Signed 9/9/75

THE WHITE HOUSE

WASHINGTON

September 9, 1975

MR PRESIDENT

Attached is the veto message on S. 1849.

Jim Connor

VETOED 9/9/75
Delivered to the Senate 9/9/75 (4:23 pm)
Statement Issued 9/9/75

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 29, 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1849 - Extension of Emergency Petroleum Allocation Act

Sponsor: Sen. Jackson (D) Washington

Last Day for Action

September 9, 1975 - Tuesday

Purpose

Extends the Emergency Petroleum Allocation Act of 1973 for 6 months, until March 1, 1976; extends the Energy Supply and Environmental Coordination Act until December 31, 1975; and amends the latter Act in minor respects.

Agency Recommendations

Office of Management and Budget	Disapproval
Federal Energy Administration	Disapproval (informally)
Department of the Interior	Disapproval
Department of the Treasury	Disapproval
Council of Economic Advisers	Disapproval
Department of Commerce	Disapproval
Environmental Protection Agency	Defers to FEA

Discussion

The Emergency Petroleum Allocation Act, FEA's basic authority to allocate supplies and control prices of domestic crude oil and petroleum products, is scheduled to expire August 31. The enrolled bill would extend that Act for 6 months, to March 1, 1976.

You stated in your July 21 message to the House of Representatives disapproving H.R. 4035 (the Petroleum Pricing Review Act) that if your administrative plan for gradual decontrol of oil prices was not accepted, you would have no choice but to veto the 6-month extension contemplated by the enrolled bill. The House voted to disapprove both versions of your decontrol proposal, and you announced in Vail on August 15 that you definitely intended to veto this bill.

S. 1849 would also extend the Energy Supply and Environmental Coordination Act (FEA's authority to order conversion from oil and natural gas to coal) for 6 months, to December 31, 1975. In addition, the bill would amend that Act to require FEA to take into account the price trends for coal and other energy sources in making a coal conversion decision. Although the coal conversion program will result over the long run in lessened dependence on foreign oil, its extension by means of this legislation is not considered so compelling as to outweigh the disadvantages of continued mandatory price controls on petroleum.

The Department of Commerce, in its enrolled bill letter, recommends that you state your intention at the time the bill is vetoed to propose (1) standby legislation to allocate and control the price of petroleum products during an emergency, and (2) legislation to allocate LPG supplies during the coming winter.

A memorandum of disapproval is being prepared by FEA and will be forwarded to you separately.

James T. Lynn
Director

Enclosures

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 4 1975

Dear Mr. Lynn:

This responds to your request for the views of this Department concerning S. 1849, an enrolled bill "To extend the Emergency Petroleum Allocation Act."

We recommend that the President disapprove the bill.

The bill would extend executive authority under both the Emergency Petroleum Allocation Act and the Energy Supply and Environmental Coordination Act of 1974 for six months. It would also amend the Energy Supply and Environmental Coordination Act so as to require the Federal Energy Administration to make an investigation and assessment of coal price trends and related developments and their relationship to other energy sources, including appropriate recommendations.

The bill would extend present price controls on oil without arranging for a phase-out or termination of such controls. The Administration recently set forth satisfactory terms for elimination of controls, including a 39 month gradual phase-out of "old" oil price regulation. Congress has rejected these terms and the Administration has already determined to disapprove the price control authority extension provided by the Act.

Sincerely yours,

Kent Frizzell

Acting Secretary of the Interior

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D. C. 20503

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 5, 1975

Dear Mr. Frey:

This is in response to your request for our views on S. 1849, a bill which would extend the Emergency Petroleum Allocation Act.

Such an extension would be inconsistent with Administration energy policy. It would prolong the price and allocation controls which have disrupted large sections of our economy and have led to an inefficient use of our scarce resources. Despite the benefits generated for purchasers of some petroleum products, on balance the level of welfare enjoyed by Americans has been reduced as a result of these controls. The Council of Economic Advisers strongly opposes this bill.

Sincerely yours,

Alan Greenspan

Mr. James Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 7 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 1849, "To extend the Emergency Petroleum Allocation Act."

The enrolled enactment would extend the Emergency Petroleum Allocation Act of 1973, which will expire on August 31, 1975, six months to March 1, 1976. The Emergency Allocation Act is the sole authority for the price control and allocation of domestic crude oil, residential fuel oil, and refined petroleum products. Imported oil is not subject to price and allocation regulations.

On July 30, the House disapproved the President's proposal for the decontrol of "old" oil prices over 39 months. On August 2, the Congress went on recess and will not return until September 3, during which time, obviously, no legislation on oil decontrol can be passed. Moreover, there is no indication that Congress will pass a reasonable decontrol plan in the near future.

The Senate Finance Committee has reported a windfall profits tax with a plow-back provision and a provision for the redistribution of the revenue. The Senate cannot take action on this bill before returning from recess.

Past studies and experience have indicated the necessity of decontrol in order to sufficiently increase domestic production for national security and energy independence. Since the Congress has not agreed to a reasonable plan to gradually decontrol domestic oil, the President has announced that he plans to veto S. 1849.

In view of the foregoing, the Department recommends that the President not approve the enrolled enactment of S. 1849, and that the Administration pursue enactment of the legislation providing for a windfall profits tax.

Sincerely yours,

Richard R. Albrecht

General Counsel
Richard R. Albrecht

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE
Washington, D.C. 20230

AUG 2 7 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is to confirm the views of the Department of Commerce, as communicated orally to the Office of Management and Budget on August 26, 1975, with respect to S. 1849, an enrolled enactment

"To extend the Emergency Petroleum Allocation Act."

The Department of Commerce recommends disapproval by the President of the enrolled enactment because Title I of that enactment, cited as the "Emergency Petroleum Allocation Extension Act of 1975", constitutes an unacceptable simple extension of the present Act for six months beyond its expiration date of August 31, 1975. Our objection to the enrolled enactment does not include Title II, cited as the "Coal Conversion Extension Act of 1975".

We strongly recommend that, at the time of veto, the President state his intention to immediately propose standby legislation providing authority to allocate and/or control the price of petroleum products in times of emergency--including widespread economic disruptions. We also recommend that the President announce his intention to submit to the Congress legislation authorizing such controls with respect to LPG supplies during the coming winter season.

In recommending legislation authorizing allocation and price controls for LPG, we are especially concerned with the need for realistic price control actions to insure the effectiveness of any Government allocation program with respect to a single product or class of products. This emergency authority is warranted in order to insure sufficient LPG supplies for the critical home heating and agricultural sectors of the economy in the event that predicted shortages of natural gas materialize.

Sincerely,

Karl E. Bakke

General Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 8 1975

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Lynn:

This is in response to your August 1, 1975 request for the views and recommendations of the Environmental Protection Agency on S. 1849, an enrolled bill designed to extend the Emergency Petroleum Allocation Act.

Title I of the enrolled bill, the "Emergency Petroleum Allocation Extension Act of 1975," would extend the termination date of the Emergency Petroleum Allocation Act of 1973, as amended, from August 31, 1975 to March 1, 1976. Title II of the enrolled bill, the "Coal Conversion Extension Act of 1975," would extend the authority of the Federal Energy Administration to issue orders or rules under section 2(a)-(d) of the Energy Supply and Environmental Coordination Act of 1974 from June 30, 1975 to December 31, 1975. Title II also directs the FEA to conduct a price trend study regarding energy sources.

The Environmental Protection Agency has no objection to Presidential approval of the enrolled bill. However, we generally defer to the Federal Energy Administration, the responsible Federal agency directly affected by the bill, regarding the energy and economic merits of the enrolled bill.

The enrolled bill does not provide a substantive change in these existing laws; it merely extends the termination dates. Since both statutes contain mechanisms for ensuring that environmental concerns in general, and the laws administered by EPA are considered in the decision-making process, we have no objection to the President's signing the enrolled bill into law.

Sincerely yours,

Russell E. Train

Russell E. Train
Administrator

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

To J. Cavanaugh
8-29-75
2:45 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 29 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1849 - Extension of Emergency Petroleum Allocation Act
Sponsor - Sen. Jackson (D) Washington

Last Day for Action

September 9, 1975 - Tuesday

Purpose

Extends the Emergency Petroleum Allocation Act of 1973 for 6 months, until March 1, 1976; extends the Energy Supply and Environmental Coordination Act until December 31, 1975; and amends the latter Act in minor respects.

Agency Recommendations

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Department of the Treasury	Disapproval
Council of Economic Advisers	Disapproval
Department of Commerce	Disapproval
Environmental Protection Agency	Defers to FEA

Discussion

The Emergency Petroleum Allocation Act, FEA's basic authority to allocate supplies and control prices of domestic crude oil and petroleum products, is scheduled to expire August 31. The enrolled bill would extend that Act for 6 months, to March 1, 1976.

You stated in your July 21 message to the House of Representatives disapproving H.R. 4035 (the Petroleum Pricing Review Act) that if your administrative plan for gradual decontrol of oil prices was not accepted, you would have no choice but to veto the 6-month extension contemplated by the enrolled bill. The House voted to disapprove both versions of your decontrol proposal, and you announced in Vail on August 15 that you definitely intended to veto this bill.

S. 1849 would also extend the Energy Supply and Environmental Coordination Act (FEA's authority to order conversion from oil and natural gas to coal) for 6 months, to December 31, 1975. In addition, the bill would amend that Act to require FEA to take into account the price trends for coal and other energy sources in making a coal conversion decision. Although the coal conversion program will result over the long run in lessened dependence on foreign oil, its extension by means of this legislation is not considered so compelling as to outweigh the disadvantages of continued mandatory price controls on petroleum.

The Department of Commerce, in its enrolled bill letter, recommends that you state your intention at the time the bill is vetoed to propose (1) standby legislation to allocate and control the price of petroleum products during an emergency, and (2) legislation to allocate LPG supplies during the coming winter.

A memorandum of disapproval is being prepared by FEA and will be forwarded to you separately.

James T. Lynn
Director

Enclosures

Final

September 9, 1975
6th Draft

~~PROPOSED~~ PRESIDENTIAL VETO ~~STATEMENT~~ MESSAGE, ~~ON OIL PRICE CONTROLS~~
S. 1849

I am today vetoing S. 1849, which would extend ~~s~~ price controls on domestic oil another six months. I am taking this action because:

1. An extension of price controls would increase our dangerous and growing dependence on imported oil.

2. It would increase the export of jobs and dollars from our economy.

3. It would jeopardize our future economic stability and national security.

4. It would retard conservation of energy.

5. It would postpone the badly needed development and production of new domestic energy.

6. It would negate the possibility of long range compromise on this problem because of expected Congressional reluctance to tackle the issue of higher oil prices in an election year.

(more)

Since 1971, America's bill for imported oil has climbed from just over $3 billion annually to $25 billion today -- a 700% increase. This $25 billion could provide more than one million jobs for Americans here at home. We cannot delay longer.

Last January in my State of the Union Message, I proposed to the Congress a comprehensive energy program to make the United States independent of foreign oil by 1985.

