the implementation of the International Allocation Authorities.

ENERGY CONSERVATION MEASURES

Motor Vehicles

- It is clear that the Conference will require mandatory fuel economy standards, since they are contained in both the House and Senate bills. However, so far the Conference has only addressed some definitional issues:
  - Coverage includes all passenger automobiles and trucks 6000 pounds or less.
    - Secretary, DOT, has discretionary authority to include vehicles in the 6000-10,000 pounds range.
    - Definition will exclude four-wheel drive vehicles intended primarily for off-road use.
  - Fuel is defined as gasoline and diesel oil, but leaves to the discretion of the Secretary to include other liquids or gaseous fuels.
  - Setting of fuel economy standards:
    - Autos
      - Shall be in effect for the model year 1978 and thereafter.
    - Light Duty Trucks
      - Shall be in effect for the model year which begins more than 30 months after enactment.
- In discussion with Conference members and staff, we have made clear that the Administration requires:
  - House environmental bailout provisions, which would allow adjustments in the standards which reflect more stringent auto emission standards.
  - Flexibility in revising the standards without a Congressional override.
  - Deletion of the requirement to develop production prototypes.

NOV 11 1975

THE WHITE HOUSE
WASHINGTON

November 10, 1975

Jack Marsh ✓
Max Friedersdorf

The original of the attached memorandum has been forwarded to the President. The attached is for your information.

Jim Connor

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

November 10, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: OIL DECONTROL LEGISLATION

We have been working with staff and selected Members over the weekend. Since the straight-out exemption of strippers gave some Members difficulty, we have been discussing a somewhat different approach to get us generally the same results. The "bottom-line" changes, which we are currently discussing with the Conference Committee are attached.

We will continue to keep you advised of progress.

Attachments

AMENDMENT PROPOSAL

(1) Delete Section 2(c) in current pricing policy. This would eliminate the legislative requirement that the import fee be removed, although the President would stipulate to its removal upon the Conferees agreement to an acceptable pricing provision.

(2) Amend Section 4 to revise the Congressional review to only once during the 40 month period and to limit the review of upward adjustment of the composite price to the additional 3 percent relating to enhanced recovery andhigh cost properties. This would allow the GNP deflator to continue throughout the 40 month period of controls.

(3) Amend the existing pricing provisions in Section 1 to allow for removal of certain high cost future production from calculation of the domestic average price. High cost domestic crude production is defined as tertiary recovery, oil produced above the Artic Circle, certain new high cost Outer Continental Shelf production and marginal stripper well production. Under this amendment, the amount of high cost production removed could be no greater than 5% of total domestic crude production beginning June 1, 1976 and rising to 10% after December 1, 1976, plus the total amount of Alaska crude oil produced above the Artic Circle whenever it comes on line.

The high cost production exempted from calculation of the composite price could not be sold at a price in excess of the highest domestic price allowed under the bill.

(4) Amend the current provision that allows the President to submit proposal to increase the percentage inflator every six months to every three months.

(5) Add a provision that requires the President to test compliance with the weighted average price constraint every six months (to allow for data collection lags) and that allows for carry forward of unused amounts, as well as rollbacks in excess of the average.

DOMESTIC COMPOSITE PRICE
($/bbl)

PLAN \ END OF	1-1-76	12 mo.	24 mo.	36 mo.	40 mo.
Current Controls	$8.75	$9.59	$10.67	$12.46	$12.68
Original 39 mo. program	7.71	8.96	10.74	12.91	13.50
New plan1/	7.55	8.53	9.49	11.68	12.12
Conference Committee2/	7.55	8.31	9.14	10.05	10.38

1/ Current Conference Committee provision with following changes:

a. 5% of domestic oil production automatically removed from composite calculation on June 1, 1976.

b. An additional 5% removed automatically from composite calculation on January 1, 1977.

c. Alaska removed automatically from composite in 1978 when it comes on line (e.g. oil thru the pipeline).

2/ Provision as approved by House and Senate Conferees on November 6.

November 24, 1975

MEMORANDUM FOR: BOB WOLTHUIS

FROM: JACK MARSH

Would you please furnish me with what you consider to be the best summary of the proposed energy bill, to include the pros and cons of the legislation?

I realize the final drafting of the bill probably has not been prepared, but you have some position papers prepared by FEA and others.

JOM/dl

November 24, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: JACK MARSH

I think it would be helpful if ~~we pulled~~ together a one or two page pros and cons paper on the energy bill. For my own information, I have asked Bob Wolthuis to ~~give me~~ some information on this subject, but I think it might be good for us to have a position paper which sets out what's in the bill, the pros and cons of the same.

If the President decides to sign the bill, then we can draw on this position paper to support his signing, and on the other hand, if he decides to veto it, we will use it as source material to support the veto.

JOM/dl

NOV 28 1975

THE WHITE HOUSE

WASHINGTON

INFORMATION

November 26, 1975

NOTE FOR: JIM CANNON

FROM: GLENN SCHLEEDE

SUBJECT: Mail on S. 622 - The Omnibus Energy Bill

This note is to let you know that mail to the President is very heavy on S. 622, the House-Senate Conferees energy bill. The mail, in volume, is overwhelmingly against the bill which can be explained easily, but some aspects of it may be of interest.

- As of noon, November 25, the count was about 3650 for veto and 50 for signing.
- A quick screening of the mail indicates:
  - The mail favoring the bill is predominantly from commercial airline interests, with a few letters from labor groups and petroleum marketers in the Northeast.
  - The mail against the bill:
    - Reflects a conscious effort. Thus far, letters and wires are principally from:
      - Oil producers and integrated companies.
      - Related industries, including their suppliers and investors (banks and insurance companies).
    - Is particularly heavy from Texas, Oklahoma, New Mexico, Louisiana, and a fair amount from Arizona, California, Colorado and Wyoming.
    - Is beginning to include more from broader industrial interests including:
      - Chambers of Commerce
      - Appliance manufacturers (because of energy labeling requirements).
      - State and local Republican party officials.

[Dec. 1975?]

EDITORIAL COMMENT ON THE ENERGY BILL

"The measure treats Americans like economic illiterates, believing that they will be so grateful for temporarily cheaper gasoline that they will overlook long-term damage to the country ...Congress can do better on the oil-price issue -- if President Ford vetoes its flimflam and demands an honest bill."

ROCKY MOUNTAIN NEWS (DENVER)
November 19, 1975

"Congress once again has proved that when it comes to petroleum policy, our elected representatives are better politicians than economists......If this dreamland scheme to legislate price is its idea of an energy policy, we would almost be better off with no policy at all."

CHICAGO TRIBUNE
November 17, 1975

"We share the Democrats' apprehensions about the impact of fuel-price increases, but we think proposals for rollbacks are unrealistic. We share, too, the Democrats' skepticism about energy independence, but we think proposals for indefinite controls are unrealistic."

MINNEAPOLIS TRIBUNE
November 7, 1975

"If President Ford fails to veto the oil bill passed by an election-minded Congress, he will be showing a singular lack of political stamina...The legislation runs counter to the imperatives of any genuine energy policy."

BALTIMORE SUN
November 16, 1975

"The energy bill....appears to be based more on politics than a strong national program to move the United States quickly and surely toward energy self-sufficiency. And that is bad news, terrible news...There has been far too much politics already and this is only continuing it, a shirking of responsibility."

ATLANTA CONSTITUTION
November 15, 1975

"This is an ideal time for the U.S. government to remove controls on all energy products and let market forces work again to adjust supply and demand. The economic consequences of such a move would be negligible and would not represent a political liability to anyone."

WALL STREET JOURNAL
November 14, 1975

"We wouldn't call any combination of programs that ties price controls and new production incentives in the same package a policy. One half of it would be fighting the other, and the probability is that neither will work."

JOURNAL OF COMMERCE
November 18, 1975

"The oil bill finally produced by the long House-Senate conference is a botched job."

WASHINGTON POST
November 19, 1975

"President Ford should veto this latest attempt by the Democrats to hold down the price of oil for their constituents at the expense of urgently needed production...At some point Americans will have to learn that if they want oil and gas they are going to have to pay the true market price, not the price that Democrats in Congress decree."

ST. LOUIS GLOBE-DEMOCRAT
November 8, 1975

"Congress has fiddled and muddled over this legislation for 10 months. And all it has produced is living proof that the energy crisis, like the tax structure, has become a political football."

NEW YORK DAILY NEWS
November 14, 1975

"A majority in Congress apparently believes it has the wisdom to make decisions politically that are better left to the marketplace. While this may make for attractive campaign rhetoric, it fails as economics."

CHICAGO DAILY NEWS
November 15, 1975

"The Congressional bill, in its present form, is a bad one...(President) Ford should not lay aside his veto threat if Congress refuses to be cooperative in changing the measure."

MILWAUKEE JOURNAL
November 12, 1975

IMM
PRECEDENCE

~~Confidential~~
CLASSIFICATION

FROM: JACK MARSH

TO: DICK CHANEY

INFO: (FOR the President)

RELEASED BY: RE

FOR COMMCENTER USE ONLY

DEX

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PAGES 1

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SPECIAL INSTRUCTIONS:

Determined to be an Administrative Marking

By SD NARA, Date 2/11/14

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[redacted]

Determined to be an
Administrative Marking

By SD NARA, Date 2/11/14

THE WHITE HOUSE

WASHINGTON

December 4, 1975

MEMORANDUM FOR: THE PRESIDENT

THROUGH: DICK CHENEY

FROM: JACK MARSH Jack

Max Friedersdorf has prepared the following report on a meeting in Rhodes' office on the energy bill which I think will be helpful:

"Frank Zarb, Jack Marsh and Max Friedersdorf met with Congressmen John Rhodes, Bud Brown and Jim Broyhill and Senators Fannin and Hansen at the request of John Rhodes in his office tonight for an hour and a half on the energy bill.

"Zarb gave the leaders a detailed briefing on the bill and stressed the main point that in his opinion, the Conference Report would not result in less production of oil in the United States.

"Zarb also gave a detailed explanation of the pricing provision and all of the leaders present indicated that they had a clearer understanding and would be willing to support the President if he decided to sign the bill.

"Both Rhodes and Fannin indicated, however, that they would recommend when the President makes up his mind, and if he decides to sign, they have at least a couple of days for briefings and Republican Conferences to explain the content of the bill to the Minority Members of the House and Senate.

"The discussion also included assessments of the ability to sustain a veto if the President decides to veto the bill.

"Senator Fannin reported on his head count and it indicated that we are one or two votes short of having the necessary 34 to sustain. Fannin said that he thought the veto could possibly be sustained with a major effort, but that earlier estimates of 38 or 39 votes to sustain were overly optomistic.

"Mr. Rhodes and Mr. Brown also indicated they thought the effort to sustain in the House would be difficult, although they did not have a detailed head count.

"Zarb indicated that the Conference Report may be completed tonight but there is still nothing definite about when it will be filed.

