The original documents are located in Box 16, folder "Federal Energy Administration - General (2)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

[Aug. 1975?]

THE WHITE HOUSE
WASHINGTON

Robert Montgomery
Joe Bell
Mike DuVal
are here

[Aug. 1975?]

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: WINDFALL PROFITS TAX

BACKGROUND

In your January State of the Union Message you proposed immediate decontrol coupled with a windfall profits tax (WFPT). Since this original proposal, a number of events have occurred which necessitates modifying your proposal.

- Congress repealed the depletion allowance.
- The Senate Finance Committee has reported a windfall profits tax in the event of immediate decontrol.

ADMINISTRATION'S NEW WFPT

Your advisors have reviewed the current situation and have developed a recommended WFPT which closely follows the Senate Finance Committee bill. The basic features of the deregulation tax are:

- Tax both old oil and uncontrolled oil (including oil from stripper wells), at 90% of difference between base price of about $5.25 per barrel (increasing 0.5% per month) and the sales price.
- Provide constructive base price for uncontrolled oil equal to about $11.25 per barrel.
- Phase out the WFPT tax over 67 months by reducing the amount of taxable oil by 1.5% per month.

- A plowback credit which offsets up to 25% of the tax. The credit is dollar for dollar for the amount of qualified investments in excess of a threshold. The threshold is 40% of the base price for old oil produced during the taxable period (i.e., average of $2 per barrel). There is no threshold for the credit with respect to uncontrolled oil.

The recommended deregulation tax differs from the Finance Committee bill by:

- Providing individualized base price for uncontrolled oil depending on grade, quality and location rather than flat $11.50 base price.

- Including stripper well production in uncontrolled oil subject to tax.

Both of these modifications increase revenues from the tax particularly in the later years.

CONSUMER COST INCREASES AND TAX REBATES

Your original State of the Union proposals would have increased energy costs by approximately $30 billion and rebated to energy consumers -- corporations, individuals and state and local governments -- all of their increased costs.

Immediate decontrol, coupled with the removal of the import fees of $2.00 and $.60 per barrel on crude oil and petroleum products respectively will cause total energy costs to increase by about $8.0 billion annually. Of these total costs, individuals will pay approximately 5.1 billion directly and the rest will be borne by industry and all levels of government.

The proposed windfall profits tax would collect $7.3 billion directly and result in an additional $1.1 billion of corporate income taxes from oil companies. However, deregulation in the absence of a WFPT would also increase Federal taxes collected. As a result of the Treasury estimates the net taxes collected from the WFPT would be about $5.1 billion.

There is some disagreement over the level of consumer rebates. From an energy perspective, maximum support of decontrol will necessitate rebating the gross tax revenues i.e., $7.3 billion.

On the other hand this will have the maximum negative effect on the budget deficit. Given the removal of the fees, the greatest effect on keeping the deficit as close as possible to $60 billion would argue for lesser rebates. However, any decision to not fully rebate energy taxes is inconsistent with your State of the Union energy proposals and the statements of your advisors during the last several months.

The table below summarizes the budget deficit impact of these alternatives.

	Change in Budget Deficit in C.Y. 1976		
	No WFPT	WFPT with rebates of:	
	No rebates	$5 billion	$7 billion
Same monetary policy	+6.5B	+2.8B	$4.2B
Accommodating monetary policy	+4.5B	+0.8B	$2.2B

The increased budget deficits are due in large part to the loss of over $3 billion of expected Federal revenues when the tariffs are removed. The larger deficits with no WFPT or rebates are due to the adverse economic impact and resulting loss of tax receipts if revenues are not recycled. The deficit impacts in succeeding years may be somewhat larger.

The basic issue is the tradeoff between your basic energy and economic policies.

- Raising energy prices, but maintaining consumer purchasing power.

- Holding the line on the budget deficit.

The ERC recommends that all gross revenues collected from the WFPT be rebated. Your other advisors will present their views at the energy meeting later today.

STRUCTURE OF CONSUMER REBATES

If you decide to provide rebates of the WFPT, the structure of such rebates should be modified. With the much lower levels of total rebates, two basic questions should be asked.

- Should the rebates for industry and S&L governments be dropped?

- Should the rebates to individuals be on a per capita basis or only for low and middle income individuals?

It is the consensus of your advisors that general rebates to industry and state and local governments should be dropped and only targeted rebates such as for farmers be included. The issue of consumer rebate structure is still under review and a decision paper will be prepared for you.

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

September 17, 1975

MEMORANDUM FOR MEMBERS OF THE CABINET

FROM: FRANK G. ZARB

Attached is a brief summary of the energy situation faced by the Nation, with specific reference to various fuels. Also attached is a review of the President's overall energy program as proposed to Congress, and a status report on various legislation pending in the House and Senate relating to the several titles of the Energy Independence Act of 1975.

I hope that this information will be of use to you and your Departments in preparing public presentations relating to the energy situation and Administration energy policy.

Attachment

BACKGROUND

Vulnerability

* In 1970, the average American householder spent approximately $45 for foreign oil; last year, the bill was about $360.

* In the first six months of 1975 direct Arab OPEC crude imports accounted for 30% of total crude imports (1,125 thousand barrels per day) compared with a 1974 average of 20% (or 743 thousand barrels per day). Our dependence on Arab crude oil has increased since the days of the oil embargo.

* Imported petroleum accounted for 17% of total energy use in 1974, compared to less than 11% in 1970.

Natural Gas

* Natural gas production in the U.S. peaked in 1973 at 22.5 Tcf and then declined by almost 6% in 1974 to 21.2 Tcf -- the equivalent of a decline of over 230 million barrels of oil.

* Last year 2.0 trillion cubic feet (Tcf) of natural gas, or about 10% of total demand, was curtailed; this year a 45% increase in curtailments is forecast, or about 2.9 Tcf of natural gas, equalling about 15 percent of demand.

* In North Carolina, for example, only 4 percent of industrial natural gas requirements will be met.

Oil

* Domestic oil production has been declining since 1970 (it is down 11 percent since early 1973) and has declined more than one-half million barrels per day since last year.

* Gasoline consumption has been about constant in the last two years and would have been at least 500,000 barrels per day higher if it hadn't been for higher prices.

* Billions of barrels of oil lie beneath the waters in the Atlantic, Pacific, and Gulf of Alaska, but are as yet untapped.

Coal

* Coal production is still at the levels of the 1920's.

* We have more coal reserves than the Middle East has oil.

* While coal is our most potentially abundant source of domestic energy, coal output for domestic consumption fell in 1974 by 16 million tons, or almost 3 percent, compared to 1973 production.

Electric Power

* Last year, about three-quarters of all planned nuclear plants and over one-fourth of all coal plants scheduled to be built were either postponed or cancelled.

* Costs for nuclear power plants continue to increase significantly; a 1000 Mwe plant ordered today for delivery in the early 1980's will cost close to one billion dollars, or $1000 per kilowatt. A few years ago, the cost was about half.

LEGISLATION

Comprehensive national energy policy

* The President's State of the Union message to Congress, January 15, 1975, was the basis for the Energy Independence Act of 1975 submitted to Congress. (See Tab B for outline of the Act's 13 titles)

* Status report on Administration proposals in Congress (Tab C)

Decontrol

* The House rejected the President's 39-month compromise plan to decontrol old oil prices in July, just before its August recess.

* Immediate decontrol of old oil prices took effect on September 1, 1975, upon the statutory expiration of the Emergency Petroleum Allocation Act.

* The President vetoed a six-month extension of the Emergency Petroleum Allocation Act on September 9, 1975.

* The Senate sustained the President's veto on September 10, 1975, effectively leaving oil prices uncontrolled.

* The President has indicated his willingness to accept a 45 to 60-day extension of price controls on oil, if there are reasonable assurances that such an extension would result in a compromise plan to decontrol oil prices which meets the objectives of the original 39-month proposal.

* The House passed a bill on September 11, 1975, extending oil price controls until October 31, 1975.

* Action is still pending in the Senate on extension of oil price controls.

Protection for gasoline dealers under immediate decontrol

* The "Gasoline Dealers' Protection Act of 1975" proposed to Congress by the President on September 10, 1975 would prevent oil refiners and distributors from terminating service station leases or franchises for other than good cause, and would provide station owners and dealers standing to seek treble damages and injunctive relief in Federal courts if violations occur. The Act is similar to the Automobile Dealers Day in Court Act of 1956.