The need for such a program grows with each passing day. Right now, the United States is dependent on foreign oil for almost 40 percent of its current needs. If we do not act quickly to reverse this trend, within 10 years, we will import more than half of the oil we need at whatever price is demanded by foreign producers who can cut off our supply any time they want to.

The more foreign oil we import, the more dollars and the more jobs we lose from our economy. And as American jobs and dollars flow out of the country, so does our economic and national security.

(more)

The 1973 embargo cost us more than $15 billion in Gross National Product and threw hundreds of thousands of persons out of work. It dramatically showed our vulnerability. Another disruption would be even more costly in dollars and jobs -- and could throw us into a new recession.

The detailed legislative program I sent to the Congress last winter involved tough measures to put us immediately on the road to energy independence. It would have conserved the energy we now have and accelerated development and production of more energy here at home.

Because this program would have increased energy prices somewhat until new domestic supplies were developed, I also proposed tax legislation to prevent undue profit-taking by oil companies and to return energy tax dollars to American consumers to offset the slightly higher prices they would pay.

(more)

Since I could not gamble with our Nation's security while waiting for the Congress to act on my comprehensive program, I raised the import fees on each barrel of foreign crude oil in February as an interim measure to reduce imports.

The Congress still has not acted. Throughout these months, I have compromised again and again and again to accommodate Congressional requests.

I delayed putting the second dollar fee on imported oil for 90 days, finally imposing it June 1. I delayed the third dollar indefinitely. Still, ~~we have~~ the country has seen no Congressional action.

In my State of the Union Message last January, I announced a decision to remove the ceiling on price-controlled domestic oil April 1, permitting it to rise from $5.25 per barrel to the free market price. This action would have immediately stimulated production and development of needed additional energy supplies and also encouraged conservation.

(more) (paragraph continues)

At the request of Congressional leaders, I postponed such action to give them time to work out a different solution.

After nearly six months without Congressional passage of a decontrol bill or any other positive legislation, I proposed in early July a compromise 30-month phased oil decontrol plan. This program represented an effort to meet the concerns raised by many members of Congress and showed the Administration's willingness to compromise. The House of ~~Congress~~ Representatives rejected this plan.

I made another effort to reach a solution before the August Congressional recess by submitting another decontrol plan, which would have gradually phased out price controls over a 39-month period and put a price ceiling on all domestic oil.

I believe this decontrol plan went more than halfway to meet concerns raised by the Congress. Although it would achieve energy ~~conservation~~ objectives more slowly than warranted. I offered it in the spirit of compromise, because action was desperately needed.

Instead, the ~~Congress~~ House also rejected this ~~attempt at~~ compromise attempt and Congress passed ~~a~~ this bill which would simply extend the pricing and allocation authorities for another six months. This proposed action would only ensure the continued growth of our dependence on foreign oil.

I cannot approve six more months of delay --delay which would cost needed jobs and dollars and compound our energy and economic problems.

From my experience in the Congress, I am well aware that it will be easier to pass the tough legislation needed to begin solving the energy problem this year rather than during the 1976 election year. The six-month price controls extension contained in the bill I am vetoing would postpone possible action until at least the Spring of 1976 and in all likelihood would mean an indefinite delay in our efforts to begin solving this problem.

Despite last minute attempts made in good faith by the Democratic and Republican leadership, their effort to achieve a compromise in the Congress has failed. It is clear ~~the~~ that too many Members of the Congress have not come to grips with the decontrol issue -- much less the overall energy problem.

We must ~~attack~~ have a national ~~the~~ energy ~~problem~~ program before ~~it becomes a~~ we have a national energy emergency. Our time to act instead of react grows shorter with each day and with each delay.

Without price controls on domestic oil, we can reduce dependence upon imported oil by reducing domestic consumption by more than 700,000 barrels per day within two years. We can reduce dependence in the long run by increasing domestic production by nearly one and one-half million barrels per day by 1985. By continuing controls, imports will increase because of a lack of incentives to spur domestic production and the energy problem will get worse and worse.

If my veto is sustained,I still will accept a 45-day extension of price controls to provide time to work with the Congressional leaders who have assured me that they will seek an acceptable compromise during this period. If this further compromise fails, however, I will take the following actions to ensure an orderly transition from government controls to the free market:

-- I will remove the previously imposed $2 per barrel import fees on crude oil and a 60 cents fee on petroleum products.

-- I will again press the Congress to enact a windfall profits tax with plow back provisions and to return the money collected to the American consumer.

-- I will propose legislation to provide a gradual transition from price controls for small and independent refiners.

-- I will propose legislation to provide authority to allocate liquified petroleum gases, such as propane, to supply these important fuels at reasonable prices to farmers, rural households and curtailed natural gas users.

-- I will seek authority to provide retail service station dealers legal remedies to protect their interests against unwarranted actions by the major oil companies.

Since January, I have gone more than halfway in order to reach a responsible compromise. Obviously, we have talked and delayed long enough. We must act now to protect not only ourselves, but future generations of Americans. I urge Members of the Senate and the House to sustain my veto and get on with the job of meeting this problem head-on.

The continued failure of Members of the Congress to enact a National Energy Program puts us increasingly at the mercy of foreign oil producers and will certainly result in Americans paying substantially higher prices for their fuel.

# # #

Calendar No 215

94TH CONGRESS 1st Session | SENATE | REPORT No. 94-220

EMERGENCY PETROLEUM ALLOCATION EXTENSION ACT OF 1975

JUNE 23 (Legislative Day), JUNE 6, 1975.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S. 1849]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1849) to extend the Emergency Petroleum Allocation Act of 1973, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The Committee amendment is as follows:

On page 1, line 10, strike "August 31, 1977" and insert in lieu thereof "March 1, 1976".

The text of the bill as amended is as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Petroleum Allocation Extension Act of 1975."

EXTENSION OF MANDATORY ALLOCATION PROGRAM

SEC. 2 Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "August 31, 1975" wherever it occurs, and inserting in lieu thereof "March 1, 1976.".

38-010

I. Summary

The purpose of the Emergency Petroleum Allocation Act of 1973 was to provide authority for the mandatory allocation of crude oil, residual fuel oil and refined petroleum products in amounts and at prices required to provide for the protection of the public health, safety, and welfare and maintenance of public services and agricultural operations. In addition to providing the authorities necessary for dealing with the shortages induced by the Arab embargo, the Act has served to insulate the economy and the American consumer from the drastic petroleum price increases which followed.

Pursuant to Section 4(g)(1), the Allocation Act—which provides the sole authority for continued price control and allocation—will expire on August 31, 1975. If the Act is not extended, the two-thirds of domestic crude oil production now under price controls will rise abruptly from $5.25 to over $13 per barrel. Because of the $2 tariff imposed by the President, removal of price controls will push the price of domestically produced crude oil even above the economically ruinous and artificially high prices now set by the OPEC cartel.

If the proposed $3 tariff is enacted, the cost to the U.S. economy of decontrolling old domestic crude oil—coupled with higher costs for new and imported oil and competing fuels such as coal and intrastate natural gas—will amount to a staggering $33.5 billion per year. Assuming the OPEC cartel raises world oil prices by $2 this fall, the total drain on the economy would approach $50 billion.

There is, of course, considerable disagreement over the need for or desirability of decontrolling domestic crude oil prices. However, even proponents of decontrol recognize that the immediate lifting of all price controls—which could occur if the Allocation Act were permitted to expire on August 31—would cause severe dislocations in an economy weakened by prolonged recession and inflation. For this reason, advocates of decontrol in both the Administration and Congress have suggested plans to phase out price controls over an extended period. In fact, the Administration's proposal to decontrol domestic crude oil prices over two years would necessitate an extension of the authorities provided in the Allocation Act.

The Committee strongly believes that a six month extension of the Act is essential to assure an orderly transition period for resolving the significant issue of domestic crude oil pricing. Without such an extension, there will be no opportunity either to phase out price controls gradually, or to extend the Act with appropriate amendments for an interim period. Moreover, the abrupt termination of price control authority and the consequent increase in domestic crude oil prices may occur simultaneously with further price increases contemplated by the OPEC cartel this fall. This would place an intolerable burden on the economy and destroy any prospect of recovering from the current recession. Since the Allocation Act permits the President to increase crude oil prices, or exempt any category of petroleum from regulation, the Committee believes the issue of domestic crude oil pricing should be resolved while preserving the important protection provided by the Act.

II. Purpose of Extension

Background

The purpose of the Emergency Petroleum Allocation Act of 1973 was to provide authority to deal with the impact of shortages of crude oil, residual fuel oil and refined petroleum products on the economy, on individual consumers, and the independent sector of the petroleum industry.

The Act, which was approved on November 27, 1973, directed the President to promulgate regulations for the mandatory allocation of crude oil and refined petroleum products in amounts and at prices required to provide for the protection of the public health, safety, and welfare and maintenance of public services and agricultural operations. In addition, the Act specified that the regulations were to be designed to preserve an economically sound and competitive petroleum industry, to permit full utilization of refinery capacity and to provide for *the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry and among all users.* (emphasis added)

The Act therefore contemplates the allocation of petroleum under conditions in which disparities exist in the availability of supplies—that is, shortage conditions—and under conditions in which inequitable levels and disparities exist as to the prices of the supplies which are available. The dominant feature of the domestic petroleum market at the time the Allocation Act was approved was the threat of supply curtailment because of the Arab embargo. During the winter of 1973–74 this threat rapidly developed into a shortage of crude oil, as the embargo became more and more effective. As events unfolded, however, it became clear that the most significant result of the embargo was the dramatic increase in the price of oil imported from OPEC member countries—a price increase which was dictated by an international cartel of oil producing countries totally beyond the control of the U.S. government. Both the Allocation Act and the Economic Stabilization Act provided authority for the President to minimize the inflationary impact of these price increases on the domestic economy by controlling the prices of domestic fuels. The Allocation Act added the direction that the uneven competitive impact of both shortages and price increases on the domestic petroleum industry also be minimized.

Because excess capacity for domestic crude oil production had essentially vanished in 1972–73, domestic petroleum prices would have quickly jumped to match the artificial, cartel-set price of imported oil. In fact, the regulations adopted by the Administration exempted certain classes of domestic production from price controls. This production—'new' and 'released' oil and, pursuant to the specific direction of the Allocation Act, stripper oil—sold on the domestic market at prices approximately equal to the price of imported petroleum. The differential in price between exempt and controlled oil rose to over $5 per barrel by the summer of 1974 after the supply embargo was lifted. The price differential has increased steadily since that time.