"Zarb did indicate that there is still one provision concerning pricing that Senator Hartke is involved in that could cause him to reject the whole Conference Report if Hartke's position prevails. This issue should be decided sometime later tonight."

see: Cheney

December 2, 1975

MEMORANDUM TO: DICK CHENEY

FROM: JACK MARSH

In the event you have not received this, it is the latest analysis of the proposed energy bill. I am sure that this is a document the President will want to review on his way home.

JOM:cb

DEC 3 1975

Date: 12/3/75

DESK

To: JOHN O. MARSH, JR.

Attached you will find our analysis of the House-Senate Conference Energy Bill.

I hope this material will be useful to you.

Frank

FRANK N. IKARD

M

ANALYSIS OF THE ENERGY POLICY AND CONSERVATION ACT

(Prepared by the Staff of the American Petroleum Institute).

The Energy Policy and Conservation Act is a 221-page product of the Senate-House Conference Committee appointed pursuant to the passage of S.622, S.677, S.349, and S.1883 in the Senate and HR 7014 in the House. It is expected that the measure will be adopted by the House and Senate and sent to the White House this week.

The bill contains five Titles, of which the most controversial and significant to the petroleum industry is Title IV, involving the regulation of petroleum prices. The following analysis will deal first with the provisions and implications of Title IV, and then summarize the major provisions of the other Titles -- some of which are also of great importance to the industry, to energy users, and to the Nation.

Petroleum Pricing Provisions (Title IV)

The cornerstone of this Title is the establishment of a composite or average pricing plan, consisting of the following elements:

1. An initial weighted average price ceiling for all domestic crude oil of $7.66 per barrel.

2. A maximum upward adjustment of 10% per year in the $7.66 per barrel composite price ceiling, to take account of inflation and to provide incentives for high-cost, high-risk production. The inflation adjustment would be a maximum of 7% and the incentive adjustment a maximum of 3% -- with either the House or Senate empowered to disapprove increases proposed by the President under the 3% incentive adjustment provision.

3. In February of 1977, the President may propose exclusion of Alaskan oil in computing compliance with the composite price ceiling. In April of 1977, the President may recommend continuing or modifying the 10% upward adjustment ceiling and/or the 3% incentive provision for high-cost, high-risk production. Such Presidential recommendations could only take effect if not disapproved by either the House or Senate.

4. The foregoing program is to last 40 months and then convert to stand-by authority.

General Analysis and Comment on Title IV

The average or composite pricing plan is merely another variation of domestic price controls, comparable to those which have produced the natural gas shortage in this country. The price control plan would discourage domestic production, stimulate domestic consumption, and continue to subsidize the importation of foreign oil. The result would be a doubling of oil imports by 1985, compared with the expected level if prices were decontrolled. Almost all of the increase would have to come from the Persian Gulf.

The following comments with respect to Title IV are pertinent:

- The initial $7.66 composite price ceiling would mean an immediate roll-back of about $1.00 per barrel from the current average price of domestic oil.

- The President would be faced with a dilemma. If he were to choose to hold the price of "old" oil at the present $5.25 per barrel, "new" oil prices would have to drop to about $10.60 per barrel to conform to the composite price ceiling. This would force the abandonment of much exploration for new oil (in Alaska, on the OCS and onshore in the lower 48) and make many enhanced-recovery projects uneconomic. Conversely, if the President were to choose to hold new oil prices at the present $13 to $14 per barrel level, he would have to lower substantially the present $5.25 price for old oil. This would force abandonment of considerable potential production from existing reservoirs, possibly including stripper wells.

- The 7% annual inflation-adjustment provision is well below recent inflationary trends in the cost of oil field equipment, materials, labor, etc. Moreover, with the natural decline in old oil production, new oil will inevitably constitute a greater and greater proportion of the total "mix." The result will be a widening gap over the 40-month period between the real prices of U.S. and OPEC oil. This, in turn, will make it even more difficult than it is today for Congress to go along with decontrol at the end of the 40-month period.

- Continued controls on oil prices at well below market levels will adversely affect the economics of developing higher-cost alternate energy sources (coal, shale, geothermal, etc.).

- In addition to discouraging domestic energy supply, the plan will artificially stimulate U.S. consumer demand for energy. Prices controlled at lower than market levels encourage consumption, as has been demonstrated in the case of natural gas.

- A continued multiple-tier pricing system for U.S. crude oil will require retention and probable expansion of the FEA's "entitlement" program in an effort to equalize crude oil costs to different refiners. One important side effect of the entitlement program is to make demand in this country less responsive to OPEC price changes than would otherwise be the case. In effect, we would be subsidizing higher OPEC prices.

- The lower crude oil prices under this plan will reduce domestic supply by 1980 by about 1.6 million barrels per day, compared with what would happen if prices were decontrolled. In addition, the lower product prices will boost U.S. consumption by about 1.7 million barrels per day by 1980, compared with a decontrol situation. Together, this means additional imports of 3 to 4 million barrels -- nearly all of which will have to come from the Persian Gulf. If the plan were to be extended beyond the initial 40-month period (which, as noted, is quite likely), imports would be more than twice as large (10.9 million barrels per day) by 1985, as they would be if prices were decontrolled.

- It is significant that there has been little or no attempt (even by its advocates) to defend the proposed pricing plan in terms of economics or on the grounds that it will solve the Nation's energy problems. All that anyone has said is that it is attractive politically, because it seems to promise the public lower product prices between now and the 1976 election. Ironically, even this alleged benefit may prove illusory. Instead of a reduction of 3.5 cents per gallon in gasoline prices, as claimed by the plan's Congressional proponents, FEA Administrator Frank Zarb has said he would be "surprised" if the reduction at the pump was as much as a penny a gallon. And, as U.S. reliance on high-priced foreign oil accelerates, the result will ultimately be far higher consumer prices.

- Finally, this legislation in no sense provides a sensible long-term energy policy for the Nation. Its premise is that the problem is high energy prices and that the solution lies in price controls. But high energy prices are a symptom -- not the problem. The real problem lies in the market power of OPEC nations to sustain high prices for their oil.

This legislation would serve to strengthen OPEC's position by driving the U.S. into ever-growing dependence on imported oil to keep our economy functioning.

The proposed plan relies on political regulatory authority to replace the market mechanism, with the ultimate regulatory power vested in 535 Senators and Congressmen. This approach inevitably requires piling one set of regulations and controls on top of another, to correct distortions caused by the first set of controls. Thus, we will have entitlements, export controls, mandatory conservation provisions, etc. -- none of which would be necessary under market conditions. Political regulation also breeds uncertainty which frustrates constructive response in an industry characterized by long lead-times.

Other Provisions

Title I

This Title contains a potpourri of provisions loosely grouped under the heading of "Domestic Supply Availability."

Coal Conversion - FEA would be directed to prohibit any power plant from burning natural gas or petroleum products as its primary energy source, if such plant is capable of using coal. FEA would also be authorized to prevent the burning of natural gas or petroleum products in major fuel burning installations. (Part A, Section 101)

Underground Mining Loans - FEA would be authorized to guarantee loans up to $30 million per venture for new underground coal mines opened by persons currently producing less than 1 million tons per year of coal and/or less than 300,000 barrels of crude oil per year, and who do not own a refinery. (Part A, Section 102)

Export Controls - Export of domestic oil or natural gas would be prohibited unless a Presidental finding ruled such exports in the national interest. The President could also restrict export of coal, residual oil, refined petroleum products, and energy-related equipment, materials and supplies. (Part A, Section 103)

Materials Allocation - The President would be given authority to require allocation of scarce energy-related materials. (Part A, Section 104)

Prohibition of Leasing Arrangements - The Secretary of the Interior would be directed to prohibit bids on petroleum development on lands located on the Outer Continental Shelf that involve more than one major oil company or affiliates of major oil companies. A "major oil company" is defined as one having a significant ownership in petroleum production of 1.6 million barrels per day of crude oil, natural gas liquid equivalents and natural gas equivalents. The Secretary can make an exception to the rule prohibiting joint bids for high-risk areas. The Secretary is also to report in nine months on the desirability of extending the prohibition on petroleum leasing arrangements to all Federal lands and to bidding for coal and oil shale on Federal lands. (Part A, Section 105)

Production at Maximum Efficient Rate - The President may order crude oil or natural gas to be produced from designated fields at a maximum efficient rate (MER) or, during a severe supply interruption, at a temporary emergency rate (TER). The maximum efficient rates and temporary emergency rates are to be set by the Secretary of the Interior on Federal lands and by the appropriate state agency on state lands. If state agencies do not set MERs within 180 days after enactment of the bill, the Interior Department can intervene. (Part A, Section 106)

Recycled Oil - Used lubricating oil that has been recycled would be required only to bear a label that it is "substantially equivalent" to virgin oil, with no other label identifying it as "used" oil. (Part A, Section 107)

Energy Reserves - Energy reserves to deal with energy supply curtailments would be established as follows:

1. An early storage reserve of 150 million barrels of petroleum products to be established in three years, which could be owned and maintained by the U.S. Government.

2. An industrial petroleum reserve of petroleum products (consisting of up to 3% of imported or refined volume in the previous calendar year), to be maintained by refiners and importers at the option of the Government.

3. The strategic reserve of crude oil to be in place within seven years, consisting of the equivalent of three months of imports. (Part B)

Title II

Part A of this Title provides for domestic energy conservation and stand-by rationing plans. Part B deals with U.S. participation in international energy agreements.

Energy Conservation and Rationing Plans - The President would be required to submit within 180 days of enactment a conservation contingency plan and a rationing contingency plan, to be acted on by Congress. The President could implement these plans for a 9-month period, with Congressional approval. (Part A, Sections 201, 202, and 203)

International Energy Agreements - Authority is provided for the President to allocate petroleum products to other countries, in the event of a "severe energy supply interruption" or "to fulfill obligations of the U.S. under the international energy program." Immunity from antitrust laws for companies participating in voluntary agreements is defined, including requirements for open meetings, transcripts, approval of plans by the Attorney General and FTC, etc. Procedures controlling the establishment of Advisory Committees by FEA are prescribed, as well as procedures for collecting and providing data to the International Energy Agency. (Part B, Sections 211, 212, 213, and 214)

Title III

This Title requires a number of actions to improve the efficiency of energy use.

