Crossed Max F - (backup)

June 28, 1976

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: JACK MARSH

Please review the proposed draft letter for the President. This was proposed by FEA.

The question occurs as to whether it should be sent. I would appreciate your views. Although Frank Zarb probably supports the letter, he raises the question as to whether the President wants to be on record in support of two amendments on what might otherwise be a bad bill.

JOM/dl

The Honorable Dewey Bartlett
United States Senate
Washington, D. C. 20510

Dear Dewey:

As I indicated in our conversation earlier, I fully support passage of the Senate passed amendments to the Federal Energy Administration Act introduced by you and Senator Montoya regarding stripper wells and enhanced production.

Enactment of these provisions would serve to increase domestic crude oil production, reduce the rate of growth in demand for petroleum products, and,hence, reduce our increasing dependence on foreign sources of oil.

I have also been advised by FEA that a major additional benefit of the amendments would be the freeing from Federal regulatory controls of the majority of small, independent crude oil producers. This would in turn stimulate drilling activity and associated investments in domestic crude production capability on the part of the largest number of crude oil producers. Enactment of these amendments would be a major move to reduce the intrusion of the Federal Government into the small business element of our free enterprise system.

Sincerely,

JUL 30 1976

July 29, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: MAX FRIEDERSDORF

Following is the update on two urgent legislative items which have changed drastically during the events of the day:

1. Separation of auto emissions from the non-degradation portion of the Clean Air Act was not accomplished in the Senate today and the bill has been put over until Tuesday when the pending business will be the Moss Amendment providing for a one year study on the non-degradation portion.

2. The conference on extension of the FEA has fallen apart because of an alliance between Scoop Jackson and Javits who have objected to the pricing provision. Zarb says that if this agreement reached yesterday on pricing is dropped because of Jackson-Javits, the bill will be unacceptable. FEA Authorization expires mid-night tomorrow night and it is now unlikely that any extension can be accomplished by Congress. Therefore, signing of FEO executive may be the only option.

~~bcc~~: Jack Marsh
Dick Cheney

MARSH [Aug. 1976]

MEMORANDUM FOR

THRU:

FROM:

SUBJECT: H. R. 12169/ S. 2872: Legislation Extending the FEA

BACKGROUND

The House and Senate conferees have now completed action on the FEA extension and a bill has been sent to you for signature or veto by August _____.

As you recall, you originally asked for a simple 39 month extension of FEA. The Senate and House passed bills which extended FEA for a shorter period of time (15-18 months, respectively) and contained numerous amendments, many of which were extremely objectionable. In general, the bill ultimately reported by the conferees:

- contains some highly desirable changes, sponsored by Senator Bartlett, to the EPCA pricing provisions for crude oil;
- authorizes two more of the original 13 titles of your own energy program, ~~in largely the same form~~;
- includes several questionable or undesirable conservation programs, albeit considerably improved from original versions ~~in~~ originally passed by the Senate. ~~passed FEA extension.~~

This memorandum provides a description of the major provisions of the bill, indicates changes from the original versions, provides an analysis of its various impacts (on oil production, the economy and the budget), states the reasons for signing and vetoing the bill, and records the recommendations of your various advisors.

MAJOR PROVISIONS IN THE BILL

The major provisions of the bill are outlined below; a more detailed description is given in Tab A.

- <u>Federal Energy Organization</u>

  - Extends the Federal Energy Administration until December 31, 1977.

  - Extends the Energy Resources Council until September 30, 1977.

  - Requires the ERC to prepare a plan for the reorganization of the Federal government's activities in energy and natural resources by December 31, 1976 and revised plan by April 15, 1977.

- <u>Domestic Oil Pricing</u>

  - Exempts first sale of domestic stripper well crude oil from price and allocation controls.

  - Changes the 3% production incentive factor for crude oil mandated in the Energy Policy and Conservation Act to the difference between the 10% rate and the rate of inflation; thus, the crude price escalator, which would be 10% regardless of the inflation rate, could be approximately 1 1/2% greater than is currently the case.

- <u>Conservation</u>

  - Requires HUD to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings; less stringent than proposed in your original legislation in that the sanctions cannot be implemented until a proposal to do so has been approved through a concurrent resolution of Congress.