The conference report on the Allocation Act clearly stated the intent of Congress that the Administration concern itself with both the allocation of available supplies of oil and the prices of the supplies which were allocated. On page 26 of the conference report the managers stated:

> By requiring that both allocations and prices be covered in the regulation required to be promulgated and implemented under Section 4(a), Congress intends to force the Administration to rationalize and harmonize the objective of equitable allocation of fuels with the objectives of the Economic Stabilization Act * * *
>
> The reference to equitable prices in the bill is specifically intended to emphasize that one of the objectives of the mandatory allocation program is to prevent price gouging or price discrimination which might otherwise occur on the basis of current shortages. On the other hand, it is contemplated that prices for allocated fuels will be set at levels or pursuant to methods which will permit adequate compensation to assure that private property is not implicitly confiscated by the government. Most importantly, the President must, in exercising this authority, strike an equitable balance between the sometimes conflicting needs of providing adequate inducement for the production of an adequate supply of product and of holding down spiraling consumer costs.

Protection of competition

A critical determinant of competitive viability for domestic refiners is access to the benefits of oil produced domestically. Under a two-tier pricing system such as the one forced on the United States by OPEC, domestic refiners with access to relatively lower-cost domestic production have an enormous economic advantage—an advantage given them by OPEC.

This windfall advantage can clearly be used to erode the competitive structure of the domestic petroleum industry. The Allocation Act provides authority to deal directly with this issue by requiring allocation of supplies "at equitable prices among all regions and areas of the United States and sectors of the petroleum industry.

Protection of domestic economy

The Committee strongly believes that the desirability of limiting the enormous domestic economic impact of past and prospective OPEC oil price increases far outweighs the administrative difficulties associated with the temporary price structure implied by the Act for domestically refined oil. If the U.S. is to avoid delegating domestic energy pricing decisions to the OPEC cartel and retain the substantial benefits for its economy and people which flow from the availability of domestic energy resources, continuation of the authority embodied in the Allocation Act is essential.

The disparity between the price of imported oil and oil produced domestically under price controls is larger today than during the embargo. There is a high probability the OPEC cartel will widen this gap even further before the end of the year. The United States thus

faces the clear prospect of new inflationary pressures on the domestic economy. The Committee believes strongly that the pressures generated by oil prices must be confined, to the extent practical, to the import stream supplying domestic refineries.

Cost of administration energy program

The energy tariff and price decontrol program which the President plans to implement through Executive order will raise domestic energy costs for petroleum, natural gas, coal and electricity by at least $33 billion on an annual basis. This is virtually identical to the increased costs paid for primary energy in the United States in 1974 as a result of the price increases of OPEC and domestic energy producers. The following analysis was prepared by the committee staff:

Oil

The President's proposed $3 tariff on imported oil increases the price of the one-third of domestic production which is not under price controls.

	Billions
Added cost of imports (including effect of rebates for imported refined products)	$5.4
Added costs: "new oil"	3.3
Subtotal	8.7

The President proposes to decontrol the prices of "old" oil—two thirds of domestic production. With the $3 tariff in effect, the price of this oil would rise by over $9 per barrel.

	Billions
Added costs: decontrol of old oil	$19.0
Total cost: oil	27.7

Coal and Natural Gas

The prices of natural gas sold on the intrastate market and of coal rise in response to oil price increases. Each dollar per barrel increase in oil prices is equivalent on a Btu basis to an increase of 18¢ per thousand cubic feet for natural gas and $4.30 per ton for coal.

	Billions
Added costs: coal and natural gas	$5.8
Total cost: all fuels	33.5

Cost to the Average American

The $33.5 billion in increased costs to the economy will be paid by consumers in the form of higher prices for fuels and electricity, in higher taxes to support government's increased energy costs and in higher prices for all other goods and services whose costs depend in various ways on energy prices.

Spread over 210 million people, $33.5 billion amounts to $160 for each man, woman and child.

Cost to an average four-person family (per year)	$600

Effect on Petroleum Prices

The price paid by U.S. refiners for crude oil—including new, old and imported oil—would increase by over $6 per barrel.

	Cents per gallon
Average price increase for all petroleum products	15
Costs tilted toward gasoline	28

Profits and Taxes

Of the $33.5 billion annual cost, $5.4 billion represents Treasury revenues and the remainder, $28.1 billion represents increased profits for domestic oil, natural gas and petroleum producers, since no workable windfall profits tax has been proposed.

Cost of Increased Domestic Production

The Ford Administration's discussion of the impact of the decontrol of crude oil prices on domestic production shows projected production with decontrol dropping below current levels. However, the drop projected is smaller than the decline projected without decontrol. The net increase is 135,000 barrels per day—or 50 million barrels per year—when the decontrol has been completed. Consumers will pay oil companies an extra $22.3 billion annually for this oil.

Cost of added domestic production (per barrel)	$445

Further OPEC Price Increases

FEA Administrator, Frank Zarb, has indicated that he expects the OPEC cartel to raise world oil prices by $2 per barrel this fall. If this happens and domestic energy prices are decontrolled, the price of all domestic oil—and natural gas and coal as well—will rise in response to the OPEC price decision.

	Billion
Added costs: $2 OPEC price increase	$15.3

Price Increases During the 1973–74 Embargo

During 1974 the price of all imported oil rose from an annual rate of $7 billion to approximately $24 billion. Domestic energy production increased in price by over $16 billion. Thus the increase in the cost of primary energy to the U.S. economy in 1974—which was triggered by OPEC's embargo and price escalation—amounted to $33 billion. These increases were a principal factor in the 12% inflation of 1974. High energy costs have also been important in deepening and prolonging the current recession. The energy price increases of 1973–74 brought upon us by OPEC were almost identical in magnitude to those the Ford Administration proposes for 1975 and 1976.

Congressional action

The Allocation Act is now scheduled to expire on August 31, 1975. However, on April 10, 1975, the Senate by a vote of 60 to 25 passed S. 622, the "The Standby Energy Authorities Act." As introduced and reported by the Committee. S. 622 extended the Allocation Act to June 30, 1976. A floor amendment offered by Senator Fannin to extend the Act to March 1, 1976, was unanimously accepted by the Senate.

The House passed H.R. 4035, "Congressional Review of Certain Administrative Actions under the Emergency Petroleum Allocation Act of 1973" on June 5, 1975, by a vote of 230 to 151. This bill, which extends the Allocation Act to December 31, 1975, will be sent to Conference with a Senate companion bill, S. 621. "The Petroleum Price Increase Limitation Act of 1975". Unlike H.R. 4035, S. 621 does not extend the Allocation Act.

Both Houses of Congress have thus voted to extend the Emergency Petroleum Allocation Act of 1973: the Senate in S. 622 providing an extension to March 1, 1976, and the House in H.R. 4035 providing an extension to December 31, 1975. The Senate bill grants the President standby energy authorities and establishes a mandatory energy conservation program. The House bill contains major revisions in both the nature and extent of Congressional review of Administration decisions governing domestic crude oil prices. Since both the House and Senate-passed bills address important but different and disputed issues of national energy policy, in addition to extending the Allocation Act, it is possible that the Act may expire on August 31, 1975, despite the fact that both Houses of Congress have voted to extend it.

Because the Emergency Petroleum Allocation Act of 1973 contains the only existing authority to control prices of crude oil and petroleum products and to allocate fuels in time of shortage, the Committee believes it should not be allowed to expire. Accordingly, it is proposing a simple six month extension of the Act, without further amendment, from August 31, 1975 to March 1, 1976. The Federal Energy Administration can, of course, de-allocate specific petroleum products or change existing price controls even if the Act is extended a brief period. The Act includes authority for such actions.

Presidential authority under the Act

Section 4(a) of the Act requires the President to promulgate "a regulation providing for the mandatory allocation of crude oil . . . at prices specified in (or determined in a manner prescribed by) such regulation." Section 4(g)(2) requires the President to submit for Congressional review any amendment to the regulations exempting any category of petroleum from the regulations promulgated under Section 4(a). The President is thus authorized to increase crude oil prices, or exempt any category of petroleum, by the terms of the Emergency Petroleum Allocation Act. In fact, if the Administration submits to Congress its current plan to phase out price controls on "old" crude oil over a two year period, it would be necessary to extend the price control authority provided in the Allocation Act for a period far longer than the proposed six months.

The Act thus contemplates accommodation to changing circumstances. Should the structure of the world petroleum market and the prices of oil purchased on this market change, section 4(g)(2) offers the Administration ample flexibility with regard to the adoption of new pricing or allocation regulations. As the Act provides, the Congress is a part of this process. This section is the proper mechanism for altering, in consultation with the Congress, the nature and extent of regulation of the domestic petroleum market, given the current world situation. The Committee believes that the precipitous change in the domestic energy situation which would result from a sudden removal of the controls authorized by the Act would cause totally unwarranted hardship on an enormous number of Americans and would lead swiftly to a disastrous deterioration in the already precarious position of the domestic economy.

In addition, the Committee has not concluded oversight hearings on the implementation of the Allocation Act by the Federal Energy Administration, nor has that agency completed its review and submitted recommendations to the Committee for the purpose of amending or extending the Act. Until such time as the issues of removing price controls on "old" domestic crude oil and the need for further modification of the Act are resolved, the Committee believes that a six month extension is appropriate.

The need for continued allocation authority

Given the President's authority to amend the petroleum pricing regulations, subject to Congressional review, the Committee believes that the important protection provided by the Allocation Act in the event of an embargo or other emergency shortage should not be forgone. There is, for example, a high probability of a gasoline shortage this summer caused by an underutilization of existing refinery capacity, that has led to a sharp drop in gasoline stocks. The authorities contained in the Allocation Act are intended to provide a means for dealing with just such conditions. Section 4(b)(1)(E) of the Act includes an express directive that regulations promulgated under section 4(a) provide for "the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity." If the gasoline shortage becomes acute, it may even be necessary to provide additional authority to insure adequate refinery runs and balances, as well as mandatory inventory levels for crude oil and product stocks. In any event, it would be wholly unreasonable to allow the only existing authority to deal with shortages to expire at a time when a shortage appears to be in the offing.

The allocation authority conferred by the Act not only protects the Nation against the dislocations of a possible future embargo or other shortage condition, but also provides an appropriate mechanism for dealing with the Canadian plan to cut crude oil exports to the United States to 650,000 barrels per day by July 1 and eventually phase out exports to the U.S. entirely. Without some continued allocation system, Northern Tier refiners will lack sufficient access to oil that is necessary for meeting consumer demand in this area.

Proposed six-month extension

The problem of exorbitant world oil prices and their adverse impact on the domestic economy and American consumers, coupled with the ever present danger of another embargo or other emergency energy shortage, persuasively demonstrates the need for extending the Allocation Act an additional six months. The uncertain action of the oil producing cartel, which may raise world oil prices this fall by as much as $2 to $4 per barrel, further reinforces the case for maintaining a capability to control domestic crude oil prices in the near term.

By extending the Allocation Act at this time, it is the Committee's intention to assure that national energy policy will not be dictated by the expiration date of that Act, but will instead be established after due deliberation and debate on the relative merits of the comprehensive energy programs proposed by the President and Congress.

III. Committee Recommendation

The Committee on Interior and Insular Affairs recommends that S. 1849, as amended, be approved by the Senate and enacted.