Protection for small and independent refiners under immediate decontrol

* Secretary of the Treasury Simon has asked the Senate Finance Committee and the House Ways and Means Committeee to extend provisions of the Old Oil Entitlements Program under the Emergency Petroleum Allocation Act for one year, phasing them out over three years, to provide an effective subsidy to small refiners and to equalize access to domestic and imported crude oil for refining.

Protection for farmers under immediate decontrol

* Secretary Simon has asked for legislation to provide rebates to farmers to offset their higher energy cost. A direct tax rebate would be provided to farmers based on their purchases of gasoline and diesel fuel. A maximum rebate limitation or a gross income ceiling for eligibility could direct rebates to smaller farmers.

Windfall profits tax

* Rebates to farmers and refiners, as well as to low- and middle-income taxpayers, would be financed by a windfall profits tax on oil company earnings resulting from decontrol. The tax proposed would be similar to the one worked out by the Senate Finance Committee in July.

Natural gas legislation

* "The Natural Gas Emergency Standby Act of 1975" was proposed to Congress by the President on September 10, 1975, to deal with expected shortages of natural gas this winter. The act:

  -- authorizes the Federal Power Commission to approve purchases of natural gas by interstate pipelines at unregulated free-market prices when those pipelines have had to curtail their high-priority end-use customers. These sales excepted from regulation would be limited to 180-days duration.

-- allows high-priority end-users of natural gas to purchase natural gas in producing states at unregulated intrastate prices, then contract with interstate pipelines as common carriers to deliver the gas to the point-of-use. This provision would clarify and give legislative force to an existing FPC rulemaking.

-- extends FEA's authority to require electric utility and industrial boiler conversions from natural gas or oil to coal, and provides standby authority to require conversions from gas to oil where coal is not feasible.

-- provides authority to allocate and establish price controls for propane in order to assure equitable distribution and reasonable prices as demand for propane increases with growing unavailability of natural gas.