Automobile Fuel Economy - Mandatory fuel economy standards (weighted average for all models produced by a manufacturer) are prescribed as follows:

Model Year	Average MPG
1978	18.0
1979	19.0
1980	20.0
1981-84	To be determined by Secretary of Transportation
1985 and Beyond	27.5

Manufacturers within 180 days would be required to affix stickers on all new cars indicating fuel economy, average annual fuel costs, and the range of fuel economy of automobiles of similar size and weight. (Part A)

Appliances and Other Consumer Product Efficiency - FEA would be required to set energy efficiency improvement targets for 13 types of appliances and for any consumer products whose use exceeds 100 kilowatt hours per year. For most product classes, a 20% increase in energy efficiency over 1972 would be mandated by 1980. Bureau of Standards test procedures and manufacturers' labeling would be required. (Part B)

<u>State Energy Conservation Programs</u> - States would be given Federal grants, upon submission of plans to achieve at least 5% reduction in projected state government energy consumption by 1980, based on "targets" to be set by FEA. (Part C)

<u>Industrial Energy Conservation</u> - Ten large energy-using industries would be assigned 1980 "targets" by FEA to achieve maximum feasible improvement in energy efficiency. Within each of the 10 industries, the top 50 companies would be required to report annually as to progress made and problems encountered. (Part D)

<u>Federal Energy Conservation</u> - The President would be required to submit plans to conserve energy in the Federal sector. Independent regulatory agencies would be directed to propose legislation to minimize inefficient energy use in regulated industries. Energy impact statements would, henceforth, be required for major regulatory actions. FEA would be directed to establish a public education program to encourage energy conservation. (Part E)

<u>Title V</u>

This Title provides elaborate procedures for data collection, audits, and uniform accounting methods.

- The Comptroller General would be authorized to audit books and records (including financial information, in the case of integrated petroleum companies) for any person or firm supplying energy information to FEA, the Interior Department, or the FPC, or any person or firm engaged in any phase of the energy industry, except retailing. These audits could also be carried out at the request of any Congressional Committee. (Section 501)

- The Comptroller General could obtain information through questionnaires, records, papers, other documents, calling of witnesses and inspection of premises or facilities. Audit results, including the Comptroller General's findings, would be transmitted to the relevant Federal agency or Congressional Committee. Proprietary geological or geophysical information would be disclosed only to Congressional Committees, which could release such information only in accordance with the rules of that Committee and of the House and/or Senate. (Section 502)

  (<u>N.B.</u> - Sections 501 and 502 provide almost unlimited authority and latitude for GAO audits, inasmuch as nearly every industry would be either engaged in some phase of the energy industry or required to submit some energy-related information to one of the listed Federal departments or agencies.)

- The Securities and Exchange Commission would be directed to develop a uniform accounting system, based on recommendations of the Financial Accounting Standards Board, for persons or firms engaged in crude oil or natural gas production. Specific information to be revealed must include capital, revenue and operating costs of prospecting, acquisition, exploration, development and production (including geological and geophysical costs), broken down to segregate domestic and foreign operations. Also required would be disclosure of reserves and classification of financial information in such a way as to permit correlation of financial and reserves data. (Section 503)

December 1, 1975

COMMENTS ON THE PRICING PROVISION OF THE ENERGY POLICY AND CONSERVATION ACT
(prepared by American Petroleum Institute staff)

The House-Senate Conference Committee has agreed on an Energy Bill that incorporates some features from both S. 622 and H.R. 7014 that were developed over several months. The cornerstone of the Omnibus Energy Act is the pricing provision which is often referred to as the Average Price Plan.

<u>The Elements of the Average Price Plan</u>

1. Specifies an initial weighted average price ceiling for all domestic oil of $7.66 per barrel.

2. A maximum upward adjustment in the $7.66 per barrel price ceiling of 10% per year would be permitted, if justified, as a result of inflation or incentives required for high cost or high risk production. The upward incentive adjustment is limited to a maximum of 3% per year.

3. Congress (either House) retains the authority to disapprove Presidential proposals to increase prices under the incentive adjustment clause.

4. In February 1977 the President may propose exclusion of Alaskan oil in computing compliance with the Average Price ceiling. In April 1977 the President may recommend continuing or modifying the 10 percent upward adjustment ceiling and/or the 3 percent incentive adjustment provision for production. Proposals made by the President on these issues could only take effect if not disapproved by either House of the Congress.

5. The program is to last 40 months and then convert to standby authority.

General Analysis

The Average Price Plan is not a novel new approach to oil pricing but only another variation of domestic price controls that will worsen the nation's energy supply problem in the long run. This pricing policy would discourage domestic production, encourage domestic consumption, and continue to subsidize the importation of foreign oil, thus leading to a doubling of oil imports by 1985, almost all of which would need to come from the Persian Gulf.

The Average Price Plan for crude oil extends the price control philosophy that has been proven a failure in the natural gas industry. While regulation to artificially hold down prices (and pass the detailed decisions on to the President) may have superficial appeal in the 12 months before a national election, such a proposal is counterproductive. Only a proposal that dismantles oil price controls will eliminate the unproductive cost of administering controls, increase domestic production, discourage consumption and minimize our reliance on insecure foreign energy supplies.

The Energy Policy and Conservation Act would take U.S. energy policy further away from market processes and thereby provide an excuse for further government intervention in other industries as well as petroleum.

For example, if the U.S. did not persist in pricing domestic energy below the world market price, then it would not be necessary to worry about export controls. Another example is the mandatory conservation provisions. If energy prices were accurately reflecting the marginal cost to the U.S. of purchasing that energy, then the appropriate conservation steps would be taken voluntarily over time. In these and other instances, however, the Congress has tried to offset market distortions created by the Average Price Plan controls with additional controls that impinge further on consumer and producer freedom of choice. Thus, many of the provisions of the Energy Policy and Conservation Act reaffirm the old adage, "Regulation begets Regulation."

Although most individual senators and congressmen profess to be great believers in the market system, many seem unwilling to accept the workings of market forces and are determined to interfere with the workings of these forces. The absence of a concise, neatly summarized energy policy act duly passed by Congress and signed into law would not mean that this nation has no energy policy. Private consumers and producers are continuously acting in the market place to adjust their actions to changes in conditions. The lack of political management of this process does not imply a non policy or "drift." Rather, one must be willing to accept economic markets as controlling and coordinating devices. Producers and consumers in the market place are able to respond promptly to current information and to plan and anticipate future possibilities. Not every economic problem requires a long-term system of government regulation. The petroleum supply and pricing issue is a case in point.

U.S. Energy Policy and the OPEC

The fundamental source of the problem facing U.S. energy consumers is the Organization of Petroleum Exporting Countries. In recent years this organization has demonstrated its ability to raise oil prices and its willingness to absorb production cutbacks to maintain higher prices. These effects are the result of market power and it is this market power that raised the price of U.S. energy and prompted this legislation -- "The Energy Policy and Conservation Act." If the term "Energy Policy" has meaning for the U.S., it is as a policy to reduce the market power of OPEC. Individual components of a U.S. energy policy must be judged by their effect on OPEC; measures that would increase the market power of OPEC must be judged as against the interests of U.S. energy consumers and inconsistent with U.S. energy policy.

Although there are some differences of viewpoint within OPEC, the pricing actions that they will take are predictable, based on fundamental market concepts. The greater the demand for their oil, the higher the present price. The less the reduction in demand for their oil from a higher price, the higher that price. And, the fewer future alternatives in response to a higher price today, the higher the present price will be. The average price plan in the Omnibus Energy Policy Act will serve to strengthen the market power of OPEC in the following ways:

- First, it will increase the demand for OPEC oil; demand will increase because the lower controlled prices encourage consumption and discourage domestic production.

- Second, it will actually make the demand for OPEC oil less responsive to price changes by OPEC. This occurs because of the entitlement program operated by FEA. Under the entitlement program refineries that import oil at the higher world price, whatever that price, are given a subsidy payment (an entitlement payment) that offsets part of the cost of that oil to the refiner. This program is maintained to equalize the cost of crude oil to all refiners. But the less obvious effect of this program is to insulate the OPEC countries from demand changes for their oil that would occur because of price increases. Thus, under price controls, demand in this country is less responsive to OPEC price increases than would otherwise be the case. And since our demand will be less responsive, this will enhance the power of OPEC countries to increase the price of oil in the future.

- Third, it will artificially restrict the U.S. to producing only a portion of the oil supply that could be recovered from domestic sources. To maximize the alternative supply the U.S. should produce every barrel of domestic oil available at a price below or equal to the price being charged by foreign countries. Under free market policies, higher OPEC prices now would induce larger and more rapid development of domestic oil supplies in the future. By setting U.S. oil prices below OPEC prices and making them unresponsive to changes in OPEC prices, the U.S. would be guaranteeing a slower and smaller development of domestic alternatives, thereby enhancing the power of OPEC.

In view of these insights, it must be concluded that the slight reduction in U.S. oil product prices that might follow enactment of this bill would be offest, possibly quickly, by the higher price and greater quantity of imported crude. The ultimate irony of the average price plan is that even during the time period before the 1976 election it may result in higher, not lower, prices for oil products consumed in the U.S.

Average Price Plan is not Decontrol

There may be a temptation to view the 40-month Average Price Plan in the Energy Policy and Conservation Act as a mechanism to phase-out present price controls. This is simply not the case.

The Average Price Plan, although specified to become a standby authority after 40 months, does not allow domestic prices to rise to market levels (unless world prices decline during the next 40 months, an occurrence made less likely by the Average Price Plan). In fact, the Average Price Plan requires a roll-back in the price of new domestic oil that is presently at market levels. And the plan will keep old oil prices well below world market levels and will likely keep new oil prices under market levels. Thus, at the end of 40 months under reasonable assumptions the gap between controlled domestic prices and world crude oil prices will be much larger than it is today (see attached table). It is unlikely that Congress would be willing to accept decontrol at that time. Thus, the Average Price Plan is not a decontrol proposal but probably the next installment of permanent price controls that will make the U.S. more dependent on insecure foreign oil.

The Dilemma for Domestic Pricing

The $7.66 average domestic price ceiling in this proposal is about $1.00 below the current average domestic price of oil. Thus, the plan would force a reduction in domestic crude oil prices, and set up a fundamental dilemma for domestic oil pricing that threatens to shortchange the nation on domestic production. The President is left with the unhappy choice of either: 1) encouraging enhanced recovery from old oil properties (presently price controlled at $5.25 per barrel); of 2) providing the maximum possible incentive to search for new oil, subject to the price ceiling which dictates a reduction in new crude prices from present levels. If old oil prices are maintained at $5.25 per barrel, the Average Price Plan would force a substantial initial rollback in the real price of new oil to about $10.60 per barrel. The implication of this is that the incentive to search for new oil will be drastically reduced. In addition, there would be no further incentive for enhanced recovery from old oil properties.

Evidence on reserves suggests that there are considerable undeveloped domestic resources on old oil properties <u>and</u> the potential for significant new oil discoveries. An economically sound policy should offer the same price incentive to develop <u>all</u> of these domestic resources that we are forced to pay to foreign nations for their oil.