IV. Legislative History

A. Background

S. 1570, the "Emergency Fuels and Energy Allocation Act of 1973" was introduced in the Senate on April 13, 1973 and referred to the Committee on Interior and Insular Affairs. It was reported with an amendment on May 13, 1973 and passed by the Senate on June 5, 1973. S. 1570 was considered by the House of Representatives on October 17, 1973 and was passed, amended, by the House on that date in lieu of the House companion bill H.R. 9681. The Conference Report on S. 1570 was agreed to by the House on November 13, 1973 and by the Senate on November 14, 1973. The bill was approved by the President on November 27, 1973 and became Public Law 93–159.

During the second session of the 93d Congress, the Committee held 11 days of hearings which directly or indirectly addressed the allocation and pricing provisions of the Allocation Act, and the regulations for its implementation. On August 12, 1974, the Senate passed S. 3717, which extended the Allocation Act from February 28, 1975 to June 30, 1975. On November 21, 1974, the Senate unanimously passed a House companion, H.R. 16757, which extended the Allocation Act to August 31, 1975. This bill became Public Law 93–511 on December 5, 1974.

B. The "Emergency Petroleum Allocation Extension Act of 1975" (S. 1849)

S. 1849, the "Emergency Petroleum Allocation Extension Act of 1975", was introduced on June 4, 1975 by Senator Jackson and referred to the Committee on Interior and Insular Affairs. Formal legislative hearings on the implementation and administration of the Allocation Act by the Federal Energy Administration, including the desirability of extending or amending the Act, were held on April 28 and May 19, 1974. The following witnesses appeared before the Committee in the course of these hearings:

The Honorable Robert Montgomery, General Counsel, Federal Energy Administration.

The Honorable Gorman Smith, Assistant Administrator, Federal Energy Administration.

Mr. Peter H. Schuck, Director, Washington Office, Consumers Union.

Mr. Frank N. Ikard, President, American Petroleum Institute.

Mr. Richard Mancke, Associate Professor, The Fletcher School of Law and Diplomacy.

Mr. Robert Nathan, Robert Nathan Associates, and Mr. Donald C. Slawson, representing Small Producers for Energy Independence.

Mr. Lloyd N. Unsell, Vice President, Independent Petroleum Association of America.

Mr. Tom E. Love, President National Oil Jobbers Council, Inc.

Mr. Newell Baker, President, Society of Independent Gasoline Marketers of America.

Mr. Jerry Herbst, Herbst Oil Company.

Mr. Ken Catmull, Vice President, Autotronic Systems, Inc., on behalf of Independent Gasoline Marketers of America.

Dr. Chuck Masters, U.S. Geological Survey.

Mr. Charles L. Binsted, Executive Director, National Congress of Petroleum Retailers.

Mr. C. John Miller, President, Independent Petroleum Association of America.

Mr. T. Howard Rogers, President, Santa Fe Natural Resources, Inc.

Mr. Frederick Addy, Vice-President, Amoco Production Co.

Mr. Charles J. Waidelick, President, Cities Service Co.

Mr. Kenneth Crandall, American Association of Petroleum Geologists.

Mr. W. F. Traeger, Vice President and General Counsel, Otis Engineering Corporation.

Mr. John Wagenhouser, Vice President and General Counsel, Continental Emsco.

Mr. Robert L. Parker, President, Parker Drilling Company.

Mr. Jack Mefford, for William Hunter, National Supply Company.

Mr. George E. Austin, Vice President, Morgan Guaranty Trust Company.

Mr. Kenneth E. Hill, Executive Vice President, Blythe, Eastman, Dillon.

Mr. Charles D. Fraser, Senior Vice President, The First National Bank of Midland.

Mr. Wallace W. Wilson, Vice President, Continental Illinois National Bank.

Statements were filed for the record by the following:

The Honorable Frank Zarb, Administrator, Federal Energy Administration.

Edward F. Hubbard, General Manager, Philadelphia Gas Works.

Mr. Edwin Jason Dryer, General Counsel, Independent Refiners Association of America.

Mr. James E. Landry, General Counsel, Air Transport Association of America.

Mr. Arthur Soule, President, Patchoque Oil Terminal Corporation.

Trans World Airlines.

Butler International, Inc.

Aviation Business Association.

The Standard Oil Company of Ohio.

Marathon Oil Company.

Conoco Oil Company.

Correspondence:

Letter from the Honorable Stuart Symington, United States Senate.

Letter from William R. Connole, Counsel for Emergency Syngas Group.

In addition, the transcript of hearings held by the Federal Energy Administration on May 13 and May 14, 1975, examining the President's proposed two year phase-out of petroleum price controls, is available to the public.

C. COMMITTEE AMENDMENTS

The Committee met in an open markup session on June 16, 1975, and at the conclusion thereof the bill was ordered reported with an amendment. This amendment extends the Allocation Act from August 31, 1975, to March 1, 1976, and is consistent with the six month extension of the Act provided in S. 622, "The Standby Energy Authorities Act," which was passed by the Senate on April 10, 1975.

V. Tabulation of Votes Cast in Committee

Pursuant to Section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Committee during consideration of S. 1849:

1. During the Committee's consideration of the Emergency Petroleum Allocation Extension Act of 1975, three formal rollcall votes were taken on amendments to the bill. These votes were taken in open public session and, because they were previously announced by the Committee in accord with the provisions of Section 133(b), it is not necessary that they be tabulated in the Committee Report.

2. S. 1849, as amended, was ordered favorably reported to the Senate on a roll call vote of 10 yeas and 4 nays. The vote was as follows:

Jackson	Yea	Fannin	Nay
Church	Yea	Hansen	Nay
Metcalf	Yea	Hatfield	Yea
Johnston	Yea	McClure	Nay
Abourezk	Yea	Bartlett	Nay
Haskell	Yea		
Glenn	Yea		
Stone	Yea		
Bumpers	Yea		

VI. Cost Estimate of S. 1849

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970, the Committee estimates that the new obligational authority which would be incurred in carrying out S. 1849, as amended, would be $19,500,000.

VII. Executive Communications

No formal communications have been received from the Executive Branch on S. 1849.

In a statement submitted to the Committee on May 19, 1975, FEA Administrator, Frank Zarb, urged the Committee to defer consideration of amendments to or extension of the Allocation Act, while noting the need for "some continuing regulatory role with respect to the petroleum industry after August 31 of this year."

VIII. Minority and Additional Views

MINORITY VIEWS OF SENATORS FANNIN, HANSEN, McCLURE, AND BARTLETT

At the request of the Administration last summer, we voted in favor of S. 3717 to extend the expiration date of the Emergency Petroleum Allocation Act from February 28, 1975, to June 30, 1975.[1] Our sole purpose for voting to support the four month extension was to provide an additional period of time in which to proceed with an orderly and complete phase out of all price and allocation controls. No other amendments than the mere four month extension were contemplated or agreed upon in conversations between Administration officials and members of this Committee on both sides of the aisle.

Such an intent of the Committee members was clearly reflected in the following statement made by the Committee chairman, Senator Jackson, on the floor of the Senate on August 12, 1974, (Page S. 14725 of the Congressional Record of August 12) "The act is now scheduled to expire on February 28, 1975. This expiration date occurs too soon after the new Congress convenes for a careful evaluation of the administration of the act and an informed decision as to the need for a full scale extension of the act in light of conditions then prevailing. Furthermore, if the Congress were unable to complete action on extension proposals, the act would expire at the height of the winter heating season when the need for allocation authority could be greatest. . . . The Committee believes that it is too soon to make basic changes in the act and that proposed changes should be considered next year in light of more extensive experience with the act. Accordingly, it is proposing a *short* (emphasis added) extension without amendments.

All we are saying is, let us extend the act as it is from February 28 until June 30. We will have time, then, after the first of the year to act carefully and deliberately."

On November 22, 1974, Chairman Jackson in another floor statement (Page S. 19888 of the Congressional Record of November 22), listed additional, but no longer valid, reasons for the "short" extension of the Emergency Petroleum Allocation Act of 1973; "Faced as we are with a coal strike of uncertain duration, with the forecast for a severe winter . . . the Government must have petroleum allocation authority through the present winter."

Chairman Jackson reiterated in the same floor statement the necessity of an extension of the act, in order to allow Congress time to assess the act.

"The purpose of the six month extension provided for in H.R. 16757 is to provide adequate time for the new Congress and the executive branch to review the act. . . ."

[1] The bill as signed into law extended the Act until August 31, 1975.

Whereas the consideration of a coal strike and the winter of 1974–75 is behind us, the attempt to extend the Emergency Petroleum Allocation Act of 1973 until March 31, 1976, can only be viewed a default of the Congress to honor its pledge to come to grips with energy policy, including the need to repeal or substantially revise the act.

When we considered S. 3717 on the Senate floor last August, the administration's position as we understood it was as follows:

1. The expiration date of the Emergency Petroleum Allocation Act would be extended to June 30, 1975.

2. Between August 1974, and June 30, 1975, the Administration should proceed with an orderly total phase out of price and allocation controls to be completed by June 30, 1975.

The Emergency Petroleum Allocation Act by its very title was intended to be an emergency measure to deal with a temporary petroleum fuels shortage which now has ended. It is to be recalled that the act was passed at the time of the Arab oil embargo specifically to deal with the supply shortages caused by the oil embargo. That such was what was contemplated is clearly borne out by section 2 of the act which reads as follows:

> SEC. 2. (a) The Congress hereby determines that—
>
> (1) shortages of crude oil, residual fuel oil and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent;
>
> (2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods; and
>
> (3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Executive branch of Government.
>
> (b) The purpose of this Act is to grant to the President of the United States and direct him to exercise specific *temporary* (emphasis added) authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or disloctions on the American people and the domestic economy.

We who voted against the Emergency Petroleum Allocation Act at the time did so because we felt that the bill, at best, would only spread shortages around. Additionally, we felt that should the Federal Government intervene in the marketplace by imposing regulations affecting supply and price, no matter how benignly such intervention was intended, unforeseen inequities would result and the shortage would be exacerbated.

The one day of hearings last year on S. 3717, extending the Emergency Petroleum Allocation Act, contained much testimony enumerating and describing the inequities which have resulted from the Act. These remarks plainly show both that the legislation was intended to deal with a petroleum fuels emergency which no longer exists and that the wisdom of federal regulatory intervention in the marketplace even under the then existing fuel shortage was questionable.

Continued reliance upon legislative authority designed specifically to alleviate the impact of emergency fuel shortages in times of a reported petroleum surplus generates many deleterious effects.