  - Provides $200 million in grants to States over a three year period for the insulation of homes of low-income, elderly persons, and Indian tribes. This measure is essentially identical to your weatherization program. With the exception of ~~an additional~~ $35 million over the life of the program, a higher authorization

  - Establishes a $200 million demonstration program to test various mechanisms (grants, low interest loans, interest subsidies, etc.) for encouraging energy conservation improvements or use of renewable resources, such as solar heating and cooling, in existing residential buildings. ~~The amount of the incentive cannot exceed $400 for any energy conservation measure or $2000 for any renewable resource measure~~.

- Authorizes up to $2 billion in obligation guarantees for ~~to provide~~ conservation investments by ~~for~~ industry, small businesses, and non-profit institutions.

- Supplements the State energy conservation program contained in the EPCA by authorizing $105 million in next three years, and ~~provides~~ providing greater flexibility to the States than allowed in the EPCA.

- Provides a statutory authorization of $13 million for FEA's existing electric utility rate demonstration programs to test innovative rate structures and load management techniques and to intervene in State utility commission rate making proceedings.

- Authorizes up to $2 million in State grants to help establish or fund consumer offices to assist consumers in their presentations before State commissions.

° <u>Other Provisions</u>

  - Requires the ERC to prepare an annual report on national energy conservation beginning July 1, 1977.

  - Authorizes $3 million for a solar commercialization and utilization program.

<u>MAJOR DELETIONS OR CHANGES FROM ORIGINAL BILLS</u>

Although the bill still contains several undesirable or questionable provisions, it is substantially improved from the bills originally passed by the House and the Senate. Some of the major changes or improvements made by the conferees include the following:

° <u>Construction of Small and Independent Refineries</u>

The conference eliminated the Senate provision which extended entitlements to persons engaged in the construction of new oil refineries.

° <u>Congressional Review of Rules, Regulations, 60-Day Layover</u>

The conference removed a troublesome provision which would have required that all regulations likely to have significant impact be submitted to both Houses of Congress for a 60 legislative day review period, subject to disapproval by concurrent resolution.

° <u>Energy Conservation Obligation Guarantees</u>

The conference ~~limited~~ reduced considerably the scope, size and discretion of original Senate amendments to provide $4.3 billion in loan guarantees and interest subsidies of $60 million to industry, non-profit institutions, and small business for conservation investments.

° <u>Energy Data Collection</u>

The conference deleted a provision which would have required the collection of energy information of a financial nature from companies in the energy industry.

° <u>Energy Conservation Assistance for Existing Dwelling Units</u>

The conference reduced the assistance provided for conservation installation in existing units from $500 million to $200 million. In addition, the program was changed to a demonstration program with considerable flexibility. Implementation of the program could be stretched out over several years and could be terminated if the tax credits included in your ~~[illegible]~~ program and passed by ~~the Senate and House~~ both houses are ultimately approved.

° <u>Energy Efficiency Performance Standards for New Houses and Commercial Buildings</u>

The original Senate-passed provision was revised in conference to include thermal efficiency standards for new homes and commercial buildings with less strict sanctions to leverage implementation of such standards by State and local governments than included in your original bill and the bill reported by the Senate. Performance standards would be transmitted by the President to the Congress which would have to pass an approval resolution in order for the sanctions to take effect.

<u>SUMMARY IMPACTS OF THE BILL</u>

The bill will affect the domestic energy situation, consumer prices, oil industry revenues, and the budget. The major impacts are summarized below.

free

° <u>Impacts on Domestic Energy Situation</u>

The pricing amendments, which exempt stripper well oil from price controls and increase production incentives will have a considerable impact. It is anticipated that these provisions will stimulate application of expensive enhanced oil recovery techniques. A major effect of the stripper well provision is to bring oil from stipper wells back to the market price as it was before the enactment of the Energy Policy and Conservation Act last December. This provision will free 70 percent of the nation's wells from crude oil price controls.

(13% of production)

The conservation measures in the bill are expected to have a small impact on energy demand in buildings, utilities, and industry.