But the effects of the Average Price Plan become more severe over the 40-month time period, even if the full 10 percent annual upward adjustment in average prices were proposed by the President and not rejected by the Congress. With reasonable assumptions about inflation and the production of various types of oil (see attached table and charts), one can trace out the trend of oil prices. If we assume that old oil prices are held constant in real terms at $5.25 (1976 dollars) over the 40-month period, the real price of new oil (1976 dollars) would fall by the first quarter of 1979 to $9.81 per barrel. Thus, the Average Price Plan not only necessitates an immediate cutback in the price of new oil but implies further reductions in the real price of new oil over the life of the plan. And, if the President wanted to provide higher real prices for production on old oil properties to encourage enhanced recovery, this could only be achieved by further reducing the real price of new oil. (It is assumed in this calculation that Alaskan oil is included in the average pricing; this seems likely because the process to exclude Alaskan oil is complicated and subject to Congressional overturn.)

Consumption, Production and Import Effects

The aggregate implications of rolling back the domestic price of crude oil and continuing to hold down the price of old oil can be summarized by their effect on domestic consumption, domestic production, and imports. The lower product prices implied by the Average Price Plan will boost consumption by 1980 by about 1.7 million barrels per day compared with what would happen under instant decontrol. The lower crude oil prices will reduce domestic supply by 1980 by about 1.6 million barrels per day compared with what would happen under instant decontrol. As a result, imports will be about 3.3 million barrels per day higher in 1980 under the Average Price Plan than under instant decontrol.

And, if the Average Price Plan were to be extended beyond its initial 40 months, imports would be more than twice as large (10.9 million barrels per day) by 1985 as the expected level of imports with instant price decontrol.

<u>Other Negative Effects</u>

In addition to the specific problems already noted with the Average Price Plan, it also retains all of the disadvantages of the current price control system. In short, it continues the philosophy that a system of price controls can yield benefits to the consumer and at the same time maintain and encourage domestic production. The Average Price Plan would retain all of the following deficiencies of the present system:

1. It would continue and probably expand the multiple tier price system and thus necessitate enlarging the costly, complicated control apparatus now operated by FEA.

2. It would continue and even increase the subsidization of imported oil by granting entitlement payments for every barrel of imported oil.

3. The program would continue to offer greater incentive to the development of foreign oil than to domestic oil by holding down domestic oil prices. Thus, foreign countries will be encouraged by this pricing policy to develop marginal resources that will not be profitable to develop in this country.

4. The greatest beneficiaries at the consumer level of any short term product price decrease are those high income persons who consume the largest quantities of energy. Thus, the income distribution effects of the program are perverse, with high income persons getting a larger benefit than low income persons.

5. This proposal still fails to come to grips with the need for the U.S. to establish a long run energy policy. This proposal, with all of its problems, specifies a price mechanism (with Congress retaining considerable control) for less than four years when oil people must be making investment commitments that will take 5-10 years to yield significant production. Imposing such uncertainty on the oil business can only work to discourage investment.

Conclusion

The majority of the U.S. Congress misapprehend the problem facing U.S. energy consumers. The Congress interprets the problem as high energy prices and they seek to solve it with price controls. But the high energy prices are only a symptom and not the problem. The market power of OPEC to raise and maintain the world price of oil is the real problem. The Energy Policy and Conservation Act, through its pricing provision, would strengthen the OPEC and increase their ability to further raise the price of their oil. U.S. consumers should not be misled into believing that a short term product price decrease is evidence that the energy problem has been solved by Congress. Instead, the failure of this bill to effectively come to grips with the real problem, OPEC market power, should be exposed now before it becomes obvious in the higher prices of the future.

Widening Gap Between the
Average Domestic Crude Oil Price
and the OPEC Price
(current dollars)

Year	U.S. Average Crude Oil Price[1/] Imposed by the EPCB[2/]	Landed Price of OPEC Oil[3/]	Gap Between OPEC and Domestic Price
1976	7.66	13.30	5.64
1977	8.43	14.36	5.93
1978	9.27	15.51	6.24
1979	10.20	16.75	6.55
1980	11.22	18.09	6.87

[1/] Assumes the maximum 10% per year increase in average domestic prices.

[2/] Energy Policy and Conservation Bill.

[3/] Assumes removal of $2.00 import fee on imported oil and OPEC price increase of 8% per year as an inflation adjustment.

CONGRESSIONAL AVERAGE CRUDE OIL PRICING PLAN

Congressional Pricing Provisions -

- $7.66 average price ceiling on all domestic crude
- 10% escalation
- 40-month price control authority

Our Assumptions -

- Removal of $2 fee on crude imports
- Rate of natural decline in old oil ca. 12% per year
- Total new oil supplies increasing an average of 11% per year
- Inflation averages 8% per year over next 4 years
- President controls the price of old oil at $5.25 (in 1976 dollars)
- All North Slope oil included in computation of average price

Estimated Prices, Demand, Supply Imports -

Year	Average Price (1976 dollars)	New Oil Price (1976 dollars)
1976	$7.73	$10.62
1977	7.88	10.42
1978	8.04	9.91
1979	8.20	9.81
1980	8.36	9.81

	Congressional Plan			Instant Decontrol		
	1977	1980	1985	1977	1980	1985
Demand	18.55	19.44	21.95	18.07	17.71	19.43
Domestic Supply	10.30	10.63	11.09	10.80	12.21	14.30
Imports	8.25	8.81	10.86	7.27	5.50	5.13

Supply and demand estimates based on FEA figures, and assume producers anticipate extension of controls beyond 40-month period.

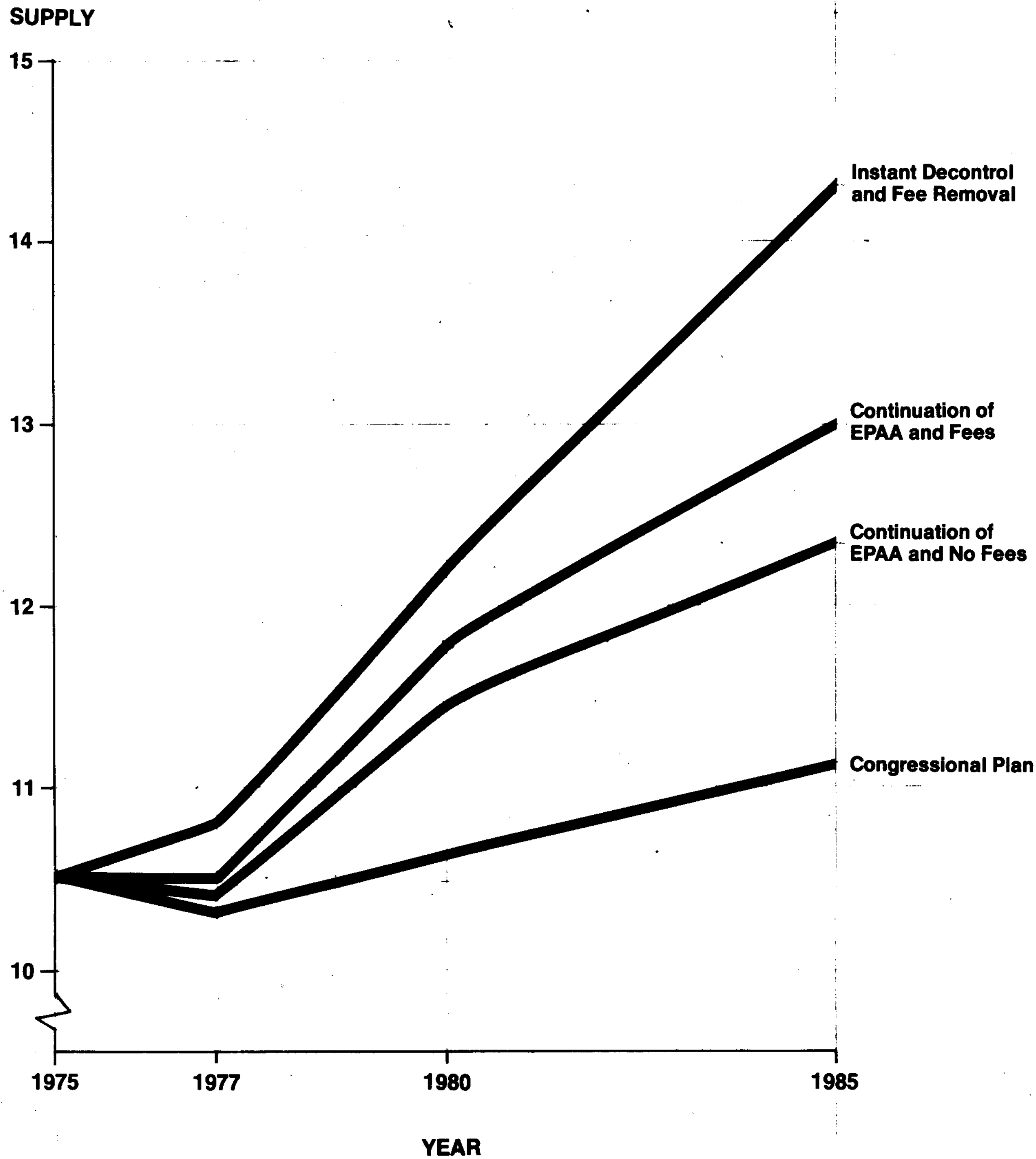
1976 petroleum industry loss in revenues compared to present program and assuming elimination of the $2 import fee would be $4.0 billion or approximately $2.1 billion in profits.

Petroleum Industry Profits and Investments
($ billions)