For example, FEA Administrator Frank Zarb presented testimony to the Interior Committee on May 19 of this year which analysed the following deleterious effects of the act:

> 1. *The EPAA is inconsistent with the national goal of achieving long-term energy independence.*—The EPAA creates such inflexibility in FEA's price control program that considerable disincentives to increased domestic production are created. . . . For example, the crude oil entitlements and the buy-sell programs, which are largely designed to give small and independent refiners necessary access to the cost advantages of price-controlled domestic crude oil, must to some degree have the undesirable effect of encouraging imports since the burden of their higher cost is not borne solely by the importer, but shared with his competitors.
>
> 2. *The EPAA denies consumers the full benefits of competition.*—Price controls, while overtly holding down prices, also are operating to support higher prices than might be possible in a free market. The two-tier price system, for example, creates cost disparities which in certain cases allow recovery of higher margins by competitors blessed with lower current costs than would be possible under free market conditions. The dollar-for-dollar pass through rule in Sec. 4(b)(2) of the EPAA, which in effect allows the continuation of historical profit margin levels, tends to provide government endorsement of and justification for such profit margins, even though those margins were in some cases unnecessarily high during the base period, and the logic of market conditions might dictate lower margins today.
>
> 3. *The EPAA prolongs unwarranted economic distortions and inefficiencies.*—An unavoidable effect of an extended allocation program is to maintain within the petroleum industry those inefficiencies and distortions that existed during an arbitrarily chosen base period. Continuation of historic distribution patterns may result not only in prolonging such inefficiencies, but also may have adverse effects upon industrial expansion and population movement.
>
> With respect to domestic crude oil, for example, FEA met the EPAA allocation requirements by freezing supplier/purchaser relationships as of December 1, 1973. As domestic production continues to decline at differing rates in different parts of the country, necessary adjustments in crude oil distribution channels cannot be resolved through the operation of normal market mechanisms, and can only be

accomplished by ad hoc action by FEA, which is ill-equipped to deal with such matters.

Distortion must also result from continued regulation of only petroleum products without comparable regulation of such substitute sources of energy as coal, electricity and natural gas. Such disparate treatment disrupts the functioning of normal market forces, and prevents a coordinated response to the Nation's energy problems. * * *

4. *The EPAA makes it very difficult for the petroleum industry to reach rational business decisions.*—The constant need for regulatory changes to respond to ever-changing market conditions (such as the establishment of the cost equalization program to solve problems created by the two-tier price system) seriously inhibits the industry's ability to enegage in long-term business planning. That planning that can be done must also be skewed to reflect the distortions built into the marketplace as a result of the rigid requirements of the EPAA. This problem will only be exacerbated by further piecemeal extensions of the EPAA, rather than enactment of a new regulatory program which deals with the realities of today's marketplace and our long-term needs.

A prime example of the uncertainty created by FEA regulations results from the supplier/purchaser relationship rules, noted above. These rules have created an administrative house of cards held together only by historical, and in many cases impractical, supplier/purchaser relationships that are mandated by the Act. The more time that passes, the more fragile these relationships will become and the greater the disruption that will result when the program is terminated. In this atmosphere, the industry is understandably reluctant to make the investment decisions which must be made soon if the country's long-term energy goals are to be met. . . ."

5. *Proposal to phase-out old oil.*—As can be seen from the above discussion of the problems inherent in the Emergency Petroleum Allocation Act, the solution to many of these lies in the elimination of the two-tier pricing system for crude oil. The two-tier pricing system inevitably causes cost disparities among refiners and marketers of petroleum products which in turn create economic distortions. Although these cost disparities have been substantially reduced by the crude oil entitlements program, they can never be entirely eliminated while the two-tier pricing system exists. Such cost disparities significantly hinder FEA's ability to assure that the competitive viability of the independent sector of the petroleum industry is maintained.

Moreover, the existing complicated structure of price controls at all levels of distribution, which is necessitated due to the existence of the cost disparities resulting from the two-tier price system, tends to be self-defeating over the long run by reducing normal incentives toward increased production and cost control and by eliminating the ability of the industry to engage in long range business planning. As the effectiveness of price controls lags over time, regulations of

greater complexity and reach become necessary to maintain the controlled-price structure. Tightening of controls tends to further stifle initiative and to contribute to greater economic distortion. . . .

Various other leaders of the supplier, producer, and financial institution fields testified at the Senate Interior Committee's oversight hearing as to the disfunctional responses precipitated by oil price controls and the FEA regulatory program.

Wallace W. Wilson, Vice President of Continental Illinois National Bank & Trust Company of Chicago told the Committee:

> The combined effects of price controls, allocation regulations and the loss of percentage depletion is to *reduce* the amount of capital available for reinvestment, at a time when the only realistic solutions to our long-term energy dilemma require increased capital investment in new exploration and development. . . .

". . . The longer price controls are continued, the longer we will frustrate the normal economic processes that work effectively to balance supply and demand and to allocate our resources to their most effective uses."

William V. Traeger, Vice President of Otis Engineering Corporation, stressed a similar point:

> The provisions of the Emergency Petroleum Allocation Act place a lid on prices received for petroleum products while a variety of factors, including actions by the Congress, create a buildup of costs and a profit squeeze which drains vital capital from our industry and makes other forms of financing difficult or impossible. Many of our customers' long term commitments are "locked in" and adjustments of budgets to provide for the shortage of available capital will have a dramatic effect on industry expenditures for exploration and production.

Finally, one must consider the avowed intent of Congress in enacting the EPAA, as stated on page 13 of the conference report accompanying S. 1570, under the "Findings and purpose of the EPAA of 1973."

> No allocation plan, regulation or order, nor mandatory price, price ceiling or restraint, was to be promulgated whose net effect would be a substantial reduction of the total supply of crude oil or refined petroleum products available in or to markets in the United States.

Yet; as noted by the foregoing testimony, and by this apt comment by Charles J. Waidelich, President of Cities Service Company, the EPAA has created exactly the opposite effect:

> Continuation of these restrictive regulations is contrary to the intent of Congress (See page 13, Conference Report to accompany S. 1570. Findings and Purpose for Direct Quotation.) when the Emergency Petroleum Allocation Act of 1973 was enacted. These regulations have the effect of curtailing the expansion of oil and gas exploration. Regulation of supply is distorting the workings of the marketplace. The com-

sumer is paying, and will continue to pay, a price for these programs.

Our company's reduced expenditures for exploration and production will mean loss of additional production . . . loss of employment opportunities within our economy . . . and a possible effect on employment of contractors and suppliers.

In closing, S. 621 and H.R. 4035 are going to conference with H.R. 4035 containing a provision (Sec. 2(a)) extending the EPAA to Dec. 31, 1975. Another bill, S. 622 (Sec. 122) also contains a provision extending the EPAA to March 1, 1976. And of course, S. 1849 as reported is exclusively an extension of the EPAA until March 1, 1976. This panoply of bills all catering to an extension of the EPAA only indicate either Congress' unwillingness or incapabiity to grapple with the growing dependence upon imported oil. Hence, this is not a case of Congress vs. the President. This is a case of Congress giving itself an excuse for its own inaction. Congress should not attempt to shield itself from the plethora of press criticism about continuing Congressional delay in enacting a comprehensive energy program. Instead, Congress should act responsibly by dealing with the substantive issues. Thus, voting for S. 1849 which would motivate further delay would be an affront to the dignity and credibility of the U.S. Senate.

Paul J. Fannin.
Clifford P. Hansen.
James A. McClure.
Dewey F. Bartlett.

ADDITIONAL VIEWS OF SENATOR HATFIELD

While I voted to report S. 1849, I have grave reservations about the desirability of maintaining an active allocation system in the absence of shortages. In recent hearings of the Senate Interior Committee, including the confirmation hearing of Mr. Gorman Smith, Assistant Administrator of FEA for Regulatory Operations, I have pointed out some of the inequities and economic distortions that have been created by continuing the allocation system, especially as implemented by regulations hastily drawn up during a crisis situation, and certain aspects of the pricing system. My colleagues on the Minority side of this Committee have voiced similar concerns throughout the recent hearings and in this report, and to that extent I associate myself with their views.

In floor remarks I addressed this topic briefly last month. The following is excerpted from them:

[From Congressional Record of May 21, 1975]

NEED FOR FLEXIBILITY IN THE IMPLEMENTATION OF THE EMERGENCY PETROLEUM ALLOCATION ACT

Mr. Hatfield. Mr. President, while I have my differences with certain aspects of the President's energy program, I do agree completely that the petroleum allocation system, as presently established, and two-tier pricing of crude oil are creating distortions in our economy, are unnecessary in view of alternatives that are available and in view of the present supply situation, and are detrimental to the long-term interests of our country.

In recent hearings of the Senate Interior Committee, I have repeatedly stressed the need for flexibility in the implementation of the Emergency Petroleum Allocation Act. The Congress stated that the purpose of the act was to grant the President temporary authority to deal with shortages and distribution dislocations, and that the authority was to be exercised to minimize the adverse impact of such shortages or dislocations. In that shortages in petroleum do not exist, one might fairly ask why we stick with a set of stringent allocation relations that were formulated during the crisis of the winter of 1973–74 to deal with extraordinary circumstances.

Shortages may recur, and we must be prepared for that possibility, but today's supply situation should allow us to try to restore more normal business relationships between suppliers and customers. Indeed, one of the prescriptions to the Allocation Act for the regulations to implement it is that they shall minimize economic distortion, inflexibility, and unnecessary interference with market mechanisms. Today's climate is a good one in which to start minimizing.

A stumbling block to minimization of economic distortion, inflexibility, and market interference is two-tier pricing of crude oil. Obviously, every customer would like to be supplied by an "old oil"-rich refiner, especially a small one that is exempt from all or part of the FEA entitlements program; but more than that, two-tier price controls, even with entitlements, have the entire petroleum industry right down to the neighborhood independent dealer strapped into a straitjacket. At the dealer level, the effect is threatening the economic viability of individual businesses, stifling attempts to meet changing needs of customers and communities, and removing what potential an established dealer may have had to improve his ability to compete.

As the debate over what should be done to alleviate these conditions will take place in the Senate long before the record of the Interior Committee hearings are printed, I will ask unanimous consent to have the testimony of Mr. Frank Zarb, Administrator of the FEA, appear in the RECORD today following my remarks. As I said at the outset, I may disagree with the administration on some of their recommendations, but I am convinced of the necessity to correct the two situations I have highlighted. Some have argued that the way to conserve energy and become less dependent on foreign sources is to create artificial shortages in this country, either by import quotas or by other means, and then allocate the shortages. I submit this is extremely shortsighted.

True, it will have a more immediate impact than some of the alternatives, but it will be destructive in the long run and it will lack public support. Artificial shortages will add to unemployment, further wound industries that rely on key petroleum supplies, devastate recreation and tourism, and cause new citizen frustration with gasoline waiting lines, rationing regulations, mandatory closing of stations, or the like. I submit there would be a demand for the political heads of those who would create artificial crises; but more to the point, such crude and heavy-handed programs inevitably produce unnecessarily severe distress and dislocations relative to what gets accomplished.