As indicated in Table 1, the pricing and conservation provisions could reduce oil imports by about 100,000 barrels per day in 1977 and about 500,000 barrels per day in 1979. In the long-term, the demonstration of tertiary recovery could be an important factor (potential of over one million barrels per day by 1985). The conservation measures have little effect before 1980, but could save over 250,000 barrels per day thereafter.

TABLE 1

ESTIMATED IMPACTS ON DOMESTIC ENERGY SITUATION (1977-1979)
(Thousands of barrels per day)

	1977	1978	1979
Production increase	100	250	450
Reduction in demand	50	50	50
Import Savings	150	300	500

° Impacts on Prices and the Economy

The effects of this bill on domestic prices will be minimal and will take some time to be felt in the marketplace. All domestic crude oil prices will increase about 3% a year above EPCA levels for the remainder of the 40 month price control program. This increase would affect petroleum product prices initially by about one-third of a penny per gallon. If the entire increase were passed through to the consumer, average household expenditures for petroleum would go up about $10 next year. However, past experience indicates that full pass-throughs will not occur.

Oil ~~company~~ industry revenues are likely to increase by about $1 billion in 1977 and $1.5 billion in 1978. These increased revenues will stimulate production and exploration and provide greater tax revenues.

The macroeconomic effects of the bill will be very small. Real GNP would be virtually unchanged in 1976 and could decline by about 0.4% in later years. Unemployment rates would not be measurably affected and inflation would increase, after two years, by about 0.3%.

° Potential Budget Impacts

The total expenditures authorized in this bill amount to about $600 million over a three year period, excluding FEA authorization (see Table 2). Actual appropriations could, and likely would be considerably below these authorized amounts.

REASONS TO ACCEPT THE CONFERENCE BILL

The major reasons for accepting the conference bill include:

- The pricing provisions will accomplish a number of objectives:

  -- remove controls from all stripper wells (about 70% of all U.S. wells); thus relieving over 350,000 operators of substantial regulatory burdens and restoring the rollback in prices they experienced after last December's energy act.

TABLE 2
EXPENDITURES AUTHORIZED IN THIS BILL
(Millions of Dollars)

Category	FY77	FY78	FY79	No Year
Electric utility rate design initiatives	13	--	--	
Grants for consumer services offices	2	--	--	
Grants for energy conservation standards for new buildings	5	--	--	
Weatherization assistance	55	65	80	
State conservation plans	25	40	40	
Homeowners incentives demonstration program	--	--	--	200
Industrial obligation guarantee (defaults)	--	--	--	60
Total	100	105	120	260

-- provide increased revenues to industry of about $1 billion in 1977 and $1.5 billion in 1978 which can be used to increase production and exploration.

-- give FEA the ability to provide incentives for high cost production (such as tertiary recovery) and to fix some inequities in current system (such as California heavy oil problem).

-- will move domestic price closer to world oil prices at the end of price controls, increasing the chance for decontrol.

-- pricing provisions could reduce imports by as much as 100,000 barrels per day in 1977 and a half million barrels per day in 1979.

-- achieve price increases and production incentives without a significant economic impact (prices would rise by less than half a cent per gallon).

-- puts Congress on record for approving 10 percent price escalator, just six months before it has to vote on whether to let the production component of the escalator continue throughout the period of controls.

- The conservation measures contained in the bill include two components ~~parts~~ of your original energy program -- building standards and weatherization -- in largely the same form you sent them to Congress. With enactment of these provisions, 7 of the 13 titles of your original Energy Independence Act will be law.

- The troublesome conservation provisions have been constrained considerably over their initial versions and would demonstrate action on a popular issue.

- The bill has fairly good bipartisan support and is supported by many oil state Congressmen as well as Northern Congressmen.

- Achieves an extension of FEA and removes the temporary FEO from the Executive Office of the President.

REASONS TO REJECT THE CONFERENCE BILL

Major reasons for rejecting the conference bill include the following:

- Some of the conservation measures in the bill add further bureaucracy and regulations, while achieving fairly small energy savings.

- The budget implications of the bill's conservation measures are several hundred million dollars, although they are not likely to be funded at those levels.

- The pricing provisions (other than stripper well exemption) mean little if the GNP deflator rises above 7 percent.