TAB A

CHART I
DOMESTIC PRODUCTION OF CRUDE OIL

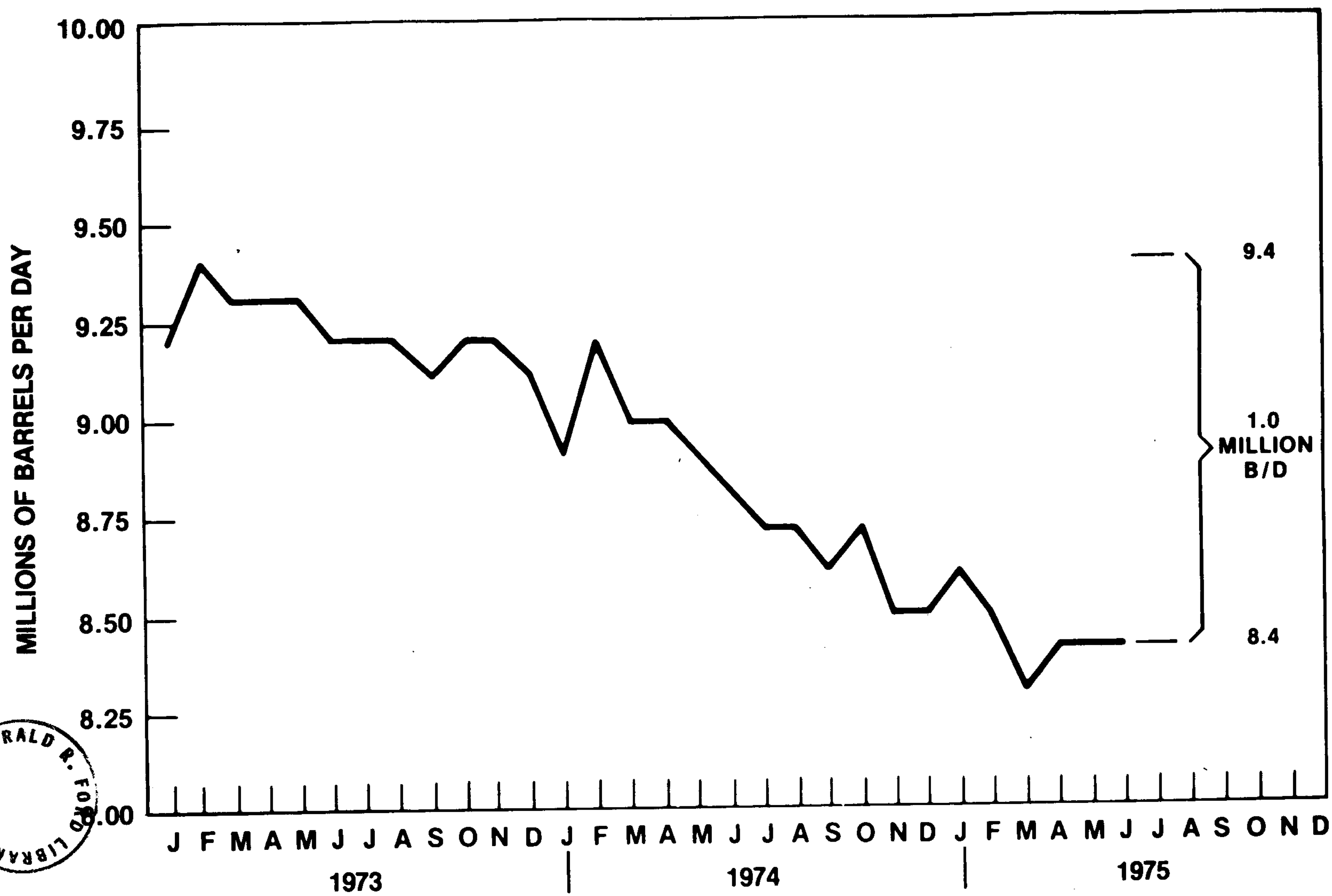


CHART II

IMPORTS OF CRUDE OIL AND PETROLEUM PRODUCTS

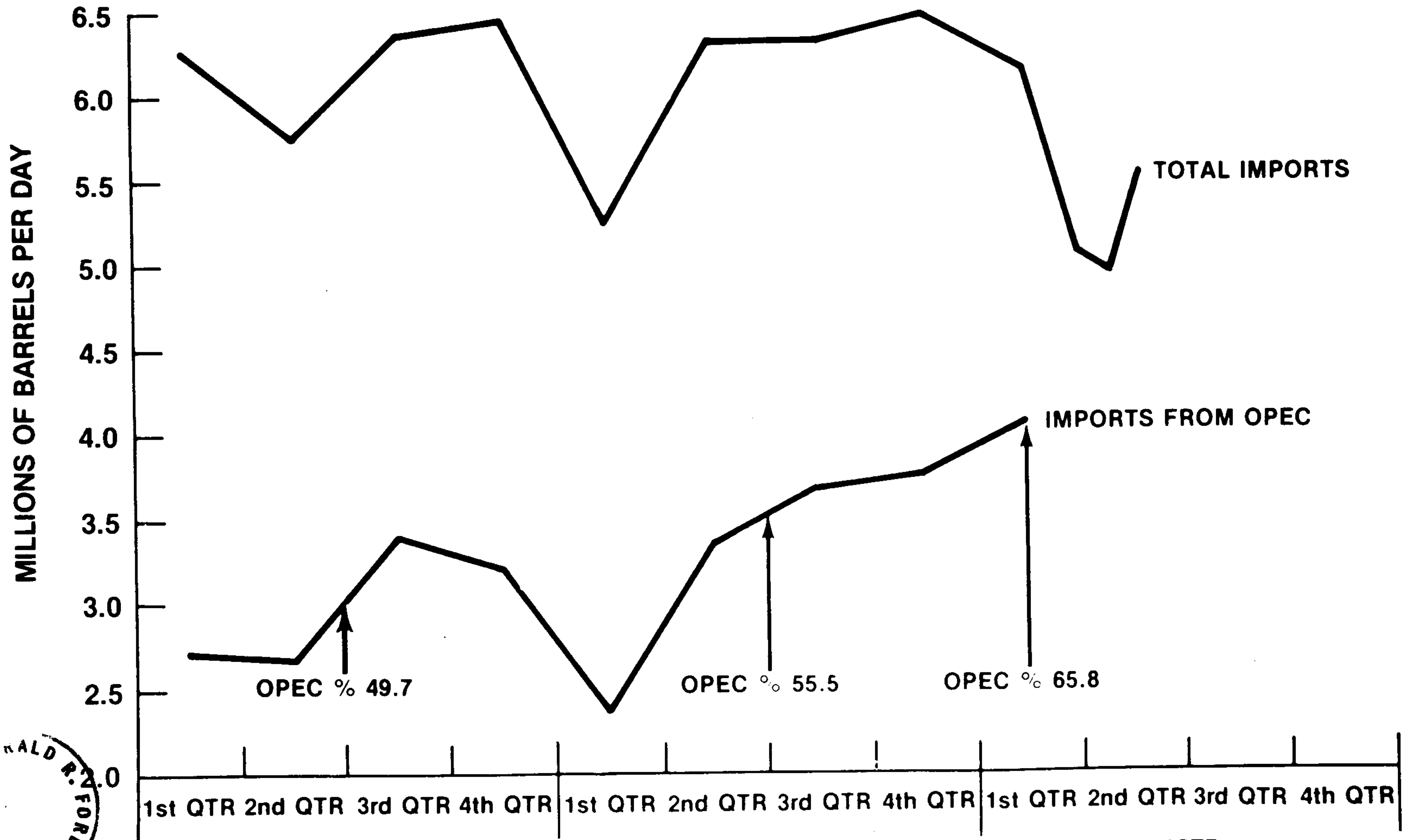


CHART III