Indeed, we had an embargo. We could have another one. But we should be planning and legislating for long-term changes in our energy consumption patterns—changes that will move us away from energy-intensive technologies and that will institute a conservation ethic through our economic system for petroleum products and all other nonrenewable resources. Turning this corner will take some time, for long-range conservation programs cannot do overnight what quotas can do. But programs that do not rely on devices like the allocation system will be more sure, more true, more in the direction we want to go, and more long-lasting. And if there is anything this country needs right now, it is an energy program that meets the latter criteria—firm and unwavering and consistent with our basic principles of a free economy.

I ask unanimous consent that Mr. Zarb's testimony be printed in the Record, so that my colleagues in the Senate may review his description of the present FEA programs before deciding upon our next step. Also, I ask unanimous consent that an article from the May 17 Washington Post be printed in the Record following Mr. Zarb's testimony. The article describes a case in point, in my own State of Oregon of the kind of inflexibility I find ridiculous today. I should add, however, that Mr. Gorman Smith, Assistant FEA Administrator for Regulatory Programs, indicated to me yesterday that his office was reviewing the case a second time.

[From The Washington Post, May 17, 1975]

FEA ORDERS SCHOOLS TO BUY FROM CONVICTED OIL SUPPLIER

(By Thomas O'Toole)

The Federal Energy Administration has told seven Oregon schools that they must continue to buy heating oil from a supplier convicted of stealing their oil and of charging them for oil he never delivered.

"I don't understand why we have to do business with somebody we plainly don't want to do business with," was the bewildered reaction of Robert Work, superintendent of schools in Eagle Point, Oreg. "I don't understand why with all the oil there is around today the federal government is telling us who we have to buy it from."

The FEA has told Work he must continue to buy oil from the Hillyer Oil Co. of Medford, Oreg., a company whose owner was placed on probation for two years and fined $2,000 after pleading no contest to a charge of theft involving the Eagle Point schools.

Hillyer owner Thomas Norman Hanson was charged with telling one of his drivers to siphon 500 gallons of a truckload of oil the driver was delivering to Eagle Point into a service station owned by Hanson.

The driver told Jackson County prosecutors that Hanson sent the Eagle Point schools a bill for 7,780 gallons of oil on that delivery, which was 330 gallons more than the driver picked up and 880 gallons more than he delivered to the Eagle Point schools.

"At the time this was going on Hanson was the sole supplier to the Eagle Point schools," said Jackson County Deputy District Attorney Raymond White.

Eagle Point is now able to buy some of its oil on the open market at prices lower than it pays Hillyer. It still buys oil from Hillyer but not as much as it bought last year and the year before, when it paid Hillyer an average of 40 cents a gallon for 225,000 gallons of fuel in each of those two years.

Thinking they could change oil suppliers as easily as it changes pencils and erasers, the Eagle Point school officials asked the FEA to assign it another oil supplier. The school officials cited their experience with Hillyer and also complained that Hillyer had no meters on its trucks so the officials never knew if they were getting oil they ordered.

The FEA denied Eagle Point's request on the grounds that Hillyer would not agree to a change. Eagle Point then appealed to a higher echelon at FEA. That appeal was denied because Eagle Point's ability to buy oil on the open market from suppliers other than Hillyer means that it "failed to demonstrate that it was experiencing a gross inequity," the FEA said.

MARK O. HATFIELD.

IX. Changes in Existing Law

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1849, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Emergency Petroleum Allocation Act of 1973 (87 Stat. 627)

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress hereby determines that—

(1) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent;

(2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods; and

(3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Executive branch of Government.

(b) The purpose of this Act is to grant to the President of the United States and direct him to exercise specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercise for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy.

DEFINITIONS

Sec. 3. For purposes of this Act:

(1) The term "branded independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products pursuant to—

(A) an agreement or contract with a refiner (or a person who controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such person), or

(B) an agreement or contract under which any such person engaged in the marketing or distributing of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or person who controls, is controlled by, or is under common control with such refiner),

but who is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in subparagraph (A) or (B)) and who does not control such refiner.

(2) The term "nonbranded independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products, but who (A) is not a refiner, (B) is not a person who controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (C) is not a branded independent marketer.

(3) The term "independent refiner" means a refiner who (A) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (B) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers.

(4) The term "small refiner" means a refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refinery) does not exceed 175,000 barrels per day.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

(6) The term "LPG" means propane and butane, but not ethane.

(7) The term "United States" when used in the geographic sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

MANDATORY ALLOCATION

Sec. 4. (a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Subject to subsection (f), such regulation shall take effect not later than fifteen days after its promulgation. Except as provided in subsection (e) such regulation shall apply to all crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States.

(b)(1) The regulation under subsection (a), to the maximum extent practicable, shall provide for—

(A) protection of public health, safety, and welfare (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units), and the national defense;

(B) maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

(E) the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of, fuels, and for required transportation related thereto;

(H) economic efficiency; and

(I) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In specifying prices (or prescribing the manner for determining them), such regulation shall provide for—

(A) a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products to all marketers or distributors at the retail level; and

(B) the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel oil and refined petroleum products at all levels of marketing and distribution.

(3) The President in promulgating the regulation under subsection (a) shall give consideration to allocating crude oil, residual fuel oil, and refined petroleum products in a manner which results in making available crude oil, residual fuel oil, or refined petroleum products to any person whose use of fuels other than crude oil, residual fuel oil, and refined petroleum products has been curtailed by, or pursuant to a plan filed in compliance with, a rule or order of a Federal or State agency, or where such person's supply of such other fuels is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency.

(c)(1) To the extent practicable and consistent with the objectives of subsections (b) and (d), the mandatory allocation program established under the regulation under subsection (a) shall be so structured as to result in the allocation, during each period during which the regulation applies, of each refined petroleum product to each branded independent marketer, each nonbranded independent marketer, each small refiner and each independent refiner, and of crude oil to each small refiner and each independent refiner, in an amount not less than the amount sold or otherwise supplied to such marketer or refiner during the corresponding period of 1972, adjusted to provide—

(A) in the case of refined petroleum products, a pro rata reduction in the amount allocated to each person engaged in the marketing or distribution of a refined petroleum product if the aggregate amount of such product produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972; and

(B) in the case of crude oil, a pro rata reduction in the amount of crude oil allocated to each refiner if the aggregate amount produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972.

(2)(A) The President shall report to the Congress monthly, beginning not later than January 1, 1974, with respect to any change after calendar year 1972 in—

(i) the aggregate share of nonbranded independent marketers,

(ii) the aggregate share of branded independent marketers, and

(iii) the aggregate share of other persons engaged in the marketing or distributing of refined petroleum products,

of the national market or the regional market in any refined petroleum product (as such regional markets shall be determined by the President).

(B) If allocation of any increase of the amount of any refined petroleum product produced in or imported into the United States in excess of the amount produced or imported in calendar year 1972 contributes to a significant increase in any market share described in clause (i), (ii), or (iii) of subparagraph (A), the President shall by order require an equitable adjustment in allocations of such product under the regulation under subsection (a).

(3) The President shall, by order, require such adjustments in the allocations of crude oil, residual fuel oil, and refined petroleum products established under the regulation under subsection (a) as may reasonably be necessary (A) to accomplish the objectives of subsection (b), or (B) to prevent any person from taking any action which would be inconsistent with such objectives.

(4) the President may, by order, require such adjustments in the allocations of refined petroleum products and crude oil established under the regulation under subsection (a) as he determines may reasonably be necessary.

(A) in the case of refined petroleum products (i) to take into consideration market entry by branded independent marketers and nonbranded independent marketers during or subsequent to calendar year 1972, or (ii) to take into consideration expansion or reduction of marketing or distribution facilities of such marketers during or subsequent to calendar year 1972, and

(B) in the case of crude oil (i) to take into consideration market entry by independent refiners and small refiners during or subsequent to calendar year 1972, or (ii) to take into consideration expansion or reduction of refining facilities of such refiners during or subsequent to calendar year 1972.

Any adjustments made under this paragraph may be made only upon a finding that, to the maximum extent practicable, the objectives of subsections (b) and (d) of this section are attained.

(5) To the extent practicable and consistent with the objectives of subsections (b) and (d), the mandatory allocation program established under the regulation under subsection (a) shall not provide for allocation of LPG in a manner which denies LPG to any industrial user if no substitute for LPG is available for use by such industrial user.

(d) The regulation under subsection (a) shall require that crude oil, residual fuel oil, and all refined petroleum products which are produced or refined within the United States shall be totally allocated for use by ultimate users within the United States, to the extent practicable and necessary to accomplish the objectives of subsection (b).

(e)(1) The provisions of the regulation under subsection (a) shall specify (or prescribe a manner for determining) prices of crude oil at the producer level, but upon a finding by the President that to require allocation at the producer level (on a national, regional, or case-by-case basis) is unnecessary to attain the objectives of subsection (b)(1)(E) or the other objectives of subsections (b), (c), and (d) of this section, such regulation need not require allocation of crude oil at such level. Any finding made pursuant to this subsection shall be transmitted to the Congress in the form of a report setting forth the basis for the President's finding that allocation at such level is not necessary to attain the objectives referred to in the preceding sentence.

(2)(A) The regulation promulgated under subsection (a) of this section shall not apply to the first sale of crude oil produced in the United States from any lease whose average daily production of crude oil for the preceding calendar year does not exceed ten barrels per well.

(B) To qualify for the exemption under this paragraph, a lease must be operating at the maximum feasible rate of production and in accord with recognized conservation practices.

(C) Any agency designated by the President under section 5(b) for such purpose is authorized to conduct inspections to insure compliance with this paragraph and shall promulgate and cause to be published regulations implementing the provisions of this paragraph.

(f)(1) The provisions of the regulations under subsection (a) respecting allocation of gasoline need not take effect until thirty days after the promulgation of such regulation, except that the provisions of such regulation respecting price of gasoline shall take effect not later than fifteen days after its promulgation.

(2) If—

(A) an order or regulation under section 203(a)(3) of the Economic Stabilization Act of 1970 applies to crude oil, residual fuel oil, or a refined petroleum product and has taken effect on or before the fifteenth day after the date of enactment of this Act, and

(B) the President determines that delay in the effective date of provisions of the regulation under subsection (a) relating to such oil or product is in the public interest and is necessary to effectuate the transition from the program under such section 203(a)(3) to the mandatory allocation program required under this Act,

he may in the regulation promulgated under subsection (a) of this section delay, until not later than thirty days after the date of the promulgation of the regulation, the effective date of the provisions of such regulation insofar as they relate to such oil or product. At the same time the President promulgates such regulation, he shall report to Congress setting forth his reasons for the action under this paragraph.

(g)(1) The regulation promulgated and made effective under subsection (a) shall remain in effect until midnight **[August 31, 1975]**, *March 1, 1976*, except that (A) the President or his delegate may amend such regulation so long as such regulation, as amended, meets the requirements of this section, and (B) the President may exempt crude oil, residual fuel oil, or any refined petroleum product under such regulation in accordance with paragraph (2) of this subsection. The authority to promulgate and amend the regulation and to issue any order under this section, and to enforce under section 5 such regulation and any such order, expires at midnight **[August 31, 1975]** *March 1, 1976*, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight **[August 31, 1975]** *March 1, 1976*.