- In addition to several questionable or marginal conservation programs, the bill includes other undesirable measures, such as the $2.0 million authorization to provide States with grants to fund consumer groups to intervene in State regulatory commission hearings.

- Some members of the public will view the extension of FEA as an example of temporary agencies staying in existence forever; however, the Executive Order creating the FEO does not alleviate their concern.

RECOMMENDATIONS OF ADVISORS

The views of your advisors are indicated below:

- Advisors favoring signing

    -
    -
    -
    -

- Advisors favoring a veto

    -
    -
    -
    -

TAB A

MAJOR PROVISIONS IN H. R. 12169

Federal Energy Organization

- Extends the Federal Energy Administration until December 31, 1977.
- Extends the Energy Resources Council until September 30, 1977.
- Requires the ERC to prepare a plan for the reorganization of the Federal government's activities in energy and natural resources by December 31, 1976 and revised plan by April 15, 1977.
- Establishes a distinct Office of Energy Information and Analysis within FEA to be headed by a Director appointed by the President and confirmed by the Senate (Executive Level IV).

Domestic Oil Pricing

- Exempts first sale of domestic stripper well crude oil from price and allocation controls.
- Actual volume of stripper well oil would be initially imputed into the national composite price at $11.63; it may then increase along with the average per barrel increase of all oil remaining in the composite.
- The 3% production incentive factor for crude oil mandated in the Energy Policy and Conservation Act could be increased up to the difference between the 10% rate and the rate of inflation.
- Any increase in the 3% production incentive factor could be specifically utilized for increasing enhanced recovery, adjusting heavy crude gravity differentials and for other purposes which would increase domestic production.

Conservation

- Requires HUD to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings.

- Provides $200 million of grants to States over a three year period for the insulation of homes of low-income, elderly persons, and Indian tribes.

- Establishes a $200 million demonstration program to test various incentive mechanisms (grants, low interest loans, interest subsidies, etc.) for encouraging energy conservation improvements or use of renewable resources, such as solar heating and cooling, in existing residential buildings. The amount of the incentive cannot exceed $400 for any energy conservation measure or $2000 for any renewable resource measure.

- Authorizes up to $2 billion in obligation guarantees to promote conservation in industry including profit, non-profit and public institutions.

- Authorizes an additional $105 million over three years to the State grant conservation program contained in the EPCA.

- Authorizes $13 million for electric utility rate demonstration programs to test innovative rate structures and load management techniques and to intervene in State utility commission rate making proceedings.

- Authorizes up to $2 million of State grants to help establish or fund consumer offices to assist consumers in their presentations before State commissions.

Other Provisions

- Requires FEA to implement guidelines for use in hardship and inequity cases before the FEA.

- Prohibits the Administrator of FEA from maintaining a civil action or issuing a remedial order against certain marketers where regulations are being applied retroactively and the marketer has relied in good faith upon interpreting such rules, regulations or rulings in effect on the date of the alleged violation.

- Requires the ERC to prepare an annual report on national energy conservation beginning July 1, 1977.

- Authorizes $3 million for solar commercialization and utilization program.
- Requires the FEA to submit pricing and allocation decontrol plans separately but allows such plans to be submitted concurrently.

AUG 11 1976

THE WHITE HOUSE

WASHINGTON

August 11, 1976

MEMORANDUM FOR: ALAN GREENSPAN
BILL SEIDMAN
BRENT SCOWCROFT
PHIL BUCHEN
ROBERT HARTMANN
MAX FRIEDERSDORF
~~JACK MARSH~~
ED SCHMULTS
JIM CAVANAUGH

FROM: GLENN ~~SCHLEEDE~~ Glenn

SUBJECT: FEA EXTENSION BILL

Attached for your information is an OMB staff summary and assessment of the key provisions of the FEA Extension Bill.

The enrolled bill should arrive here today and efforts are being made to expedite the review process so that the President will have the option of making his decision on the bill soon.