	1973	1974	1975*
Profits	9.4	13.1	9.4
Investments	14.6	22.2	25.0

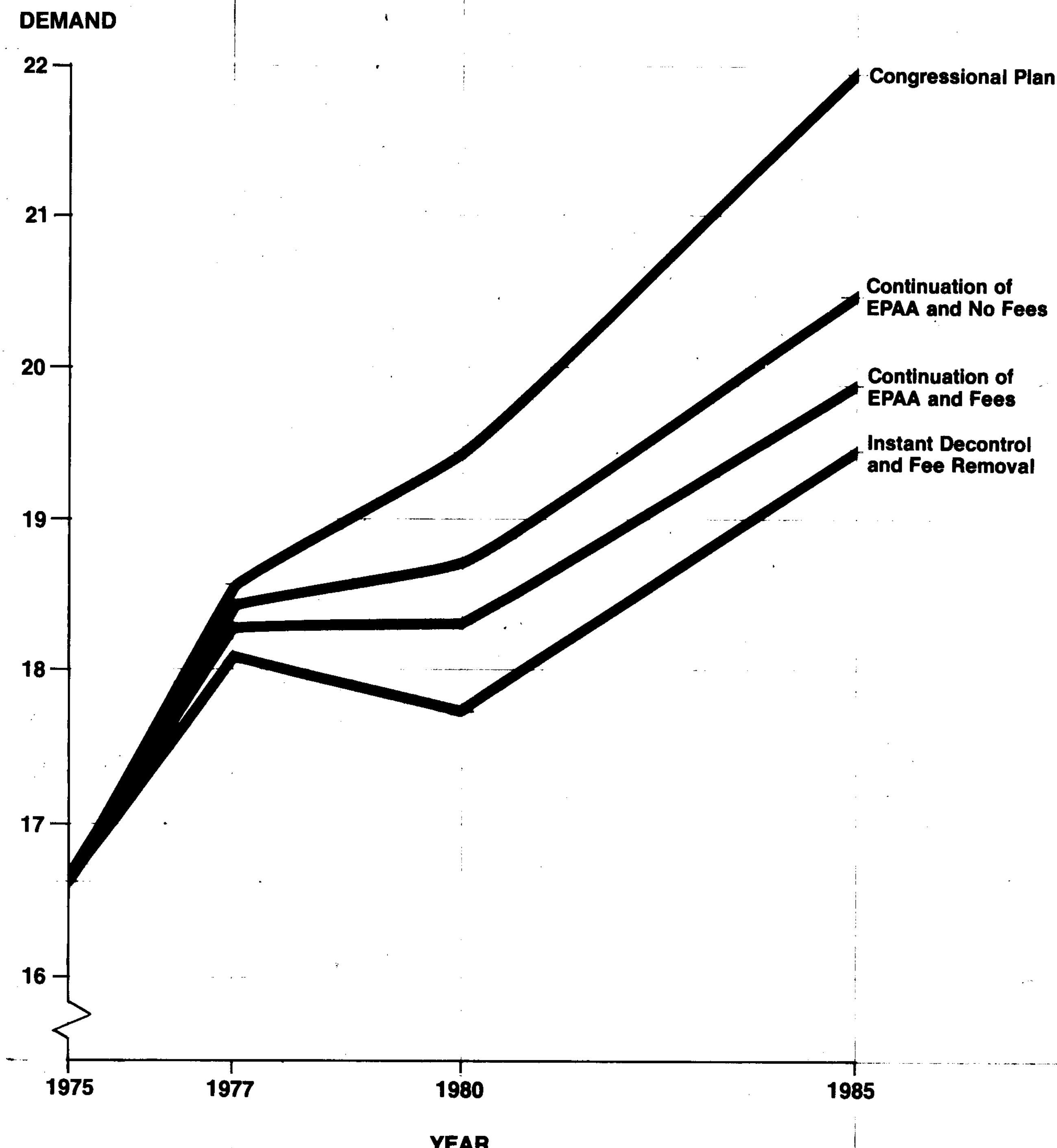
*Estimated

OIL SUPPLY UNDER ALTERNATIVE PRICING PLANS*



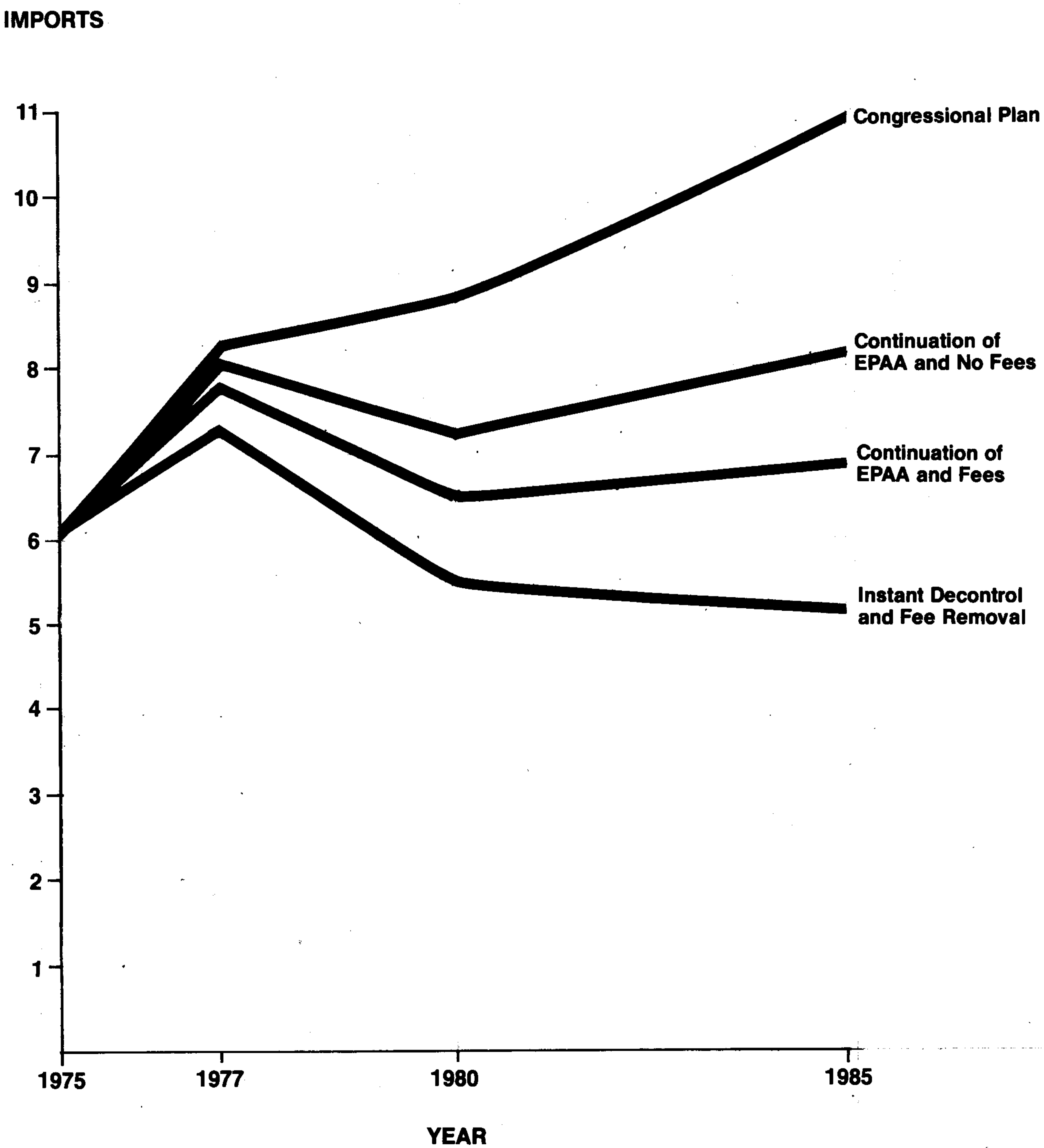
*Assumes availability of oil from the North Slope beginning in late 1977.

OIL DEMANDS UNDER ALTERNATIVE PRICING PLANS*



*Assumes availability of oil from the North Slope beginning in late 1977.

OIL IMPORTS UNDER ALTERNATIVE PRICING PLANS*



*Assumes availability of oil from the North Slope beginning in late 1977

DEC 3 1975

THE WHITE HOUSE
WASHINGTON

Date: 12-3-75

TO: Jack Marsh

FROM: Robert K Wolthuis

For your information ______

Please handle ______

Other

Jack. Here is my summary of the Energy bill. They have still not finalized the pricing provisions.

Bob

DESK

Preliminary Summary of Energy Conference Bill

I. PRICING AND ALLOCATION PROVISIONS

1. The previous price of $5.25 for old oil and new uncontrolled oil is raised to a "domestic composite" price of $7.66.
2. The $7.66 price can be raised up to 10% annually during the 40 months period. Higher adjustments can be recommended by the President every 90 days subject to a one House veto.
3. Alaskan oil is excluded from the composite price after April 15, 1977 or whenever oil begins to flow through the pipeline.

CON

1. The crude oil price begins too low and is adjusted too slowly.
2. The President has very little flexibility and is subject to judicial review and one House vetoes.
3. Some argue that the price is so low it will stack drilling rigs or force their flight to Canada or other parts of the world.
4. It will increase our dependency on foreign oil and export additional American jobs.
5. It is a political risk for the President in the oil states and among several Republican and Democratic conservatives.

PRO

1. It is the best pricing provision available from this Congress.
2. At least it is a beginning of a new pricing policy that will eventually lead to decontrol after 40 months.
3. It eliminates most F.E.A. price and allocation programs.
4. Despite some optimistic estimates, sufficient votes to sustain a veto in either House will be hard to find.
5. Contains five of the 13 major provisions recommended by the President last Spring.

II. SUPPLY AVAILABILITY PROVISIONS

COAL

1. Gives authority under ESECA to require oil burning industries to convert to coal through June 1977. Gives enforcement authority through 1984.
2. Provides $750M loan guarantee for 80% of any loan to small coal producers not to exceed $30 m for any single loan.

PRO

Language is substantially the same as requested by the President.

CON

Subjecting major fuel burning installations to same reliability requirements as power plants is undesirable.

LIMITATIONS ON EXPORTS

1. President is given authority to control exports of energy and energy equipment with exemptions for Canada and Mexico.

PRODUCTION AT MER (Maximum Efficient Rate) AND TEPR (Temporary Emergency Production Rate)

1. Secretary of Interior is directed to determine MER's and TEPR's for all Federal lands.
2. Secretary of Interior may determine MER's and TEPR's on state lands if State fails to do so.
3. The President may require production at MER in non-emergency situations, and during a severe energy supply interruption at the TEPR.

CON

Bud Brown questions if Interior has the capability to do this.

JOINT VENTURES

1. Codifies the recent DOI/OCS regulations prohibiting joint bidding on exploration and development by major oil companies, but does grant exceptions in high risk areas. It allows joint ventures for production.

CON

Imposes rigid statutory requirements where previously covered by regulations, thus eliminating DOI flexibility to meet changed circumstances.

RECYCLED OIL

1. Promotes use of recycled and re-refined oil and directs Federal Government to encourage use of such oil.

III. EMERGENCY PROVISIONS

STRATEGIC RESERVES

1. Reserves will eventually contain not less than 3 months of imports nor more than 1 B barrels.
2. Requires an Early Storage Program of 150 M barrels to be completed in three years.
3. Authorizes Interior Industry Storage (3% of imports or refinery throughput) which may be part of either the Early Storage or Long Range Program.
4. Requires Regional Product Reserves of refined petroleum for import dependent areas (New England and Mid-Atlantic States).

CON

Reserve program is generally acceptable, but FEA would prefer no Congressional review of implementation plan.

INTERNATIONAL AUTHORITIES

1. Bill contains the authority needed for the United States to participate fully in the International Energy Program, i.e. international allocation and domestic conservation.

PRO

Generally acceptable.

STANDBY ENERGY AUTHORITY

1. Within 180 days after enactment President must submit rationing and conservation plan to Congress which must approve or disapprove within 60 days. Conservation plan could be implemented without further Congressional approval. Rationing would still be subject to one House veto.

IV. CONSERVATION

APPLIANCE LABELING PROVISIONS

1. FEA sets energy efficiency targets for each category of appliance to provide a 20% improvement by 1980 over 1972 standards. If targets are not met FEA is required to commence a standard setting proceeding.

2. Citizen suits are authorized against government, manufacturers, suppliers and importers but are limited to injunctive relief (not money damages).