(2) If at any time after the date of enactment of this Act the President finds that application of the regulation under subsection (a) to crude oil, residual fuel oil, or a refined petroleum product is not necessary to carry out this Act, that there is no shortage of such oil or product, and that exempting such oil or product from such regulation will not have an adverse impact on the supply of any other oil or refined petroleum products subject to this Act, he may prescribe an amendment to the regulation under subsection (a) exempting such oil or product from such regulation for a period of not more than ninety days. The President shall submit any such amendment and any such findings to the Congress. An amendment under this paragraph may not exempt more than one oil or one product. Such an amendment shall take effect on a date specified in the amendment, but in no case sooner than the close of the earliest period which begins after the submission of such amendment to the Congress and which includes at least five days during which the House was in session and at least five days during which the Senate was in session; except that such amendment shall not take effect if before the expiration of such period either House of Congress approves a resolution of that House stating in substance that such House disapproves such amendment.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a)(1) Except as provided in paragraph (2), (A) sections 205 through 211 of the Economic Stabilization Act of 1970 (as in effect on the date of enactment of this Act) shall apply to the regulation promulgated under section 4(a), to any order under this Act, and to any action taken by the President (or his delegate) under this Act, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970; and (B) section 212 (other than 212(b)) and 213 of such Act shall apply to functions under this Act to the same extent such sections apply to functions under the Economic Stabilization Act of 1970.

(2) The expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this Act, and shall not effect any authority under sections 212 and 213 insofar as such authority is made applicable to functions under this Act.

(b) The President may delegate all or any portion of the authority granted to him under this Act to such officers, departments, or agencies of the United States, or to any State (or officer thereof), as he deems appropriate.

EFFECT ON OTHER LAWS AND ACTIONS TAKEN THEREUNDER

SEC. 6. (a) All actions duly taken pursuant to clause (3) of the first sentence of section 203(a) of the Economic Stabilization Act of 1970 in effect immediately prior to the effective date of the regulation promulgated under section 4(a) of this Act, shall continue in effect until modified pursuant to this Act.

(b) The regulation under section 4 and any order issued thereunder shall preempt any provision of any program for the allocation of crude oil, residual fuel oil, or any refined petroleum product established by any State or local government if such provision is in conflict with such regulation or any such order.

(c) (1) Except as specifically provided in this subsection, no provisions of this Act shall be deemed to convey to any person subject to this Act immunity from civil or criminal liabilty, or to create defenses to actions, under the antitrust laws.

(2) As used in this subsection, the term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(3) The regulation promulgated under section 4(a) of this Act shall be forwarded on or before the date of its promulgation to the Attorney General and to the Federal Trade Commission, who shall, at least seven days prior to the effective date of such regulation, report to the President with respect to whether such regulation would tend to create or maintain anticompetitive practices or situations inconsistent with the antitrust laws, and propose any alternative which would avoid or overcome such effects while achieving the purposes of this Act.

(4) Whenever it is necessary, in order to comply with the provisions of this Act or the regulation or any orders under section 4 thereof, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so only upon an order of the President (or an officer or agency of the United States to whom the President has delegated authority under section 5(b) of this Act); which order shall specify and limit the subject matter and objectives of such meeting, conference, or communication. Moreover, such meeting, conference, or communication shall take place only in the presence of a representative of the Antitrust Division of the Department of Justice, and a verbatim transcript of such meeting, conference, or communication shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(5) There shall be available as a defense to any action brought under the antitrust laws, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under section 4 of this Act.

(6) There shall be available as a defense to any action brought under the antitrust laws rising from any meeting, conference, or communication or agreement resulting therefrom, held or made solely for the purpose of complying with the provisions of this Act or the regulation or any order under section 4 thereof, that such meeting, conference, communication, or agreement was carried out or made in accordance with the requirements of paragraph (4) of this subsection.

MONITORING BY FEDERAL TRADE COMMISSION

SEC. 7. (a) During the forty-five day period beginning on the effective date on which the regulation under section 4 first takes effect, the Federal Trade Commission shall monitor the program established under such regulation; and, not later than sixty days after such effective date, shall report to the President and to the Congress respecting the effectiveness of this Act and actions taken pursuant thereto.

(b) For purposes of carrying out this section, the Federal Trade Commission's authority, under sections 6, 9, and 10 of the Federal Trade Commission Act to gather and compile information and to require furnishing of information, shall extend to any individual or partnership, and to any common carrier subject to the Acts to regulate commerce (as such Acts are defined in section 4 of the Federal Trade Commission Act).

O

S. 1849

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

To extend the Emergency Petroleum Allocation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Emergency Petroleum Allocation Extension Act of 1975".

EXTENSION OF MANDATORY ALLOCATION PROGRAM

SEC. 102. Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "August 31, 1975," wherever it appears and inserting in lieu thereof "March 1, 1976,".

TITLE II

SEC. 201. This title may be cited as the "Coal Conversion Extension Act of 1975".

SEC. 202. Section 2(f)(1) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking "June 30, 1975" and inserting "December 31, 1975".

SEC. 203. Section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by adding the following new subparagraph:

"(E) Price trends and related developments for coal and for other major energy sources which are not subject to direct price regulation at any level by the United States Government. As soon as practicable after the date of enactment of this subparagraph and at such times thereafter as he deems appropriate, the Federal Energy Administrator, after consultation with such other persons and agencies as he deems appropriate, shall provide an assessment of the relationship between price trends and related developments for energy sources covered by this subparagraph and energy policies, including any recommendations he may have in connection with such assessment.".

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

TO THE SENATE OF THE UNITED STATES:

I am today vetoing S. 1849, which would extend price controls on domestic oil another six months. I am taking this action because:

1. An extension of price controls would increase our dangerous and growing dependence on imported oil.

2. It would increase the export of jobs and dollars from our economy.

3. It would jeopardize our future economic stability and national security.

4. It would retard conservation of energy.

5. It would postpone the badly needed development and production of new domestic energy.

6. It would negate the possibility of long-range compromise on this problem because of expected Congressional reluctance to tackle the issue of higher oil prices in an election year.

Since 1971, America's bill for imported oil has climbed from just over $3 billion annually to $25 billion today -- a 700% increase. This $25 billion could provide more than one million jobs for Americans here at home. We cannot delay longer.

Last January in my State of the Union Message, I proposed to the Congress a comprehensive energy program to make the United States independent of foreign oil by 1985.

The need for such a program grows with each passing day. Right now, the United States is dependent on foreign oil for almost 40 percent of its current needs. If we do not act quickly to reverse this trend, within 10 years, we will import more than half of the oil we need at whatever price is demanded by foreign producers who can cut off our supply any time they want to.

The more foreign oil we import, the more dollars and the more jobs we lose from our economy. And as American jobs and dollars flow out of the country, so does our economic and national security.

The 1973 embargo cost us more than $15 billion in Gross National Product and threw hundreds of thousands of persons out of work. It dramatically showed our vulnerability. Another disruption would be even more costly in dollars and jobs -- and could throw us into a new recession.

The detailed legislative program I sent to the Congress last winter involved tough measures to put us immediately on the road to energy independence. It would have conserved the energy we now have and accelerated development and production of more energy here at home.

Because this program would have increased energy prices somewhat until new domestic supplies were developed, I also proposed tax legislation to prevent undue profit-taking by oil companies and to return energy tax dollars to American consumers to offset the slightly higher prices they would pay.

Since I could not gamble with our Nation's security while waiting for the Congress to act on my comprehensive program, I raised the import fees on each barrel of foreign crude oil in February as an interim measure to reduce imports.

The Congress still has not acted. Throughout these months, I have compromised again and again and again to accommodate Congressional requests.

I delayed putting the second dollar fee on imported oil for 90 days, finally imposing it June 1. I delayed the third dollar indefinitely. Still, the country has seen no Congressional action.

In my State of the Union Message last January, I announced a decision to remove the ceiling on price-controlled domestic oil April 1, permitting it to rise from $5.25 per barrel to the free market price. This action would have immediately stimulated production and development of needed additional energy supplies and also encouraged conservation. At the request of Congressional leaders, I postponed such action to give them time to work out a different solution.

After nearly six months without Congressional passage of a decontrol bill or any other positive legislation, I proposed in early July a compromise 30-month phased oil decontrol plan. This program represented an effort to meet the concerns raised by many members of Congress and showed the Administration's willingness to compromise. The House of Representatives rejected this plan.

I made another effort to reach a solution before the August Congressional recess by submitting another decontrol plan, which would have gradually phased out price controls over a 39-month period and put a price ceiling on all domestic oil.

I believe this decontrol plan went more than halfway to meet concerns raised by the Congress. Although it would achieve energy objectives more slowly than warranted, I offered it in the spirit of compromise, because action was desperately needed.

Instead, the House also rejected this compromise attempt and Congress passed this bill which would simply extend the pricing and allocation authorities for another six months. This proposed action would only ensure the continued growth of our dependence on foreign oil.

I cannot approve six more months of delay -- delay which would cost needed jobs and dollars and compound our energy and economic problems.

From my experience in the Congress, I am well aware that it will be easier to pass the tough legislation needed to begin solving the energy problem this year rather than during the 1976 election year. The six-month price controls extension contained in the bill I am vetoing would postpone possible action until at least the Spring of 1976 and in all likelihood would mean an indefinite delay in our efforts to begin solving this problem.

Despite last minute attempts made in good faith by the Democratic and Republican leadership, their effort to achieve a compromise in the Congress has failed. It is clear that too many Members of the Congress have not come to grips with the decontrol issue -- much less the overall energy problem.

We must have a national energy program before we have a national energy emergency. Our time to act instead of react grows shorter with each day and with each delay.

Without price controls on domestic oil, we can reduce dependence upon imported oil by reducing domestic consumption by more than 700,000 barrels per day within two years. We can reduce dependence in the long run by increasing domestic production by nearly one and one-half million barrels per day by 1985. By continuing controls, imports will increase because of a lack of incentives to spur domestic production and the energy problem will get worse and worse.

If my veto is sustained, I still will accept a 45-day extension of price controls to provide time to work with the Congressional leaders who have assured me that they will seek an acceptable compromise during this period. If this further compromise fails, however, I will take the following actions to ensure an orderly transition from government controls to the free market:

-- I will remove the previously imposed $2 per barrel import fees on crude oil and a 60 cents fee on petroleum products.

-- I will again press the Congress to enact a windfall profits tax with plow back provisions and to return the money collected to the American consumer.

-- I will propose legislation to provide a gradual transition from price controls for small and independent refiners.

-- I will propose legislation to provide authority to allocate liquified petroleum gases, such as propane, to supply these important fuels at reasonable prices to farmers, rural households and curtailed natural gas users.

-- I will seek authority to provide retail service station dealers legal remedies to protect their interests against unwarranted actions by the major oil companies.