Attachment

Assessment - Key Provisions - FEA Extension Bill

PROVISION TITLE	Description of Authority	ASSESSMENT
Title I		
1. Limitation on discretion of Administrator	° Requires that separate plans for decontrol of price and allocation be transmitted to Congress for review.	° Would impair and potentially block plans to decontrol price and allocation controls on gasoline since price decontrol is likely to be accepted but allocation may not be. Further restricts flexibility in decontrol which goes against the intent of the EPCA.
2. FEA Extension	° Extends FEA to 12/31/77 retroactive to 7/30/76.	° Consistent with Administration proposal; may be legal question on retroactive to 7/30/76.
3. Establish Office of Energy Information & Analysis	° Establishes statutory office in FEA with Level IV Director subject to Senate confirmation. - Requires Administrator to delegate information gathering and analysis authorities to Director but Administrator may also delegate same authority elsewhere. - Director is independent of Administrator. Reports directly to Congress, must issue statistical reports without other Executive Branch review. - Director's original budget request must be presented to Congress if it differs from President's budget. - Establishes requirements for broad analytic capability, broad range of reports and models. - Provides for expanded authority over access to energy information gathered by other Federal agencies. - Requires annual audit by Professional Audit team -- the Chairman picked by GAO and one member from each of the following: CEA, FPC, SEC, FTC, BLS, and Commerce.	° Establishes a Director in FEA to manage overall energy reporting and analysis. Requires the FEA Administrator to delegate information authorities to the Director. Administrator may also delegate same authorities a second time to somebody else (on important policy analysis issues, the Administrator will probably delegate a second time). ° Establishes an elaborate framework of requirements for reports and analytic capability. A substantial increase in FEA resources would be necessary to meet the requirements and duplicate delegation. ° The Director would be independent of the Administrator and Administration in a number of ways: - reports directly to Congress; - releases reports on energy without any (by statute) review by other Executive Branch employees; and - budget request if different from President's must be transmitted to Congress. ° This provision appears to set up a Director with considerable resources and control over a broad range of energy data collection and analysis. The Director is more accountable and responsible to Congress than the President. More analysis is needed but this provision has major implications regarding President's authority and control over the Executive Branch.

PROVISION TITLE	Description of Authority	Assessment
4. Solar commercialization	° $3 million authorization for FEA to promote solar power.	° Places FEA in the solar commercialization business. Funds (if appropriated) could be used for a range of activities, grants, etc.
5. Extend life of ERC	° Extends statutory life of ERC from 10/76 to 9/30/77.	° No problem.
6. Comprehensive Energy Conservation Report	° Requires ERC to prepare comprehensive report on energy conservation.	° Could build pressure for ERC permanent staff.
7. Stripper well exemption	° Exempts stripper wells from price and allocation controls.	° Would cause the price of one million barrels per day of stripper production to rise from $11.63 per barrel to about $13.00 per barrel, increasing oil industry income by half a billion dollars at the expense of consumers which would be .4¢ per gallon. This is expected to have a relatively minor effect on production, since the higher prices will be partially offset by cuts in production to qualify for stripper status. Has the effect of raising the composite National price of oil by 2%, or 15¢ per barrel. Approximately 70% of U.S. producing wells are stripper wells, accounting for 15% of domestic production.
8. Increase in production incentive adjustment	° The price increase allowed by February 1977 is raised to 10% from the present EPCA which provides for GNP deflator increases plus 3% (but not over 10%). The price increase is intended to go first for increasing the prices for low gravity California crudes, and for encouraging high cost tertiary production.	° Since inflation is expected to be 5.5% in 1976, the net effect is an increase of 1.5% in crude prices, or about 25¢ per barrel. This increases petroleum industry income by $750 million at the expense of consumers which would be .6¢ per gallon. The increased prices are expected to result in a small increase in production, although 1 1/2% is too small to have much impact. By taking care of politically powerful California producers, and tertiary production, the ability to gain the support of these blocks for increases in the composite price is lost.

PROVISION TITLE	Description of Authority	Assessment
9. Reorganization study, plan ° recommendations	° Requires Chairman ERC to complete a study of the energy and natural resources function and to submit a comprehensive report along with Presidential recommendations on a reorganization proposal. Report is to include: - principal laws and directives that constitute energy and natural resource policy - prospects of developing and consolidated national energy policy - major problems & issue of existing energy and natural resource organizations - options for energy and natural resource organization - overview of resources for energy and natural resources - recent proposals for a national energy & natural resource policy - relationship of energy to other national objectives	° The outline of study appears to go beyond the present study, e.g., prospects for developing a national energy policy. This will require the preparation of a special report for Congress.