IMPORTS BY SOURCE 1960 — 1985

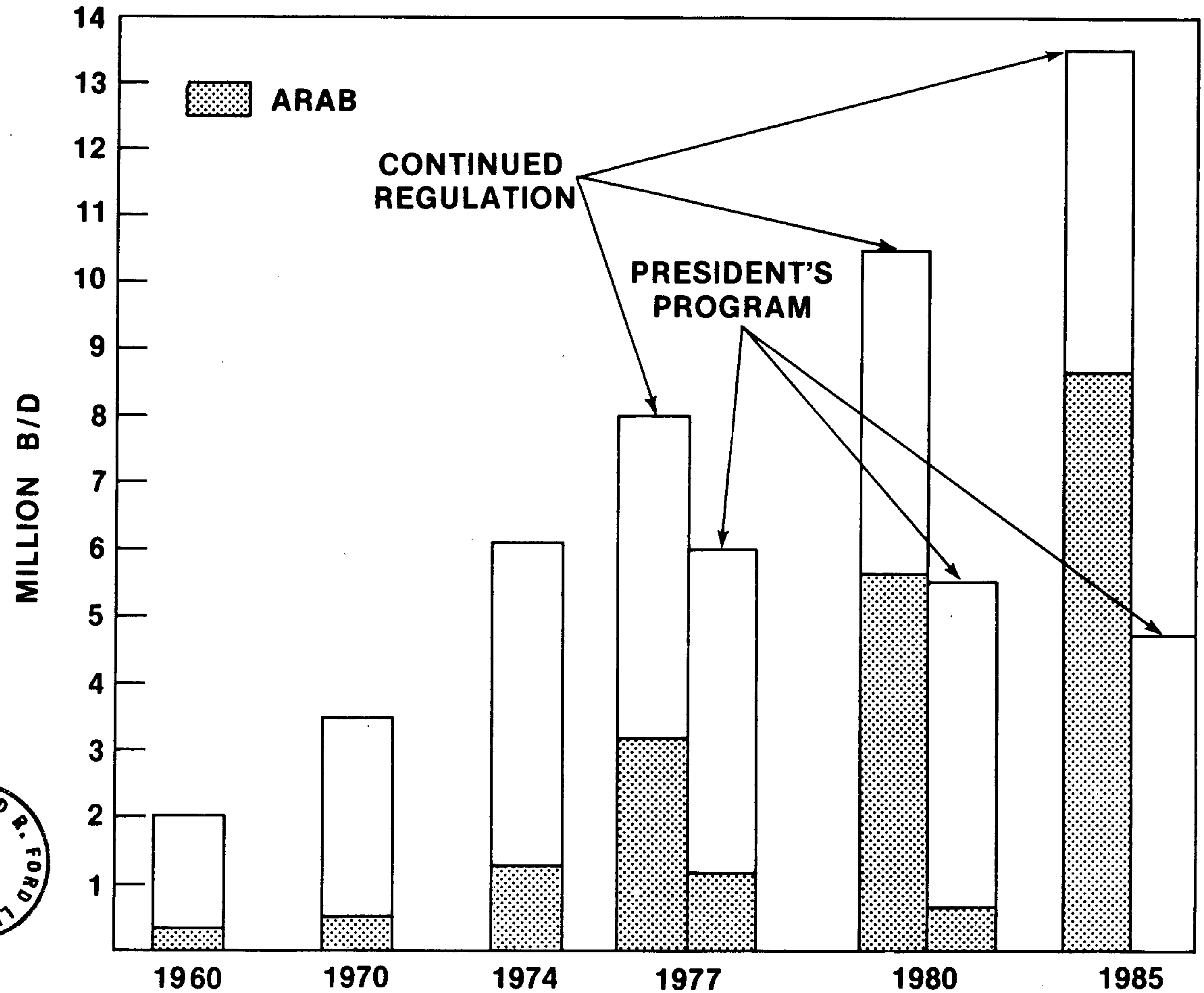


CHART IV PETROLEUM IMPORTS

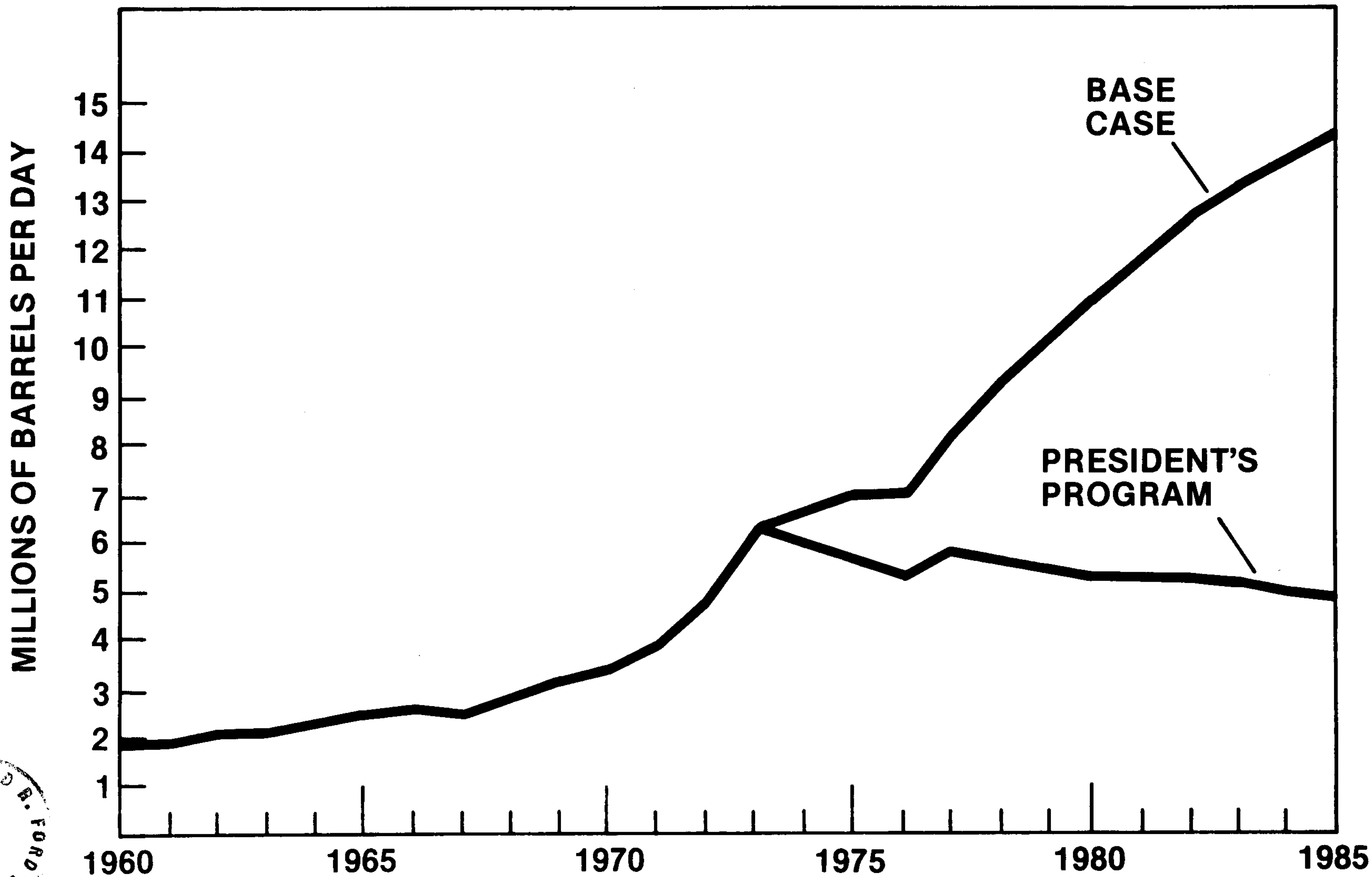


CHART V

COST OF FUTURE EMBARGOS

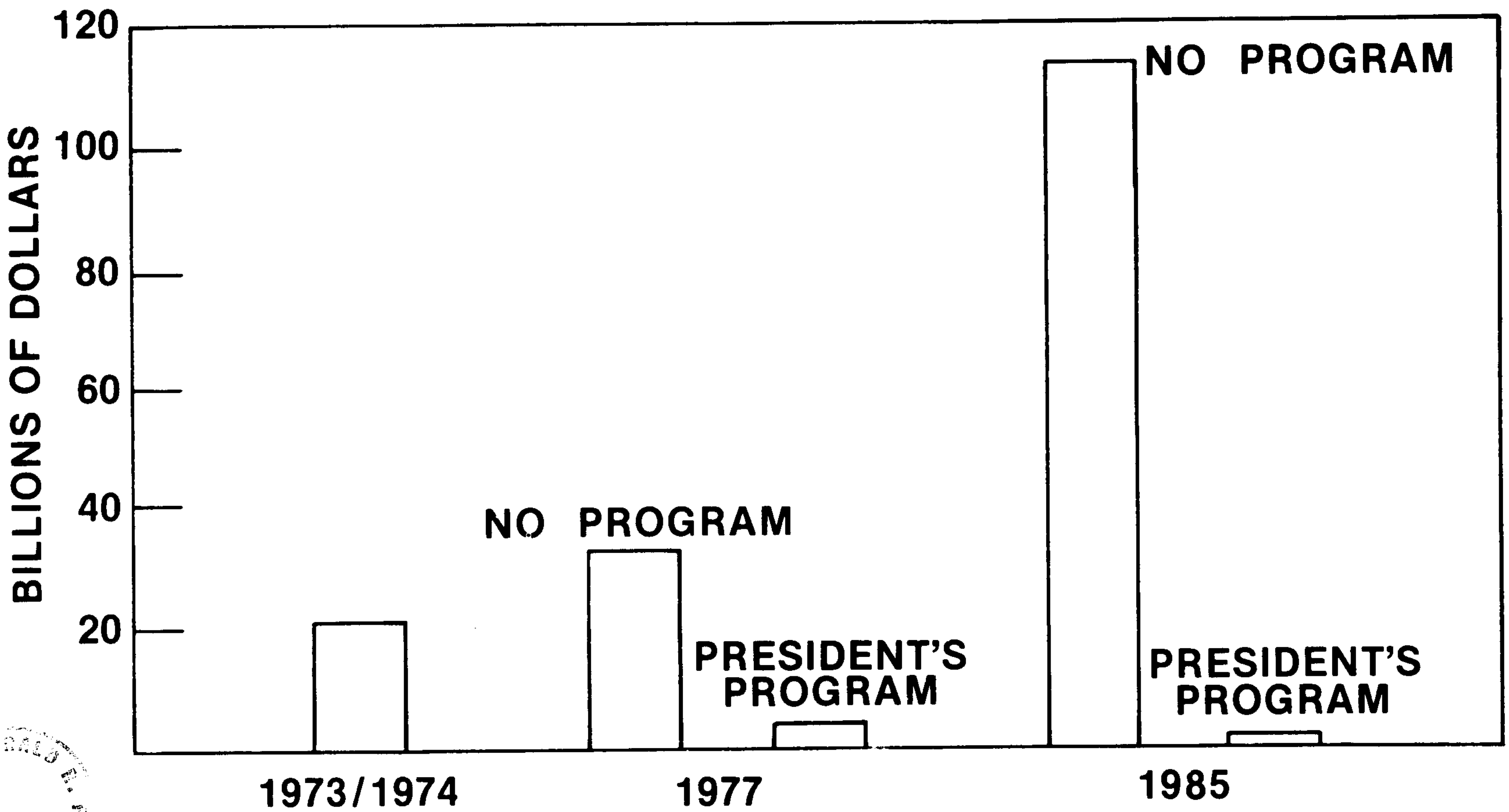