CON

Frivolous litigation is encouraged because legislation provides for payment of attorneys fees for people bringing the suit.

INDUSTRY ENERGY CONSERVATION

1. FEA would set 1980 energy efficiency improvement targets for the top 10 industries.
2. Requires reports from approximately 400 companies in the top 10 industries, but permits exemptions for voluntary participation through trade associations.

CON

Voluntary reporting program is now statutory which could lead to Congress establishing mandatory standards in the future.

AUTO FUEL ECONOMY

1. Sets mandatory fuel economy standards for cars and light trucks beginning in 1978. Average economy would be 18 mpg in 1978 and increasing to 27.5 mpg in 1985.
2. Civil penalties for non-compliance are $5 per vehicle for each .1 mpg below the standard.
3. DOT and FEA will jointly administer the mandatory mileage labeling program.
4. Authorizes $130 m and $55 m loan guarantee authority for two years to promote development of fuel efficient prototype automobiles.

CON

The technological and economic standards are practically impossible to determine 10 years in advance. The civil penalties ($5 for each .1 mpg short) could financially destroy a car manufacturer in any given year.

STATE ENERGY CONSERVATION PROGRAMS

1. Within 180 days of enactment, each state would submit a feasibility study to FEA for achieving a 5% reduction in energy consumption by 1980.
2. FEA may fund implementation of State conservation programs.

CON

5% target interferes with State independence and imposes more federal controls.

FEDERAL ENERGY CONSERVATION PROGRAM

1. The President is required to promulgate and implement a ten-year plan for energy conservation covering buildings, military operations and employee transportation.
2. FEA would coordinate Federal agency action to develop mandatory standards for U.S. Government procurement policies.
3. Each independent regulatory commission must assess its energy conservation practices.

V. GAO AUDITS

1. The Comptroller General is authorized to conduct verification audits independently or at the request of any Congressional Committee of any person or corporation:
   a. Who is required to submit energy information to FEA, FPC or DOI.
   b. Who voluntarily submits such information to any Federal agency.
   c. Which is a vertically integrated oil company.

CON

This is a very broad grant of authority which can reach down to the neighborhood service station.

DEC 5 1975

due: COB Fri
12/5

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

December 5, 1975

DEPUTY ADMINISTRATOR

MEMORANDUM FOR JOHN MARSH

FROM: ERIC ZAUSNER EZ

SUBJECT: ENERGY POLICY AND CONSERVATION ACT

Attached is a draft memo to the President summarizing the energy compromise bill. I need your vote on veto or signing by COB today and any detailed comments you may have on the text or any comments you may like attached by first thing Monday morning.

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: H.R. 7014/S. 622: The Energy Policy and Conservation Act

The Committee Report on the Energy Policy and Conservation Act (H.R. 7014/S. 622) is now completed and in final printing. Although floor action on the bill will probably not occur until after your return from China, we do have sufficient information on the bill to evaluate its provisions and obtain the views of your advisors.

In evaluating the desirability of signing this bill into law, four factors should be considered:

- The acceptability of the pricing provision.
- Reactions to the legislation and likely events if it is vetoed or signed.
- The impacts of the legislation on your energy and economic goals.
- Other major elements of the bill and their desirability.

These evaluations and the views of your advisors are contained in this memorandum as follows:

I. Analysis of Pricing Provision

- Tab A: Description of the Pricing Provision
- Tab B: Comparative Price Scenarios
- Tab C: Energy Impacts of Alternative Price Scenarios

- Tab D: Economic Impacts of Alternative Scenarios
- Tab E: Ability of Provision to Lead to Decontrol
- Tab F: Alternatives to Acceptance of Plan
- Tab G: General Conclusions
- Tab H: Reasons to Reject Conference Bill
- Tab I: Reasons to Accept Conference Bill
- Tab J: Recommendations of Advisors

II. Analysis of Other Provisions

I recommend that you review the attached analysis and meet with your advisors to discuss the bill and their views soon after you return from China.

Attachment

TAB A

DESCRIPTION OF THE PRICING PROVISION

The pricing provision in the Energy Policy and Conservation Act is an amendment to the Emergency Petroleum Allocation Act that mandates the following changes:

- The existing price control scheme (i.e. old oil at $5.25 per barrel and new oil uncontrolled) is replaced with a "domestic composite" control methodology. All domestic oil is initially controlled at an average price of $7.66 which can be increased as follows:

  - The composite may be increased monthly at the discretion of the President by an amount equal to the GNP deflator throughout the life of the program. An additional three percentage points may also be added at the discretion of the President through February, 1977 to provide a production incentive, but the total upward adjustment (GNP plus production incentive) cannot exceed 10 per cent per year unless further authority to modify the adjustment is obtained.

  - On February 15, 1977, the President submits his recommendations regarding both the appropriate size of the <u>production incentive</u> escalator for the remainder of the program and the new ceiling limitation on the total inflator. The recommendation becomes law if not disapproved by either House of Congress. If disapproved, the President may submit another recommendation.

  - Increases <u>over and above</u> the initial 10% limitation may be made at <u>any</u> time during the 40 month life of the program upon a Presidential recommendation that is not disapproved by either House. These recommendations can be submitted every 90 days and are maintained for the life of the program if approved.

  - Alaskan oil can be excluded from the composite price calculation upon a recommendation of the President that is not disapproved by either House. This exclusion, the effect of which is to raise the average price for all domestic oil, cannot occur until April 15, 1977 (approximately six months before Alaskan oil will begin to flow through the pipeline).

- The President is provided flexibility to set various prices for different categories of oil or fields in order to assure maximum production provided the composite level is not exceeded.

- The mandatory control program converts <u>automatically</u> to standby at the end of 40 months. It can only be maintained in full mandatory status by the President based upon certain findings. Congress cannot prevent the conversion to standby except, of course, by passing a new law. Consistent with our IEA obligations, the standby authorities expire 30 months after the 40 month conversion to standy controls.

- The President is authorized to dismantle as much of FEA's regulatory program as possible (primarily price and allocation controls on wholesalers and retailers which are the bulk of those currently controlled by FEA). Each such deregulation action, if not disapproved by a one House vote is permanent. The objective here, which is underscored in the Conference Manager's Report, is to reduce FEA's regulatory program to a crude price control system as soon as possible coupled with entitlements to insure the competitive viability of refiners who do not have access to low priced oil.

TAB B

COMPARATIVE PRICE SCENARIOS

I. General Information

The price provision initially controls all domestic crude oil at an average price of $7.66. If one assumes that the recent OPEC price increase has been fully rolled-through in domestic prices (which is not the case), the current average price of domestic oil is approximately $8.75. If the calculation is made without the $2.00 import fee in place, the current price of domestically produced crude oil is an estimated $7.95. The actual price of domestic crude oil, however, in the absence of the fee would be equal to slightly less than the $7.66 reflected in the bill since the OPEC price increase has had very little impact on domestic prices at this point in time.

In evaluating the price effects of this program, comparisons with the existing controls program or the 39 month program are heavily influenced by the status of the import fee and the assumptions made about the rate of escalation that will be allowed by the Congress. Given current legal uncertainties with the fee, it has been removed for comparative purposes.

The pricing provision is evaluated and compared to other programs (e.g., immediate decontrol, the 39 month proposal) according to three alternatives that reflect different Congressional outcomes in response to future Presidential recommendations:

- <u>Unfavorable</u> Congressional action, i.e., with the 3% escalation disapproved after February 1977 and no exemption of Alaska from calculation of the composite price. (An unlikely outcome.)

- <u>Moderate</u> Congressional action, i.e., with the 10% escalation through the 40 months and Alaska exempted. (A minimum outcome.)

- <u>Favorable</u> Congressional action, i.e., a 12% administrative rate approved by Congress during the first year, a 15% rate approved for the second and successive years, and Alaskan oil exempted. (A possible outcome.)

II. Comparative Price Impacts of Alternative Scenarios

	Average Domestic Price ($/Bbl.)				
	1/76	1 Yr.	2 Yr.	3 Yr.	40 mos. 1/
Current Controls	7.95	9.11	9.84	11.02	11.14
39 Month Program	7.95	8.96	10.74	12.97	13.45
Immediate Decontrol	12.00	13.90	14.65	15.37	15.58
Conference Bill					
Unfavorable	7.66	8.43	9.02	9.65	9.88
Moderate	7.66	8.43	9.27	11.00	11.39
Favorable	7.66	8.58	9.87	12.33	12.98
Est. World Price 2/	13.00	14.40	15.15	15.87	16.08

1/ 39th month shown as 40th for comparative purposes.
2/ Assumes that actual OPEC prices increase at about 5% per year.

III. Range of Opportunities for Decontrol of "Old" Oil

Differing amounts of "old" oil can be controlled depending upon the assumptions that are made regarding future Congressional action and the maximum price that is to be allowed for any domestic oil. The following examples illustrate the range of opportunities according to alternative Congressional actions.

- If "new" oil is allowed to float with OPEC prices, then at the end of 40 months:
  - 39% of the old oil can be decontrolled with "favorable" Congressional action;
  - 2% of the old oil can be decontrolled with "moderate" Congressional action; and
  - None of the old oil can be decontrolled with "unfavorable" Congressional action, and would require rolling back some portion of the new oil.
- With "favorable" Congressional action, 80% of old oil could be decontrolled by the end of 40 months, and the new oil cap would be about $13.65.
- With the "moderate" assumptions, 80% of old oil could be decontrolled if a cap on new oil was maintained at about $12.00.

- With "unfavorable" Congressional action, 80% of old oil could be decontrolled after 40 months if the cap is setat about $10.30.

IV. Price Per Gallon Impacts of Alternative Price Scenarios

	Change in Price Per Gallon(¢) 1/				
	1/76	1 Yr.	2 Yr.	3 Yr.	40 mos.
Current Controls	(1.7)	(.2)	1.5	3.2	3.8
39 Month Program	(2.5)	(.3)	2.9	5.4	6.2
Immediate Decontrol	6.0	6.2	8.0	8.5	9.1
Conference Bill					
Unfavorable	(2.9)	(1.7)	(.3)	.4	.6
Moderate	(2.8)	(1.5)	.3	2.2	2.8
Favorable	(2.8)	(1.0)	.6	3.4	4.3

1/ All estimates assume full pass through of dealer margins and are compared to the current price. Figures in parentheses represent decreases, but it is unlikely that price reductions will flow through completely to the "pump". Further, the price changes here are related solely to product price changes and do not include any other factors such as increased rents, labor costs, and so forth.

TAB C

ENERGY IMPACTS OF ALTERNATIVE PRICE SCENARIOS

I. General Information

Your January 15 State of the Union proposals set goals to reduce imports by 1 and 2 million barrels per day for 1975 and 1976 respectively. Even if these programs were implemented now, their effects would be delayed a year, i.e., 1976 and 1977 because of the time that has elapsed as we attempted to reach agreement with the Congress.