Provision Title	Description of Authority	Assessment
Title II		
1. Electric Utility Rate Design Initiatives	° Requires FEA to	
	(1) submit proposals to Congress for redesign of utility rate structures that would "encourage energy conservation, minimize the need for new generating capacity, and minimize costs to customers." - Proposals must include load management techniques, rate proposals encouraging efficient use of fuel, and rate proposals creating incentives for utility system reliability. - Proposals required to be sent to Congress 12/31/76, so Congress can direct "further action" by law.	(1) Requires utility rate design models to be submitted to Congress. May constitute a major first step toward broader Federal involvement and control over electric utility rate making -- an area traditionally under State and local jurisdiction. Many of the provisions would lay groundwork for Dingell's electric utility rate reform bill, which the Administration is on record as opposing. Could be the beginning of national electrical power rate regulation.
	(2) fund electric utility rate demonstrations.	(2) FEA has funded $4.9M State level demonstration program with FY75 and 76 funding. OMB in FY77 provided funds for evaluation of the effectiveness of these programs, but no further demonstration funds. This requires funding further programs even though the effectiveness of such programs is not known.
	(3) to intervene in State utility rate proceedings.	(3) Authorizes FEA to intervene in State regulatory rate proceedings when requested. Depending on how "intervene" is interpreted, this provision could present risks. FEA intervention up to now has been to explain broad national policy such supporting adequate rates of return for financially troubled utilities. The intent of this bill may be to have FEA intervene on behalf of consumers, conservation, etc.
	° $13.1 million total authorization: $12.1 million for utility rate demonstration projects and $1 million for intervention in State regulatory proceedings.	

Provision Title	Description of Authority	Assessment
2. Grants for Offices of Consumer Services	° Authorizes FEA to make grants to States that would be used to fund Offices of Consumer Services which would advocate "position most advantageous to consumers" at utility regulatory proceedings. - $2 million grants. - TVA can also set up independent office to represent consumers.	° Places the Federal Government in the position of funding and organizing consumer groups at the State level. Raises fundamental questions about the Federal role vis-a-vis State rate regulation. What is the Federal Government trying to do? -- promote conservation? promote independence? promote cheap electricity? promote consumer movement in any direction? Why shouldn't the Feds fund all interest groups -- utilities, businesses, consumers, State regulators, manufacturers of power equipment, environmentalists? This provision will promote a further confused Government!

Provision Title	Description of Authority	Assessment
Title III		
1. Building Energy Conservation Standards	° Requires HUD Secretary to develop and promulgate energy conservation standards for new residential and commercial buildings. These standards are to be implemented through State and local building codes. However, HUD has overall responsibility for enforcement and can exempt areas from the standards	° Basically, the Administration's proposal, but with undesirable changes including: 1. Congress' approval of the sanctions. 2. Significantly altered implementation of the sanctions: a. Instead of just State certification, a hierarchy of approval (city, county, and State review) subject to HUD's review of each level. b. Allows area exception applications and requires HUD to review each one.

Provision Title	Description of Authority	Assessment
Title IV, A Weatherization Assistance to Low-Income persons who own or rent their residences		° Similar to the Administration's proposal but with some significant differences:
	° Total of $200 million authorization for FEA over 3-year period.	- The funding authorization of $200 million exceeds $165 million Administration request.
	° States are given 90 days to file an application with FEA. If filed and accepted, the State then administers the program and may allocate to local governments, Community Action Agencies, etc. If a State fails to file or does so in an unacceptable way as determined by FEA, then any government entity inside the State including CAA's can make application and if approved, administer the program in their respective areas. If FEA disapproves an application, a public hearing is required and the applicant has recourse through the courts.	- There is a substantial opportunity for CAA's to participate either through a State administered program or directly with FEA where a State fails to administer a program. State inaction is rewarded by FEA absorbing the costs of administering programs through various entities that will apply.
	° The bill provides a $400 maximum grant per dwelling with option for State advisory committee to increase the maximum.	- $400 maximum per dwelling exceeds the average material cost of $125 used by the Administration. Applying a rate of $400 per dwelling, the cost of the program would be in the range of $500 million. The limit in statute will almost guarantee substantial future cost increases.
	° Eligibility is as follows: age limit for elderly is 60 years and over, low-income defined as either by OMB or Social Security Act (AFDC and SSI programs) or related State law; 5 different definitions for handicapped.	- Expanded eligibility will further increase costs. Expanded eligibility also dilutes the President's attempt to focus assistance on the most needy. Using the OMB income guidelines, the Administration's bill would have included over 5 million families eligible for assistance. FEA estimates that the expanded definition will increase the eligible population by at least 20%. We believe that such assistance should be targetted on a worst-first basis.
	° In addition to conservation materials (e.g., storm windows, insulation) up to $50 per dwelling is allowed for equipment, e.g., thermostat heating equipment, etc.	- May create pressure for increasing size of manpower program, although manpower trainees are cheaper labor than union construction workers.
	° Installation can be by manpower training participants and public service employment workers.	° In sum, the provision will add substantially to program costs originally estimated at $165 million and include Community Action Agencies in the program.