CHART VI

IMPACT OF AN EMBARGO ON GNP

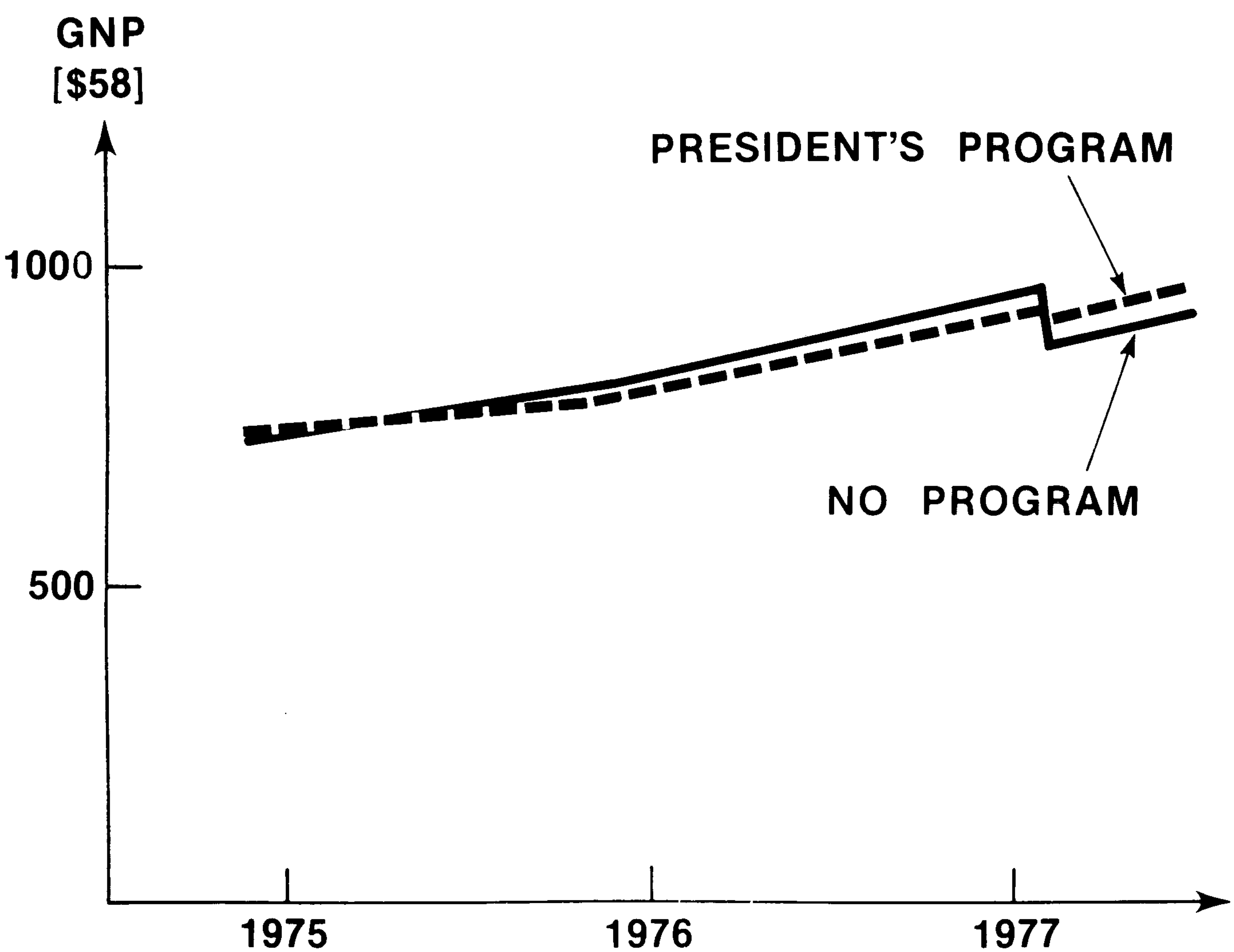


CHART VII

IMPACT OF AN EMBARGO ON UNEMPLOYMENT

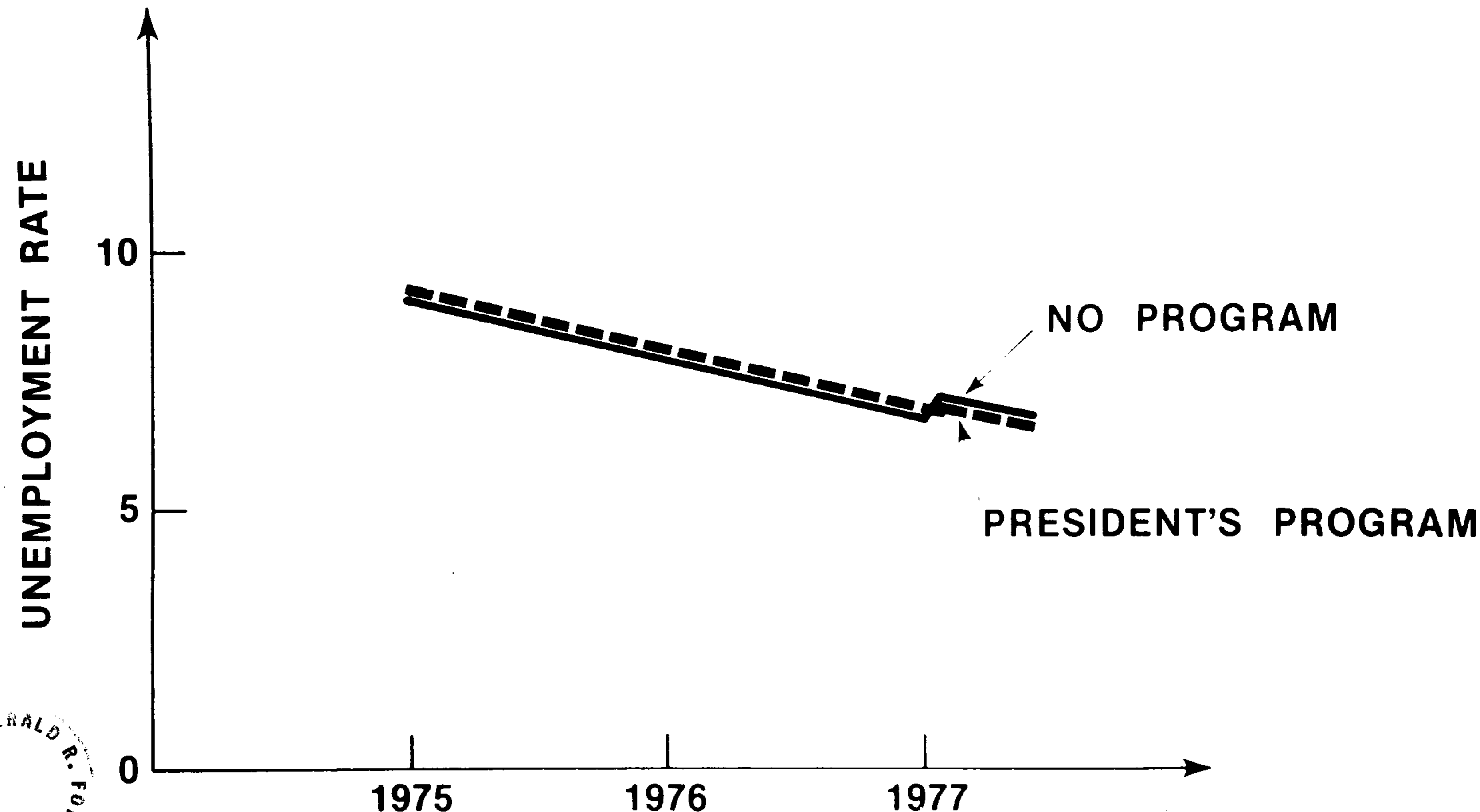
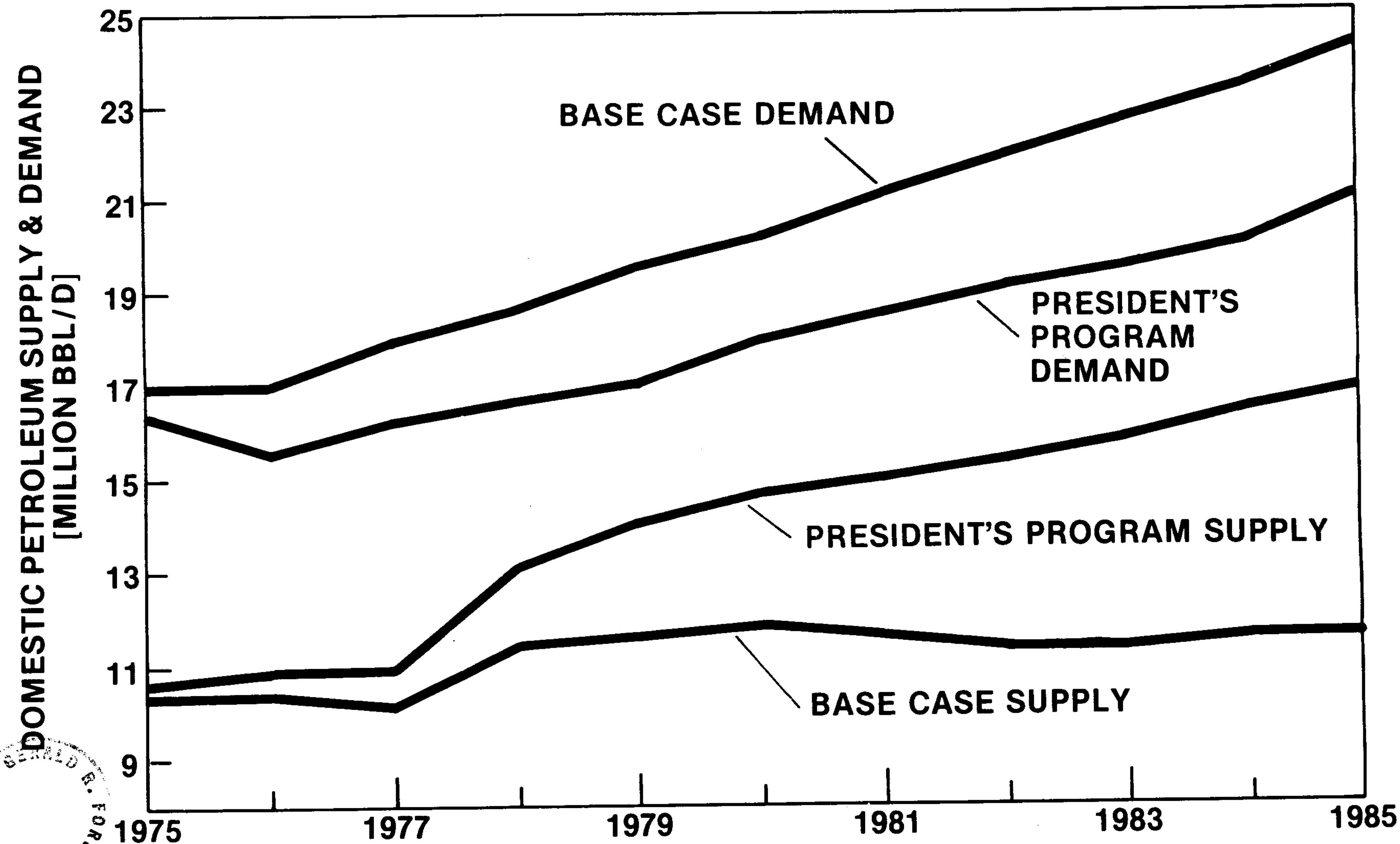