The energy pricing provision of the Conference bill holds out the promise of complete decontrol in 40 months -- with all the positive effects on oil supply and conservation, but its short-term effects are less desirable than your previous proposals. Shown below are the expected energy impacts under each of these various pricing alternatives, excluding other elements of your program.

II. Energy Impacts of Alternative Price Scenarios

	Domestic Production 1/ (Thousands Bbbl/day)		
	After 1 Year	After 2 Years	After 3 Years
Current Controls	10,120	10,120	11,220
39 Month Program	10,220	10,420	11,620
Immediate Decontrol	10,220	10,420	11,720
Conference Bill			
Unfavorable	10,070	10,120	11,220
Moderate	10,070	10,170	11,620
Favorable	10,070	10,170	11,620

	Consumption (Thousands bbl/day)		
	After 1Year	After 2 Years	After 3 Years
Current Controls	18,512	19,547	20,467
39 Month Program	18,517	19,495	20,368
Immediate Decontrol	18,279	19,225	20,144
Conference Bill			
Unfavorable	18,604	19,679	20,637
Moderate	18,604	19,658	20,542
Favorable	18,597	19,649	20,410

1/ The basis of calculation used to derive these estimates is consistent with the approach used all year. However, some analysts argue that the short-term production effects are more significant.

	Imports (Thousands Bbl/day)		
	After 1 Year	After 2 Years	After 3 Years
Current Controls	7,992	9,027	8,847
39 Month Program	7,897	8,675	8,348
Immediate Decontrol	7,659	8,405	8,024
Conference Bill			
Unfavorable	8,134	9,159	9,007
Moderate	8,134	9,088	8,522
Favorable	8,127	9,079	8,393

If the other short-term measures you requested as well as the current pricing provision are enacted, the following net import savings would result compared to a continuation of current controls and a removal of the fee.

	Import Saving (Thousands Bbl/day)		
	After 1 Year	After 2 Years	After 3 Years
39 Month Program	625	1,112	1,309
Immediate Decontrol	863	1,382	1,633
Conference Bill			
Unfavorable	388	628	650
Moderate	388	699	1,135
Favorable	381	708	1,264

In summary, the current pricing provision plus your other proposed actions show substantially less savings than your original goals or 39-month plan, but is still a positive program to reduce imports.

The long-term supply, demand and import effects depend upon what happens after 40 months. If price controls end, then by 1985 the full positive effects of decontrol will be felt. If controls continue, these benefits will be greatly reduced, but the impact is completely dependent on the form of controls ultimately extended. If, for example, a composite price were set which merely escalates at the rate of the GNP deflator, imports could be 5-7 million barrels per day higher by 1985.

TAB D

ECONOMIC INDICATORS UNDER ALTERNATIVE
ENERGY PRICING POLICIES

(numbers in parentheses include compensating fiscal policy)

Policy 1/	1976 GNP ($B 1958)	1976 Unemployment (% Change)	1976 Inflation (% Change)	1977 GNP ($B 1958)	1977 Unemployment (% Change)	1977 Inflation (% Change)	1978 GNP ($B 1958)	1978 Unemployment (% Change)	1978 Inflation (% Change)
Current Controls									
39-Month Decontrol									
Immediate Decontrol									
Conference Bill									
Unfavorable 2/									
Moderate 3/									
Favorable 4/									

FIGURES TO BE SUPPLIED BY CEA

1/ All cases assume no import fees
2/ Assumes Alaskan oil under composite; allows the controlled price of oil to rise at 10 percent annually until February 1977 and at 7% thereafter.
3/ Excludes Alaskan oil from composite and allows the controlled price of oil to rise by 10 percent annually.
4/ Excludes Alaskan oil from composite; allows the controlled price of oil to rise by 12 percent until February 1977 and 15 percent thereafter.

TAB E

ABILITY OF PRICING PROVISION TO LEAD TO DECONTROL

The pricing provision contained in the Energy Policy and Conservation Act converts automatically to standby at the end of 40 months and can only be maintained in full mandatory status beyond that time by the President on the basis of certain findings. Congress cannot prevent the conversion to standby except, of course, by passing a new law.

The extent of the pressure on the President to maintain the program at the end of 40 months will be a function of the prevailing "gap" between composite domestic prices and world prices. This in turn will be a function of:

- The prices charged at the time by the members of OPEC; and

- Our success in achieving increased inflators in the composite price through our 90 day actions.

The difference between current domestic prices and what the uncontrolled price would be if the import fee were removed is slightly above $4.00 per barrel. If OPEC continues to increase its price with inflation and we fail in our attempts to increase the inflator (e.g., follow the unfavorable scenario above), the gap will be almost $6.00 after 40 months and the President will be under considerable pressure to maintain the program at the end of 40 months (see Table below).

If, on the other hand, OPEC is unable to increase its price to fully keep pace with inflation or we are successful in our efforts to increase the inflator (e.g., the moderate or favorable scenarios above), the gap will be small and the pressures on the President to maintain the program will be reduced significantly or eliminated. Under moderate assumptions about the Conference bill, the price differential would range from $1.93-$4.19 per barrel, depending upon future OPEC price increases; under favorable conditions, the range would be $0.34-$2.60 per barrel.

DIFFERENCES IN DOMESTIC COMPOSITE AND DOMESTIC OIL PRICES UPON TERMINATION OF CONTROLS

	IF FURTHER OPEC PRICE INCREASES			IF NO FURTHER PRICE INCREASES		
	Domestic Composite Price ($/BBL.)	Domestic Prices Upon Termination of Controls	Difference ($/BBL.)	Domestic Composite Price ($/BBL.)	Domestic Prices Upon Termination of Controls	Difference ($/BBL.)
Current Controls	11.14	15.58	4.44	9.85	13.32	3.47
39 Month Program	13.45	15.58	2.13	13.32	13.32	--
Immediate Decontrol	15.58	15.58	--	13.32	13.32	--
Conference Bill:						
Unfavorable	9.88	15.58	5.70	9.88	13.32	3.44
Moderate	11.39	15.58	4.19	11.39	13.32	1.93
Favorable	12.98	15.58	2.60	12.98	13.32	0.34

TAB F

ALTERNATIVES TO ACCEPTANCE OF PLAN

Critics of the pricing provision contained in the Energy Policy and Conservation Act have suggested several alternatives to an acceptance of the provision, including a continuation of current controls, immediate decontrol, or submission of a modified 39-month plan. We have examined these alternatives and have concluded that the only realistic alternative to acceptance of the plan in the near term is immediate decontrol. The "near term" aspects of this option are critical, however, given the likelihood of reactive and punitive legislation in the future after decontrol had been allowed to raise prices, cause competitive problems for some refiners, increase propane prices and industry profits, and so forth. An assessment of the alternatives is provided in the following.

- Extension of Current Controls

  In our view, an extension of current controls is not a viable alternative. If the Congress could be persuaded to accept such an extension, it would be coupled with the establishment of a cap on new oil and no escalator or other changes to allow us to dismantle large segments of the FEA regulatory program. The extension would be either until next March or until the spring of 1977, making the shape of the control program a major subject of debate in the election.

  It is, however, highly unlikely that Congress would agree to an extension of current controls. Dingell, Jackson, and others, believe that the Conference pricing provision is the best compromise we can hope for: if it is not acceptable, then the only alternative is decontrol. It should be noted that an effort was made to adopt a simple extension of current controls during the Conference without any success when it looked like we were going to end up with a very punitive pricing schedule.

- Decontrol

  Immediate decontrol is clearly the best policy from an energy self-sufficiency point of view and the only realistic alternative to the Conference pricing provision.

If decontrol is achieved through the sustaining of a veto of the Conference bill, the Democratic strategy would likely be to hold off on any further action until prices and profits went up, several independent refiners failed, propane prices and supplies became a serious problem for farmers and rural households, and the issue was debated in the primaries or general election campaigns.

This delay could be followed sometime next summer by Congressional attempts to re-legislate controls (probably even more stringent than current controls) or to pass a windfall profits tax, divestiture legislation or other punitive measures.

TAB G

GENERAL CONCLUSIONS

Apart from the specific impacts of the price provision contained in the Energy Policy and Conservation Act, several major conclusions of a general nature can be drawn about the provision:

- The provision does not achieve the results of your 39 month proposal.

- In price terms, the provision is worse than current controls if one assumes the unfavorable case, roughly equal to current controls if one assumes the moderate case, and better than current controls if one assumes the favorable case.

- Apart from price, the program is better than current controls in that it allows and the Conference Manager's Report encourages FEA to dismantle its regulatory controls (price and allocation) on most of the industry (e.g., wholesalers, retailers, etc.).

- The provision is the best that could be achieved from this Conference Committee and probably this Congress (e.g., the Conferees started with a domestic composite price of $5.50 and no escalator and eventually stretched to the limit allowed within the scope of the Conference bill).

- The provision will provide adequate incentive and price coverage for production from domestic sources, although it gives up using the even higher prices we have sought to assure conservation.

- The provision reduces domestic oil industry revenues in the short-term by $600 million from 1975 rates, even though this is largely due to the removal of the tariff.

- The program is opposed by many in the oil industry and some in the Congress, particularly members from both parties who come from the producing states. They would prefer either a continuation of current controls or immediate decontrol.

- Some people believe that we can be more successful than even the favorable case in our attempts to increase the escalator.

TAB H

REASONS TO REJECT THE PRICING PROVISION

Major reasons for rejecting the pricing provision contained in the Energy Policy and Conservation Act include the following:

- The pricing provision falls short of your initial goals and your 39 month program. The Nation's ability to reduce its imports will be constrained, even though the program will move in that direction over time.

- There are other provisions in the bill that are undesirable, particularly the coal loan program and the GAO audit provisions (see below).

- The regulatory decisions required to implement the program will impose a heavy burden of responsibility on the FEA Administrator in determining how to price various categories of old oil.

- If decontrol is sustained, both initially and over the long-term, rejection of the bill would end a complex regulatory program and preclude a possible "evolution" of the program into other, more pernicious regulatory involvements by the Federal government.

- If the bill is accepted and we are not successful in escalating the price towards the world price over time, there is the risk that the program would not end after 40 months -- that controls would be continued indefinitely.

TAB I

REASONS TO ACCEPT CONFERENCE BILL

The major reasons for accepting the pricing provision contained in the Energy Policy and Conservation Act include:

- The provision is the best that could be achieved from the Conference and probably the best from this Congress.
- While there appears to be an initial price rollback (largely due to the removal of the tariff), uncertainty over oil pricing policy will be significantly reduced, at least to the $7.66 plus the automatic GNP deflator level.
- Continuing debate over a windfall profits tax will be eliminated and pressures for divestiture will be cooled substantially.
- Although not everything we have asked for, the pricing provision does provide adequate incentive for most domestic production and we still have the ability to keep the pressure on for higher prices every 90 days.
- As outlined below, the bill contains many components of your original energy program.
- Acceptance of the provision will remove the pricing issue and, to a great extent, the petroleum industry from the election debate next year.
- If vetoed, complete decontrol might not last long and there would be repeated attempts at legislating a rollback either separately or as an amendment to numerous other related bills. Future measures could be less desirable than the current provision. The other parts of your energy program contained in the bill could not be achieved until after the election.
- The public will perceive acceptance as an agreement on energy policy between the Executive and Legislative branches, something an increasing number of people are calling for. This agreement and progress would be viewed by many as having been brought about by your efforts and pressure on the Congress.