Provision Title	Description of Authority	Assessment
Title IV, B		
Supplemental State Conservation Grants	° Requires the Administrator to make grants up to a total of $105 million for supplemental program added to the existing State conservation grant program already established by the Energy Policy and Conservation Act at the $150 million level. ° New mandatory programs for States to implement to be eligible for supplemental funds include: - continuing public education about costs and energy savings for energy conservation measures and renewable resource measures; - providing public information about planning, financing, installing, and monitoring effectiveness of these measures; - completing energy audits at no cost to homeowners and renters; - completing energy audits at reasonable cost to industry, non-profit institutions, and others; and - providing effective coordination among various local, State, and Federal energy conservation programs. ° Other programs that FEA may require States to include are: - program to prevent unfair and deceptive practices related to energy conservation; - periodic verification of costs of energy measures; - assistance for energy-consumer cooperatives; and - advisory committee.	° This is a major expansion of Government's role (albeit at the State level for administration) in monitoring the use of energy by individuals and businesses. It also places the States in the business of completing energy audits which is now largely private sector function. ° Funding for supplemental grant program may be understated since energy audits alone could easily cost far more than $105 million will buy. FEA estimates that homeowner energy audits range from low cost of $50 million to high cost of $4 billion. Low cost based on States mailing Project Conserve questionnaire to 40 million homeowners at $1 each. High cost based on engineers making on-site inspections costing $100 each. States may have flexibility to decide nature of audits, and significant pressure for funding increases may occur once the States and homeowners take advantage of the free audits. To date, we have no evidence that Project Conserve questionnaires are effective energy audits. ° The energy audits will be used to funnel applicants to HUD and FEA for grants, loans, loan guarantees. With an energy audit that shows energy savings greater than cost for conservation equipment, the applicant (homeowner, slum lord, business, hospital, school) is automatically eligible for Federal financial assistance. ° This approach runs counter to the Administration policy and principles for energy. It disregards the marketplace as the primary mechanism for equalizing energy supply/demand relationships and instead relies on massive Government assistance as the best means for reducing energy consumption. There is proof that price increases dampen energy demand. There is no proof that financial assistance will do the same.

Provision Title	Description of Authority	Assessment
Title IV, B (cont.)	° The energy audits are to be used to determine eligibility for HUD $200 million demonstration program (loans/grants) and FEA $2 billion obligation guarantee program. ° Funds must be allocated among States by EPCA formula which includes portion distributed on basis of energy savings.	