CHART VIII



DOMESTIC PETROLEUM SUPPLY & DEMAND
[MILLION BBL/D]
25
23
21
19
17
15
13
11
9
1975
1977
1979
1981
1983
1985
BASE CASE DEMAND
PRESIDENT'S PROGRAM DEMAND
PRESIDENT'S PROGRAM SUPPLY
BASE CASE SUPPLY

TAB B

ENERGY INDEPENDENCE ACT OF 1975

TITLE I	- Naval Petroleum Reserves
TITLE II	- National Strategic Petroleum Reserve (Civilian) Act of 1975
TITLE III	- New Natural Gas Deregulation
TITLE IV	- 1975 Legislative Proposals to Amend the Energy Supply and Environmental Coordination Act of 1975
TITLE V and VI	- 1975 Legislative Proposals to Amend the Clean Air Act of 1970
TITLE VII	- Utilities Act of 1975
TITLE VIII	- Energy Facilities Planning and Development Act of 1975
TITLE IX	- Energy Development Security Act of 1975
TITLE X	- Building Energy Conservation Standards Act of 1975
TITLE XI	- Winterization Assistance Act of 1975
TITLE XII	- National Appliance and Motor Vehicle Energy Labeling Act of 1975
TITLE XIII	- Standby Energy Authorities Act of 1975

TITLE I of the Energy Independence Act of 1975 would authorize the production of petroleum from the Naval Petroleum Reserves to top off Defense Department storage tanks, with the remainder sold at auction or exchanged for refined petroleum products used by the military or used to fill a National Strategic Petroleum Reserve. Revenues generated from the sale of oil produced from the Naval Petroleum Reserves would be used to finance the further exploration, development and production of the Reserves, including NPR #4 in Alaska, as well as to create the National Strategic Petroleum Reserve. At least 20%, or such other amount as determined by the President, of the oil eventually produced from NPR #4 would be earmarked for military needs and for the National Strategic Petroleum Reserve and the remainder made available to the domestic economy. Although the oil reserves contained in NPR #4 are largely unexplored and significant production is not expected before 1982, it is anticipated that NPR #4 will provide a minimum of 2 million barrels of oil per day by 1985. Title I would also grant the Department of the Navy authority to acquire, construct, fill and maintain a military strategic petroleum reserve of 300 million barrels as part of the National Strategic Petroleum Reserve.

Title II would authorize the establishment of a civilian national strategic petroleum reserve of up to 1 billion barrels of petroleum. Once created, this strategic reserve, together with the exercise of certain standby authorities provided for in Title XIII, will minimize disruption from future embargoes or other energy emergencies. This Title would authorize the Federal government to acquire, construct and maintain petroleum storage facilities, to purchase petroleum or require industrial set-asides for a strategic reserve, and to utilize petroleum from the reserve to offset disruptions in foreign imports. Most of the funds required to finance this program, as well as a large amount of the oil to be stored would come from the production of NPR #1 in Elk Hills, California. Within one year of enactment, a report would be prepared and submitted to the Congress detailing actions taken and proposed plans for developing a strategic petroleum reserve system.

Title III is designed to reverse the declining natural gas supply trend as quickly as possible and to insure increased supplies of natural gas at reasonable prices to the consumer. Under the proposal, wellhead price controls over new natural gas sold in interstate commerce would be removed. This action will enable interstate pipelines to compete for new onshore gas and encourage drilling for gas onshore and in offshore areas. In order to discourage further conversions to natural gas and to encourage greater natural gas conservation, the President is also proposing an excise tax of 37 cents per thousand cubic feet on natural gas which is equivalent to the proposed $2 tax on oil.

Titles IV and V contain amendments to the Clean Air Act and the Energy Supply and Environmental Coordination Act of 1974 (ESECA). The amendments are needed to pursue a vigorous program, consistent with appropriate environmental safeguards, to make greater use of domestic coal, and thus to reduce the need for natural gas and imported oil. The proposed amendments would serve to reduce the need for oil imports by 100,000 barrels per day in 1975 and 300,000 barrels by 1977.

The amendments to ESECA would expand and extend the Federal Energy Administration's authority to issue and enforce orders prohibiting power plants and other major installations from burning petroleum products and natural gas. One of the amendments to the Clean Air Act would eliminate the regional requirement which prohibits major fuel burning sources from burning coal where the violation of health-related standards is caused by other sources. Another amendment would permit certain isolated plants to use intermittent control systems on an interim basis where they do not pose a threat to public health. In addition, the amendments seek a better balance between automobile fuel economy and air quality by stabilizing auto emission requirements for five years at the level of California's 1975 standards for hydrocarbons and carbon monoxide emissions, and holding at national 1975 standards for oxides of nitrogen.

Title VI would delete the "significant deterioration" requirement from the Clean Air Act. There may be more appropriate ways to deal with the issues associated with significant deterioration than through the Clean Air Act, and Congress should undertake a prompt and comprehensive review of this issue.

Title VII is designed to restore the financial health of public utilities. It would eliminate undue regulatory lags involved in approving proposed rate changes, assure that rates adequately reflect the full cost of generating and transmitting electricity, and remove prohibitions that now prevent lower prices from being charged to consumers during off peak hours. Though many states have already adopted similar programs, enactment of Title VII will establish certain standard regulatory procedures across the Nation, resulting in more equitable treatment of utilities.

Treasury Secretary Simon has presented to the House Ways and Means Committee proposals for tax changes including increased investment tax credits for public utilities. Presently only a 4% tax credit is available to utilities while a 7% tax credit is available to other industries. The proposed legislation would raise the tax credit to a level of 12% for one year with the 12% rate being retained for two additional years for all electric generating facilities not fired by oil or gas. Utilities would also be allowed to increase from 50% to 75% the portion of their 1975 tax liabilities that can be offset by the investment tax credit. The percentage would phase back down to 50% by 1980. Corporate tax deductions would also be allowed for preferred stock dividends issued by utilities and other industries. These legislative proposals would reduce the cost of capital for needed utility expansions and stimulate equity rather than debt financing.

Title VIII is designed to expedite the development of energy facilities. The Federal Energy Administration would be required to develop a National Energy Site and Facility Report with appropriate Federal, State, industry and public input. Information in this report would be utilized by the Federal government, the States and industry in developing and implementing plans to insure that needed energy facilities are sited, approved and constructed on a timely basis. At the Federal level, FEA would be responsible for coordinating and expediting the processing of applications to construct energy facilities.

States would be required to develop management programs to expedite the process by which energy facility applications are reviewed and approved at the State level, to insure that adequate consideration is given to national and regional energy requirements in the State's siting and approval processes, and to provide that decisions of State regulatory authorities on energy facility applications are not overruled by actions of local governments. FEA would provide grants and technical assistance to the States in developing their programs. If a State does not develop an acceptable management program, FEA would promulgate an appropriate management program for it. The Federal Government would not be authorized to override any State decision on a particular site of facility application.

Title IX would provide needed authority to prevent foreign oil producing countries from undercutting U.S. efforts to develop domestic petroleum energy resources or achieve energy independence. The Federal Energy Administration would monitor the effect of oil price fluctuations on the economic viability of conventional petroleum development and production projects. Upon the finding that this viability is being threatened, tariffs, quotas, or variable import fees would be imposed.

Two other measures are being developed that will affect domestic energy supplies. One proposal would assure more rapid siting and licensing of nuclear facilities while retaining sufficient safeguards to protect the environment and public health and safety. The other proposal, to regulate surface mining, would provide the appropriate balance between the urgent need to increase coal production and the need to protect the environment.

DEMAND RESTRAINT MEASURES

Each of the demand restraint measures contained in Titles X-XII is an essential element in achieving our overall goal of reducing oil imports and lowering the demand for coal, natural gas and electricity. These proposals will serve to reduce wasteful energy use, create jobs, and lessen economic hardships, while not impeding economic output.

Title X would establish mandatory thermal (heating and cooling) efficiency standards for all new homes and commercial buildings. It is anticipated that this program will save the equivalent of 500,000 barrels of oil per day in 1985. The Secretary of Housing and Urban Development in consultation with engineering, architectural, consumer, labor and industry representatives would be responsible for developing thermal efficiency standards. Standards for residential dwellings would be promulgated and implemented within one year, and performance standards for commercial and other residential buildings developed and implemented as soon thereafter as practicable. State and local governments would assume primary responsibility for enforcing standards through local building codes.