TAB J

RECOMMENDATIONS OF ADVISORS

TO BE SUPPLIED

II

NON-PRICING PROVISIONS OF H. R. 7014

The bill contains five of the provisions that were an integral part of the President's January 15 energy program:

- Strategic Reserves

  The provisions are close to the President's program. The early storage program, however, might force more storage in the first three years than we may have wanted for budgetary reasons. Although not tied directly to production from the Naval Petroleum Reserves, NPR legislation now in Conference will be connected to the Strategic Reserve program if approved.

- Standby Emergency Authorities

  Provides most of the standby energy authorities requested by the President. Some burdensome and complicated Congressional review procedures have been improved, but a limited number are still required.

- International Authorities

  Contains the authorities requested by the President to allow the United States to participate in the International Energy Program.

- Coal Conversion

  Language is virtually identical to that requested by the President.

- Appliance Labelling

  While generally consistent with basic mandatory labelling program included in the President's energy program, the bill contains discretionary authority to set mandatory standards that we did not want.

In addition to these elements, the legislation also provides an acceptable way to make allocation and downstream price controls standby, thereby eliminating a complex and unwarranted regulatory program. The bill removes the provision in the existing Allocation Act which requires resubmittal of decontrol actions to the Congress every 90 days.

There are several problem areas in the bill also:

- Auto Efficiency Standards

  Although the Conference bill includes a mandatory automobile efficiency program, the bill is virtually identical in its requirements to the President's voluntary agreement with the automakers through 1980. There may be a problem with the target established for 1985 (27.5 mpg.), but there is a provision in the bill to allow the target to be modified upon recommendation of the Secretary of Transportation.

- GAO Audits

  The bill authorizes the Comptroller General to conduct verification audits on its own or at the request of any Congressional Committee with respect to the books and records of persons who are required to submit energy information or data to FEA, FPC and the Department of the Interior or of all integrated oil companies. The GAO already has this authority when directed by a Congressional Committee, although not by individual Members. The provision is restricted, however, by further authorization and appropriation requirements for GAO to receive resources to carry out these provisions.

- Coal Loan Program

  A loan program of $750 million is authorized for small coal producers. Restrictions on criteria for loan availability, however, are similar to those contained in the proposed Energy Independence Authority Act.

In addition there are several discretionary authorities such as a Federal import purchasing authority and materials allocation which are bad precedents and which are unnecessary.

The budget impacts of the bill are currently under review, although they could be substantial as a result of the Strategic Reserve Program. A rejection of the bill, however, would also have substantial budget impacts as a result of the higher fuel costs to DOD and other agencies that would occur with decontrol.

December 5, 1975

MEMORANDUM FOR: FRANK ZARB

FROM: JACK MARSH

In the event I have not had a chance to speak with you personally, I think it would be most helpful if between now and Monday you could pull together a paper which treats the economic impact of:

1. Total decontrol.

2. Signing of the proposal energy bill.

I think it is very important for the President in making his decision to be able to focus on the economic impact of signing the legislation versus vetoing the legislation.

JOM/dl

December 6, 1975

MEMORANDUM FOR: THE PRESIDENT

THROUGH: DICK CHENEY

FROM: JACK MARSH

SUBJECT: Energy Bill

Zarb requests President be advised of the following:

> "Jim Broyhill recommends the President sign the energy bill, but use as a lever to get Dingell to withdraw objections to Administration gas deregulation proposals.
>
> "Zarb believes we have a good chance to get gas deregulation on the House Floor, and if Dingell takes a walk, chances will be enhanced."

JOM/dl

THE WHITE HOUSE

WASHINGTON

December 6, 1975

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THROUGH: DICK CHENEY

FROM: JACK MARSH Jack

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DEC 11 1975

energy

THE WHITE HOUSE

WASHINGTON

December 11, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Energy Bill Conference Report

The House Republican Policy Committee voted 13-5 this afternoon in opposition to the energy conference report.

They plan to issue the attached statement late today.

John Rhodes and Bud Brown sought to block the action taken by the Policy Committee but ran into strong opposition led by Bob McClory, Bill Armstrong and Bob Lagomarsino who all pushed vigorously for the position adopted.

bcc: Marsh, Cheney, Zarb

CHAIRMAN • BARBER B. CONABLE, JR.

Republican Policy Committee
U.S. HOUSE OF REPRESENTATIVES
1616 LONGWORTH BUILDING
WASHINGTON, D.C. 20515
202/225-6168

94th CONGRESS
First Session

December 11, 1975
Statement #27

H.R. 622 - ENERGY BILL: BAD POLICY

The Energy Conservation and Policy Act, S. 622 (originally H.R. 7014 in the House) as reported by the House-Senate Conference, embodies bad politics and disastrous energy policy. The House Republican Policy Committee opposes this legislation in its final version.

The 94th Congress has been working on a national energy policy for over eleven months. While the Majority Democrats have succeeded only in avoiding the realities of our energy situation, the Republicans have consistently advocated adherence to several underlying principles: We must provide incentives for domestic oil production accompanied by a mechanism to prevent undue windfall profits, we must encourage energy conservation, we must discourage imports of expensive and strategically-vulnerable foreign oil, and we must create a system of sufficient permanence to allow producers and consumers alike to anticipate the future. (See 1975 Policy Statements #2, 10, 13, 15, 17.)

Unlike the Democrats, we believe that a sound energy policy at realistic fair prices now is good politics for the future. The Majority, however, continues to seek the mirage of bargain-basement pre-election energy prices combined, impossibly, with future abundant energy supplies and no-pinch conservation measures. The Conference Report on S. 622, to be voted on shortly by the Congress, represents this flawed Majority political logic.

The worst part of the bill is the pricing provision. The price rollback in one stroke negates all the basic principles of a sound energy policy. It will discourage domestic oil production, encourage consumption, require more expensive foreign imports and result in higher prices at the gas pumps. Instead of moving gradually and systematically toward decontrol, it imposes a situation that is actually worse than the complex red-tape of existing controls. These controls, unwieldy as they are, offer at least a modicum of incentive for development of domestic oil resources. S. 622 is a step backward that will widen the gap between artificially low controlled prices and the costs of aggressively developing new oil supplies, thereby making decontrol much more difficult and possibly even precluding it altogether.

Ironically for those who seek political, if not energy, benefits from this measure the pricing mechanism probably will not mean the lower gas pump prices ballyhooed in election-oriented rhetoric -- certainly not the 3½ cents per gallon the Democrats advertise. Cutbacks in oil-producers' revenues will discourage the huge investments need to assure future domestic oil sufficiency. But between the producers and the gas pump, the effects of the rollback will be absorbed as refiners and marketers claim and pass along to consumers the foregone "banked costs" allowed them under the intricacies of the existing system.

S. 622 continues the already tiresome "cat-and-mouse" game between the Executive and Legislative Branches. The pricing mechanism contains several "loopholes" to allow the President to increase oil prices to compensate for inflation, expensive recovery methods, and needed incentives for exploration. But these "loopholes" are subject to veto by either House of Congress, a situation that only prolongs the political manipulation of energy policy and dims the chance for an energy policy based on reality rath than election-day politics.

Perhaps because shortages of domestic oil will result, the bill provides onerous bur cratic controls over the energy industry. At a time when the merits of less governmer interference and bureaucracy are being stressed, S. 622 substantially extends the Federal Energy Agency's (FEA) authorities over the oil industry to include refinery yield control authorities, controls on inventories held by refineries, prohibitions on so-called "hoarding," prohibitions and limitations on refiners passing through cost increases, and limitations on the manner in which these price increases may be spread among refinery products. The FEA will be changed from a temporary emergency-oriented agency into a gigantic, monolithic bureaucracy sprawling over and stifling the entire oil industry. Similarly, the bill's expansion of the Government Accounting Office's authority to include verification examinations of books and records of the entire energy industry from exploratory ventures to neighborhood service stations will increase the snarl of red-tape tangling the energy industry without yielding tangible benefits. This penchant for over-regulation extends even further -- to mandatory industrial conservation reporting provisions, efficiency targets based on government determinations and mandatory efficiency standards for domestic automobiles. The weight of all these bureaucratic intrusions may well prove heavier than the energy shortage that led to them in the first place.

Gradual, phased decontrol accompanied by a windfall profits tax as recommended by the President remains our preferred energy policy.

Sound energy policy is not a question of liberal or conservative politics. It is a question of taking the steps necessary to assure adequate energy supplies in the future. This counterproductive legislation should be vigorously opposed. Republican Members should plan to vote against the Conference Report on S. 622 and be prepared, if necessary, to sustain a veto.

December 12, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: MAX FRIEDERSDORF

SUBJECT: Seabrook

Representative Jim Cleveland (R-N.H.) is still pushing me on Seabrook.

Any update?

cc: Jack Marsh

THE WHITE HOUSE

WASHINGTON

Date: 12/12/75

TO: Jack Marsh

FROM: Max L. Friedersdorf

For Your Information XX

Please Handle

Please See Me

Comments, Please

Other Attached is a log of the mail the President has received from Congress, both pro and con, on the energy bill.

December 12, 1975

Congressmen writing in regarding the Energy Bill

PRO	CON
Harley Staggers	Robert Michel
Torbert MacDonald	John Breaux
John E. Moss	J. J. Pickle
John D. Dingell	William Ketchum
Paul Rogers	Bill Archer
Silvio Conte	Executive Committee - Republican Study Committee
Bill Alexander	

Senators writing in regarding the Energy Bill

PRO	CON
John Glenn	Pete Domenici
Charles H. Percy	Henry Bellmon
Hubert Humphrey	Dewey Bartlett
Henry Jackson	

THE WHITE HOUSE

WASHINGTON

December 22, 1975

MEMORANDUM FOR: JACK MARSH

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Pre-Notification on Energy/Common Situs

The following should be notified concerning Presidential action today:

ENERGY

House		Senate	
	Speaker		
	Tip		
	McFall		
Rhodes	Staggers	Scott	Mike
Michel	Dingell	Griffin	Bob Byrd
Devine	Rogers	Tower	Long
Bud Brown	Waggonner	Fannin	
		Hansen	

COMMON SITUS

House		Senate	
Rhodes		Scott	Williams
Michel	Thompson	Griffin	
Quie		Javits	

cc: Vern Loen
Bill Kendall
Bob Wolthuis