Provision Title	Description of Authority	Assessment
Title IV - Part C		
1. HUD $200 million for demonstrating energy conservation grants and loans	° Requires HUD to have a national program to demonstrate grants and loans for energy conservation improvements. Requires HUD to provide assistance for wide variety of residents (those living in different geographical areas, climates, types of dwellings, different income levels, owners and tenants) to provide a representative profile for developing a future, full-scale program. $200 million spending for demonstration phase only. Provides grants of 20% (up to $400) of energy conservation improvements (including storm windows and insulation) and 25% (up to $2,000) of renewable resource systems (including solar systems and windmills).	° Basically, HUD's fallback proposal (OMB opposed) for a demonstration program, but the authorization was increased from $10M to $200M over a 2-year period. HUD's proposal did not limit the grant share of improvement cost, but did target the program to low and moderate income families. The proposal has been broadened to include renters in addition to homeowners. ° Residential/commercial energy consumption has actually reduced 3% since 1973. This reversed the previous trend of increasing consumption, where prior to 1973, the rate of growth averaged 3.8%/year. This shows price incentives for energy conservation already exist and a significant amount of conservation has already occurred. ° The grant approach differs from the Administration's tax credit proposal for homeowners in a basic way. Tax credit requires no new bureaucracy and uses simple rule on who is eligible and for how much. ° Congress anticipates longer-term, wider-scale program since the $200 million is only the first installment which funds only the program demonstration.

Provision Title	Description of Authority	Assessment
TITLE IV, D		
FEA $2 billion in Obligation Guarantees for Energy Conservation	° Authorizes $2 billion in authority for FEA to make obligation guarantee - authority is permissive--"FEA may make" - guarantees and commitments to guarantee loans, bonds, notes, etc. Authority to make new commitments expires 9/30/79. - large corporations, small businesses, partnerships, State and local governments and non-profit institutions are eligible - Guarantees can be made for 2 categories: a) limited to energy-related conservation improvements to structures, buildings and equipment, e.g., such as more efficient heating/cooling equipment as opposed to production equipment whose primary responsibility is to produce products. This could include storm windows, more efficient heating/cooling plants, etc. Equipment improvements could be almost anything whose primary function is to save energy. b) limited to renewable resource measures for energy, e.g., solar plants, windmills, geothermal, others. - obligation amount may include cost of energy audit but cannot exceed 90% of the total cost of the measure. No guarantee can exceed $5 million and it must be repaid in 25 years. - FEA can be required to pay the lendor if the borrower's payment is delinquent by 90 days. - workers installing energy measures must be paid prevailing wage rates. (Davis-Bacon Act) - obligation must be less than 25% of fair market value of building or industrial plant. - $60 million authorized to cover defaults assuming a low 3% default rate.	° This program is largely targeted at the industrial/commercial sectors although State/local/nonprofit institutions are eligible. - Neither FEA nor the Congress has been able to show that energy savings can or will be achieved through loan guarantees. Energy consumption in the industrial sector for the first quarter of 1976 is 6.7% below the 1973 level (prior to the sharp fuel price increase) even though GNP (constant dollars) is slightly higher. We believe this data shows that industry is significantly more energy efficient today than 3 years ago when consumption was growing at an average rate of 2.6% annually. We calculate energy efficiency to have improved by 18% in the last 5 years. - Universities, which are typical nonprofit organizations, have reduced energy consumption by 17% in the last 5 years. ° Loan guarantees are designed to overcome problems of obtaining capital in the private markets. They do not provide significant financial incentive to change the economics of making a particular investment. Treasury advises that at present, the private capital markets are functioning well, e.g., capital is available for worthy credit risks/purpose. For these reasons, the loan guarantee will either: - supplant private credit since it does reduce risks to lenders. - attract applicants who are not credit worthy. In the latter case, the potential for default is high either because the investments are not sound or because the borrower isn't or a combination of both. We seriously doubt the effectiveness of a loan guarantee incentive in reducing energy consumption.

Provision Title	Description of Authority	Assessment
<u>TITLE IV, D</u> (Cont)	- FEA is authorized to charge up to a 1% fee of the amount of loan guarantee on a discretionary basis.	° FEA would require substantial staff to administer the program. Property appraisals, energy audit records, financial audits of defaults would be required. SBA has 1800 full-time staff to make new loan and guarantee approvals of \$2.7 billion per year. Using this as a rough equivalent, FEA would probably need 600-700 positions for FY 78 and FY 79 (assuming \$1 billion of new approvals per year). Some of this could be paid by charging a fee. ° The default estimate of \$60 million or 3% of the authorization appears low compared to other Federal programs. SBA for example averages 6-8% in this area. Using SBA experience and assuming \$2 billion in guarantees are made, the loss on defaults could be as much as \$120-\$160 million. This assumes that any assets recovered are consumed by interest/judicial/administrative expenses.