Title XI would establish, within the Federal Energy Administration a grant program for States to assist low income persons, particularly the elderly, in winterizing their homes. Title XI is modeled after a successful pilot project that was conducted in the State of Maine during 1974. Annual appropriations of $55 million would be authorized to fund the three year grant program, and enable States to purchase winterization materials for dwellings of low-income persons.

Title XII would authorize the President to require energy efficiency labels on all new major appliances and motor vehicles. This title would insure that consumers are fully apprised of the efficiency of various appliances and motor vehicles and would encourage the manufacture and greater utilization of more efficient products.

EMERGENCY PREPAREDNESS PROGRAMS

In addition to taking measures to increase domestic supplies, reduce demand and create a strategic reserve system, we must be in a position to take immediate and decisive actions to counteract any future energy emergency.

Title XIII would provide the President with certain standby authorities to deal with future embargoes or other energy emergencies and to carry out the International Energy Program agreement, including provisions for international oil sharing, mutual energy conservation programs, and international cooperation on various energy initiatives. This title would include authority to allocate and control the price of petroleum and petroleum products, promulgate and enforce mandatory energy conservation programs, ration petroleum products, order increases in domestic oil production, and allocate critical materials needed for the maintenance, construction and operation of critical energy facilities. All or a portion of these authorities would be invoked upon a determination that emergency conditions exist.

TAB C

STATUS OF ONGOING ENERGY LEGISLATION PERTINENT TO PRESIDENT'S PROGRAM

Title I — Naval Petroleum Reserves

S. 2173 (Cannon) authorizes production from Naval Petroleum Reserves 1, 2, 3. Passed the Senate, July 29, with Jackson amendment establishing national strategic petroleum reserve as in S. 677.

H.R. 49 (Melcher) Authorizes transfer of control of military petroleum reserves to the Department of Interior and production of Naval Petroleum Reserves 1-3. Passed the House, July 8, by a vote of 391-20. Conference on S. 2173 and H.R. 49 expected among Senate and House Interior and Armed Services Committees, and House Commerce Committee.

Title II — National Strategic Petroleum Reserve Act of 1975

S. 677 (Jackson) Establishes a civilian strategic petroleum reserve. Passed the Senate on July 8 by a unanimous vote of 91-0.

H.R. 7014 (Dingell) As part of Omnibus Bill, authorizes study of establishment of national strategic petroleum reserve.

Title III — New Natural Gas Deregulation

S. 692 (Hollings, Stevenson) Now pending on the Senate Calendar. It is unlikely that the bill will survive as reported without extensive modification in the direction of higher prices. Substitute offered by Senator Pearson represents acceptable Administration fall-back from Title III.

The House Commerce Committee will act on natural gas after the Senate completes action on S. 692, but probably not before November.

The Administration has submitted emergency legislation (S. 2330) to deal with expected natural gas shortage for the next two winters. A "one winter" emergency gas bill has been introduced in the Senate (S. 2310) by Senators Hollings, Glenn and Talmadge, and in the House by Congressman Dingell (H.R. 9464). Senate floor action is expected this week, and House hearings will be held the 3rd week in September.

Title IV — 1975 Legislative Proposals to Amend the Clean Air Act of 1970

S. 1996 — (Randolph) Energy Supply and Environmental Coordination Act Extension, which would extend ESECA until December 31, 1975 is pending in Senate Interior Committee.

S. 1777 — (Randolph, Jackson) Coal Conversion. The Senate Public Works and Senate Interior Committees held hearings. Public Works has prepared a committee print for markup purposes in September. Senator Randolph is pushing for final committee action by October 1.

Titles V & VI — 1975 Legislative Proposals to Amend the Clean Air Act of 1970

Hearings on the Clean Air Act Amendments have been held by Senate Public Works, which began a series of markups on June 18. The subcommittee should complete markup early in September, with a bill reaching the Senate floor by November. House Commerce Subcommittee on Health and Environment has scheduled further markups of its draft bill for the entire month of September.

Title VIII — Energy Facilities Planning and Development Act of 1975

S. 984 — (Jackson) Land use. Hearings were held before the Environment and Land Resources subcommittee of the Senate Interior Committee (April 23, 24, 29, and May 2.) Full Committee markup of the bill is anticipated to occur in late September or early October.

Title IX — Energy Development Security Act of 1975

No action since introduction.

Title X — Building Energy Conservation Standards Act of 1975

Energy Efficiency Standards for Buildings. On September 8, House passed H.R. 8650 which would facilitate but does not require, adoption by State and local governments of energy conservation standards for new buildings.

Title X cont'd.

Senate Commerce Committee has held hearings on Senator Tunney's bills S. 1392 and S. 1908, and Title X of the President's energy package. An August 4 committee print of S. 1908 will see markup sometime in September.

Senate Public Works has also scheduled hearings on Title X.

Title XI — Winterization Assistance Act of 1975

H.R. 8650 would provide assistance to low income persons to insulate their homes.

Title XII — National Appliance and Motor Vehicle Energy Labeling Act of 1975

S. 1883 — Mandatory Fuel Economy Standards for Motor Vehicles. Passed the Senate on July 15. Similar provisions are included in H.R. 7014 (Dingell) and H. R. 6860 (Ullman) which passed and is now being marked up by Senate Finance.

S. 349 — (Tunney) Motor Vehicle and Appliance Labeling. Passed the Senate July 11.

H.R. 7014 — Includes appliance labeling program administered by the Department of Commerce. Floor action pending.

Title XIII — Standby Energy Authorities Act of 1975

S. 622 — (Jackson) Standby Energy Authorities. Passed the Senate April 10. Contains mandatory conservation authorities which the Administration opposes.

H.R. 7014 — Contains a standby authorities title, under which the President may order cutbacks in energy use, direct production of oil fields at MER, and institute gasoline rationing. Requires multiple congressional approvals of emergency actions.

OTHER PERTINENT LEGISLATION

Energy Conservation and Oil Policy Act.

H.R. 7014 (Dingell). The Dingell energy bill has seen several days of debate on the House floor but agreement has not yet been reached. An amendment provides for ceilings of $5.25 a barrel for old oil; $7.50 for new oil; and $10 a barrel for high cost oil. Further action has been slowed by the recent recess and the decontrol fight.

Energy Conservation and Conversion Act

H.R. 6860 (Ullman). This bill passed the House on June 19 without a windfall profits tax provision. The Senate Finance Committee has held hearings and markups, but has not yet reported out the bill. Before the recess it reported out a windfall profits tax amendment which was filibustered on the floor on August 1.

OCS Leasing

S. 521 (Jackson) Passed the Senate on July 30 by a vote of 67-19.

H.R. 6218 (Murphy, N. Y.) Ad Hoc Committee on OCS will hold final hearings in September and proceed to markup in October. Chairman Murphy requested that Speaker Albert have S. 521 referred to the Ad Hoc Committee instead of using H.R. 6218 as a vehicle. There appears to be general opposition on the committee to the Bumpers Amendment on proprietary data, and to earmarking federal OCS revenues for the coastal states.

Nuclear Facility Licensing

S. 1717 and H.R. 7002. The Joint Committee on Atomic Energy has begun hearings on this legislation, which is intended to improve the licensing process for nuclear facilities. The Administration supports such legislation strongly.

THE WHITE HOUSE

WASHINGTON

FEA

December 6, 1975

MEMORANDUM FOR

THE HONORABLE FRANK ZARB
ADMINISTRATOR
FEDERAL ENERGY ADMINISTRATION

In the event the President determines to meet with any representatives of the petroleum industry prior to acting on the new energy bill, I have had a request that he meet with Mr. C. John Miller of Allegan, Michigan. This man is an independent oil operator and a friend of the President.

P.W.B.

Philip W. Buchen
Counsel to the President

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.:

FEA

Date: December 12, 1975

Time:

FOR ACTION: Phil Buchen

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: DECEMBER 12 (TODAY) Time: 2:00 P.M.

SUBJECT:

Zarb memo (12/11) re: Statement regarding removal of tariff

ACTION REQUESTED:

___ For Necessary Action

_X_ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

_X_ For Your Comments

___ Draft Remarks

REMARKS:

Could we please have your comments as soon as possible. Note especially the retroactive provision.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

December 11, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: STATEMENT REGARDING REMOVAL OF TARIFF

You recall we had a discussion earlier on the need to make some kind of statement regarding our intention to make a decision concerning the tariff removal effective December 1.