Since January, I have gone more than halfway in order to reach a responsible compromise. Obviously, we have talked and delayed long enough. We must act now to protect not only ourselves, but future generations of Americans. I urge Members of the Senate and the House to sustain my veto and get on with the job of meeting this problem head-on.

The continued failure of Members of the Congress to enact a National Energy Program puts us increasingly at the mercy of foreign oil producers and will certainly result in Americans paying substantially higher prices for their fuel.

THE WHITE HOUSE,

FOR IMMEDIATE RELEASE September 9, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have today vetoed S.1849, which would have extended for six months price controls on domestic oil. So there is no doubt in the minds of the American people and the Congress, let me tell you why I have taken this action:

-- First, to save American jobs.

-- Second, to protect our future economic stability and national security.

-- Third, to assure that this Nation after months and months of delay achieves a comprehensive national energy program for future independence from foreign suppliers.

Since Federal price controls were placed on domestic oil four years ago, America's bill for imported oil has continued to rise -- from just over $3 billion annually to more than $25 billion today -- an increase of seven hundred percent. I am talking about American dollars -- your dollars -- to pay for foreign oil and for foreign jobs. This $25 billion could provide more than one million jobs for Americans here at home.

Put another way, the average American family today is paying out $350 a year to foreign oil producing nations -- which could and should be spent in this country to put Americans to work.

If I signed this bill continuing controls, America's start on the road to energy independence could be delayed indefinitely. I am well aware of the reluctance of Members of the Congress to face up to such a difficult problem just as an election campaign is getting underway.

For more than eight months, I have tried to get the members of this Congress moving on a solution to this urgent problem of national energy independence. My latest effort at a compromise with the Congress has resulted in nothing more than this proposed six-month extension of the existing law -- which is no answer at all to a program of energy independence for the United States.

During the four years that Federal controls have been in operation --controls which Members of Congress now want to extend -- the cost of energy to American consumers has soared, and our dependence on foreign oil has doubled. Still, Congress refuses to enact a national energy program.

(MORE)

If this veto is sustained, I would accept a 45-day extension of controls to provide time to work with the leaders of the Congress who have again assured me they will seek an acceptable compromise during this period.

If all efforts at compromise fail, I will act to ensure an orderly transition from government controls to the free market.

Resolution of the oil price controls issue is an essential first step toward a total energy independence program. We must have a national energy program before we have a national energy emergency. Our time to act instead of react grows shorter with each day. I urge Members of the Senate and the House to sustain this veto and get on with the job of meeting this problem head-on.

The continued failure of Members of the Congress to enact a National Energy Program puts us increasingly at the mercy of foreign oil producers and will certainly result in Americans paying substantially higher prices for their fuel.

# # #

TO THE SENATE OF THE UNITED STATES:

I am today vetoing S. 1849, which would extend price controls on domestic oil another six months. I am taking this action because:

1. An extension of price controls would increase our dangerous and growing dependence on imported oil.

2. It would increase the export of jobs and dollars from our economy.

3. It would jeopardize our future economic stability and national security.

4. It would retard conservation of energy.

5. It would postpone the badly needed development and production of new domestic energy.

6. It would negate the possibility of long-range compromise on this problem because of expected Congressional reluctance to tackle the issue of higher oil prices in an election year.

Since 1971, America's bill for imported oil has climbed from just over $3 billion annually to $25 billion today -- a 700% increase. This $25 billion could provide more than one million jobs for Americans here at home. We cannot delay longer.

Last January in my State of the Union Message, I proposed to the Congress a comprehensive energy program to make the United States independent of foreign oil by 1985.

The need for such a program grows with each passing day. Right now, the United States is dependent on foreign oil for almost 40 percent of its current needs. If we do not act quickly to reverse this trend, within 10 years, we will import more than half of the oil we need at whatever price is demanded by foreign producers who can cut off our supply any time they want to.

The more foreign oil we import, the more dollars and the more jobs we lose from our economy. And as American jobs and dollars flow out of the country, so does our economic and national security.

The 1973 embargo cost us more than $15 billion in Gross National Product and threw hundreds of thousands of persons out of work. It dramatically showed our vulnerability. Another disruption would be even more costly in dollars and jobs -- and could throw us into a new recession.

The detailed legislative program I sent to the Congress last winter involved tough measures to put us immediately on the road to energy independence. It would have conserved the energy we now have and accelerated development and production of more energy here at home.

Because this program would have increased energy prices somewhat until new domestic supplies were developed, I also proposed tax legislation to prevent undue profit-taking by oil companies and to return energy tax dollars to American consumers to offset the slightly higher prices they would pay.

Since I could not gamble with our Nation's security while waiting for the Congress to act on my comprehensive program, I raised the import fees on each barrel of foreign crude oil in February as an interim measure to reduce imports.

The Congress still has not acted. Throughout these months, I have compromised again and again and again to accommodate Congressional requests.

I delayed putting the second dollar fee on imported oil for 90 days, finally imposing it June 1. I delayed the third dollar indefinitely. Still, the country has seen no Congressional action.

In my State of the Union Message last January, I announced a decision to remove the ceiling on price-controlled domestic oil April 1, permitting it to rise from $5.25 per barrel to the free market price. This action would have immediately stimulated production and development of needed additional energy supplies and also encouraged conservation. At the request of Congressional leaders, I postponed such action to give them time to work out a different solution.

After nearly six months without Congressional passage of a decontrol bill or any other positive legislation, I proposed in early July a compromise 30-month phased oil decontrol plan. This program represented an effort to meet the concerns raised by many members of Congress and showed the Administration's willingness to compromise. The House of Representatives rejected this plan.

I made another effort to reach a solution before the August Congressional recess by submitting another decontrol plan, which would have gradually phased out price controls over a 39-month period and put a price ceiling on all domestic oil.

I believe this decontrol plan went more than halfway to meet concerns raised by the Congress. Although it would achieve energy objectives more slowly than warranted, I offered it in the spirit of compromise, because action was desperately needed.

Instead, the House also rejected this compromise attempt and Congress passed this bill which would simply extend the pricing and allocation authorities for another six months. This proposed action would only ensure the continued growth of our dependence on foreign oil.

I cannot approve six more months of delay -- delay which would cost needed jobs and dollars and compound our energy and economic problems.

From my experience in the Congress, I am well aware that it will be easier to pass the tough legislation needed to begin solving the energy problem this year rather than during the 1976 election year. The six-month price controls extension contained in the bill I am vetoing would postpone possible action until at least the Spring of 1976 and in all likelihood would mean an indefinite delay in our efforts to begin solving this problem.

Despite last minute attempts made in good faith by the Democratic and Republican leadership, their effort to achieve a compromise in the Congress has failed. It is clear that too many Members of the Congress have not come to grips with the decontrol issue -- much less the overall energy problem.

We must have a national energy program before we have a national energy emergency. Our time to act instead of react grows shorter with each day and with each delay.

Without price controls on domestic oil, we can reduce dependence upon imported oil by reducing domestic consumption by more than 700,000 barrels per day within two years. We can reduce dependence in the long run by increasing domestic production by nearly one and one-half million barrels per day by 1985. By continuing controls, imports will increase because of a lack of incentives to spur domestic production and the energy problem will get worse and worse.

If my veto is sustained, I still will accept a 45-day extension of price controls to provide time to work with the Congressional leaders who have assured me that they will seek an acceptable compromise during this period. If this further compromise fails, however, I will take the following actions to ensure an orderly transition from government controls to the free market:

-- I will remove the previously imposed $2 per barrel import fees on crude oil and a 60 cents fee on petroleum products.

-- I will again press the Congress to enact a windfall profits tax with plow back provisions and to return the money collected to the American consumer.

-- I will propose legislation to provide a gradual transition from price controls for small and independent refiners.

-- I will propose legislation to provide authority to allocate liquified petroleum gases, such as propane, to supply these important fuels at reasonable prices to farmers, rural households and curtailed natural gas users.

-- I will seek authority to provide retail service station dealers legal remedies to protect their interests against unwarranted actions by the major oil companies.

Since January, I have gone more than halfway in order to reach a responsible compromise. Obviously, we have talked and delayed long enough. We must act now to protect not only ourselves, but future generations of Americans. I urge Members of the Senate and the House to sustain my veto and get on with the job of meeting this problem head-on.

The continued failure of Members of the Congress to enact a National Energy Program puts us increasingly at the mercy of foreign oil producers and will certainly result in Americans paying substantially higher prices for their fuel.

Gerald R. Ford

THE WHITE HOUSE,

September 9, 1975.

HOLD FOR RELEASE UNTIL DELIVERED
TO THE SENATE

SEPTEMBER 9, 1975

Office of the White House Press Secretary

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THE WHITE HOUSE

TO THE SENATE OF THE UNITED STATES:

I am today vetoing S. 1849, which would extend price controls on domestic oil another six months. I am taking this action because:

1. An extension of price controls would increase our dangerous and growing dependence on imported oil.

2. It would increase the export of jobs and dollars from our economy.

3. It would jeopardize our future economic stability and national security.

4. It would retard conservation of energy.

5. It would postpone the badly needed development and production of new domestic energy.

6. It would negate the possibility of long-range compromise on this problem because of expected Congressional reluctance to tackle the issue of higher oil prices in an election year.

Since 1971, America's bill for imported oil has climbed from just over $3 billion annually to $25 billion today -- a 700% increase. This $25 billion could provide more than one million jobs for Americans here at home. We cannot delay longer.

Last January in my State of the Union Message, I proposed to the Congress a comprehensive energy program to make the United States independent of foreign oil by 1985.

The need for such a program grows with each passing day. Right now, the United States is dependent on foreign oil for almost 40 percent of its current needs. If we do not act quickly to reverse this trend, within 10 years, we will import more than half of the oil we need at whatever price is demanded by foreign producers who can cut off our supply any time they want to.

The more foreign oil we import, the more dollars and the more jobs we lose from our economy. And as American jobs and dollars flow out of the country, so does our economic and national security.

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energy we now have and accelerated development and production of more energy here at home.

Because this program would have increased energy prices somewhat until new domestic supplies were developed, I also proposed tax legislation to prevent undue profit-taking by oil companies and to return energy tax dollars to American consumers to offset the slightly higher prices they would pay.

Since I could not gamble with our Nation's security while waiting for the Congress to act on my comprehensive program, I raised the import fees on each barrel of foreign crude oil in February as an interim measure to reduce imports.

The Congress still has not acted. Throughout these months, I have compromised again and again and again to accommodate Congressional requests.

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Instead, the House also rejected this compromise attempt and Congress passed this bill which would simply extend the pricing and allocation authorities for another six months. This proposed action would only ensure the continued growth of our dependence on foreign oil.

I cannot approve six more months of delay -- delay which would cost needed jobs and dollars and compound our energy and economic problems.

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GERALD R. FORD

THE WHITE HOUSE,

September 9, 1975.

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August 28, 1975

Dear Mr. Director:

The following bill was received at the White House on August 28th:

S. 1849

Please let the President have reports and recommendations as to the approval of this bill as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.