Alan Greenspan felt that we should place certain caveats in such a statement. We have, therefore, worked one out which has the approval of Lynn, Greenspan, Seidman and Morton. A copy is attached.

With your approval we will make a low key announcement this week.

Attachment

STATEMENT REGARDING CIRCUMSTANCES AND TIMING
RELATED TO POSSIBILITY OF TARIFF REMOVAL

Price controls under the Emergency Petroleum Allocation Act expire at midnight December 15, 1975. However, the Congress has under consideration the Energy Policy and Conservation Act which, if enacted, will extend this authority.

Under certain circumstances, the $2 import fee on crude oil might be removed as part of the final resolution of this situation. First, if price control authority expires, the President has previously indicated that the $2 import fee would be lifted to cushion the economic impact of immediate decontrol. Second, if the President were to decide to sign the Energy Policy and Conservation Act, the $2 import fee would also be removed in conjunction with the new pricing policy incorporated in that bill.

Under other circumstances, it is possible that the import fee could be retained.

Because such different results may occur, importers must operate in an environment of uncertainty which, in turn, causes economic distortions. For example, prudent importers may curtail imports of crude oil in order to avoid possible inventory losses if prices subsequently fall due to the removal of the import fee.

Therefore, to eliminate possible market distortions from developing, the President has decided to make any removal of the crude oil import fee, whether as a result of immediate decontrol or a decision to sign the Energy Policy and Conservation Act, effective retroactively as of December 1, 1975.

Energy

THE WHITE HOUSE

WASHINGTON

December 17, 1975

MEMORANDUM FOR: JIM CONNOR

THROUGH: PHIL BUCHEN P.

FROM: DUDLEY CHAPMAN DC

SUBJECT: Frank G. Zarb's memo 12/16/75 re: S. 622 The Energy Policy and Conservation Act -- If you Decide to Veto

Politically, Option 4 would appear preferable to Option 2. Reproposing the same thing that was submitted in August and rejected could be criticized as futile and unrealistic. Option 4 is politically realistic, and involves no sacrifice of principle. It simply acknowledges the impasse between the President and Congress and the fact that there is no prospect of its being resolved before the election.

Note: In the third line on page 3, "effected" should be "affected".

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: Energy

Date: December 17, 1975

Time:

FOR ACTION:

Phil Buchen
Jim Cannon
Max Friedersdorf
Alan Greenspan
Bob Hartmann
Jim Lynn
Jack Marsh
Bill Seidman
Brent Scowcroft

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: December 17, 1975 Time: c.o.b.

SUBJECT:

Frank G. Zarb's memo 12/16/75 re S.622
The Energy Policy and Conservation Act --
If you Decide to Veto

ACTION REQUESTED:

___ For Necessary Action

___ Prepare Agenda and Brief

X For Your Comments

X For Your Recommendations

___ Draft Reply

___ Draft Remarks

REMARKS:

I am sure you will appreciate the necessity of having your comments by the close of business today. Thank you.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

December 16, 1975

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: S. 622, The Energy Policy and Conservation Act -- If You Decide to Veto

Controls on oil prices expired at midnight, Monday, December 15. If you decide to veto the Energy Policy and Conservation Act (S. 622), decontrol will occur and a number of previously identified problems will result over a relatively short period of time -- probably before Congress comes back into session in January. These problems include:

- 6¢ per gallon price increases after the import fee is removed
- Propane price and supply problems
- Independent refiner and service station impacts
- Windfall profits in the petroleum industry
- Problems for farmers, fishermen, airlines, petrochemical companies, asphalt contractors and other special impact groups.

Since it is likely that Congress will let these problems develop for some period of time for political reasons, it may be appropriate to couple any veto of S. 622 with one or more legislative recommendations as a way of shifting part of the liabilities of immediate decontrol to the Congress. Such proposals would also assist efforts to sustain a veto.

There are basically four options if you decide to veto S. 622 and agree that we should follow the veto with alternative legislative proposals. These options and an evaluation of each option is provided below.

OPTION 1: Propose a limited number of changes to the bill which would permit Presidential acceptance, including higher guaranteed escalators, automatic removal of Alaska from the composite, and the elimination of both the coal loan guarantee program and the GAO audit provisions.

Pros:

- If accepted, would improve pricing provision while insuring that other desirable provisions in bill are enacted.

Cons:

- It is unlikely that Congress would make any of the desired changes, particularly in the pricing section; in fact, the pricing provision could be made even more restrictive.
- Even if changes are possible, it is unlikely that industry or producing state delegations would support the overall bill with any of the modifications that would be accepted by this Congress.

OPTION 2: Go for immediate decontrol and repropose the initiatives we submitted in August to mitigate the effects of decontrol, including a windfall profits tax, propane allocation, and price control authorities, subsidies for independent refiners, and tax rebates for farmers and fishermen.

Pros:

- Optimum program for energy self-sufficiency and deregulation of the industry.
- Best posture if complete decontrol is near-term objective.

Cons:

- Congress is not likely to approve the major components of the legislative initiative, particularly windfall profits tax and price controls on propane -- at least until problems have begun to occur.

- Major price increases will result almost immediately.

- Economic recovery could be affected.

OPTION 3: <u>Propose a phased decontrol plan (i.e., 39 month) and continuation of allocation act.</u>

<u>Pros</u>:

- If accepted, would result in gradual decontrol, but at a more certain rate than S. 622.

- No major one-time price increase would occur.

- Congress is familiar with program.

<u>Cons</u>:

- Would likely be rejected; House rejected plan once before and Conferees were strongly opposed to the structure of the program.

- Given Congressional work on this issue, resubmittal of 39 month plan could result in considerable acrimony and hostility.

OPTION 4: <u>Propose simple extension of allocation act through the election</u>:

<u>Pros</u>:

- Industry prefers current controls, at least the producing component of industry; most would like to avoid the consequences of decontrol, however.

- Simple extension would probably be easiest to achieve in near term.

<u>Cons</u>:

- Congress will delay a simple extension until problems develop, and will probably amend with a cap on new oil and allow no escalators as in current bill.

- With exception of initial price of new oil, S. 622 is a better bill in that it does provide for escalation in prices and the dismantling of

FEA's regulatory apparatus on wholesalers and retailers (with the exception of crude producers, the industry is clearly better off with S. 622 than with current controls).

- Would put us back to January 1975; no progress would have been made.

- Oil prices would be a major issue of the campaign.

SUMMARY AND RECOMMENDATIONS

It is clear that all of the options have their drawbacks, primarily because of the difficulty we will have in getting Congress to approve any of the alternatives without major changes if they agree to act at all. Consequently, each of the alternatives should be evaluated largely in terms of the political posture they would allow us to adopt during the next four to eight months.

If you decide to veto S. 622, I would recommend Option 2 -- go for immediate decontrol and resubmit initiatives we submitted in August to mitigate effects of decontrol.

FEA

THE WHITE HOUSE

WASHINGTON

December 18, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: PHIL BUCHEN P.

SUBJECT: Frank G. Zarb's memo re: H.R. 7014/ S.622: The Energy Policy and Conservation Act

I concur with Bill Seidman's recommendations as stated in his memorandum of December 6, 1975, (Tab K).

THE WHITE HOUSE

ACTION MEMORANDUM — WASHINGTON — LOG NO.:

Date: December 17, 1975 — Time:

FOR ACTION:
Phil Buchen
Jim Cannon
Max Friedersdorf
Alan Greenspan
Bob Hartmann

~~xxxxxxxxxxxxxxxxxxx~~
Jim Lynn
Jack Marsh
Bill Seidman
Brent Scowcroft
Dave Gergen

FROM THE STAFF SECRETARY

DUE: Date: DECEMBER 18, 1975 — Time: 11:00 A.M.

SUBJECT:

Frank G. Zarb's memo re: H.R. 7014/S.622: The Energy Policy and Conservation Act

ACTION REQUESTED:

___ For Necessary Action

___ Prepare Agenda and Brief

X For Your Comments

X For Your Recommendations

___ Draft Reply

___ Draft Remarks

REMARKS:

COMMENTS MUST BE IN THIS OFFICE BY
11:00 A.M. TOMORROW

THANK YOU.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President