

**The original documents are located in Box 32, folder “10/21/75 HR7706 Suspension of Duty on Natural Graphite; Amendments to HEW's Social Services Program” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.**

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**APPROVED**  
OCT 21 1975

*Signed*  
*10/21*

**ACTION**

**THE WHITE HOUSE**  
**WASHINGTON**

**Last Day: October 22**

**October 18, 1975**

*Per tel*  
*10/21/75*  
*To [unclear]*  
*10/22/75*

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: Enrolled Bill H.R. 7706 - Suspension of duty on natural graphite; amendments to HEW's social services program

Attached for your consideration is H.R. 7706, sponsored by Representative Burleson and two others, which:

- Suspends through June 30, 1978 the duty on natural graphite;
- Postpones for four months, until February 1, 1976, Federal enforcement of certain day care standards under the social services program in Title XX of the Social Security Act; and
- Amends for the same four-month period, certain provisions of Title XX related to treatment of alcoholics and drug addicts.

A detailed discussion of the bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 7706 at Tab B.





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

OCT 16 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7706 - Suspension of duty on natural graphite; amendments to HEW's social services program.  
Sponsor - Rep. Burleson (D) Texas and 2 others

Last Day for Action

October 22, 1975 - Wednesday. Recommend early Presidential action because of October 1, 1975 effective date of the Social Services Amendments of 1974.

Purpose

Suspends through June 30, 1978 the duty on natural graphite; postpones for 4 months, until February 1, 1976, Federal enforcement of certain day care standards under the social services program in Title XX of the Social Security Act, and liberalizes for the same 4-month period certain provisions of Title XX related to treatment of alcoholics and drug addicts.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of Commerce	Approval
Department of the Interior	Approval
Department of the Treasury	Supports the graphite provision
Department of State	No objection
Department of Labor	No objection (Informally)
Special Representative for Trade Negotiations	No objection

## Discussion

H.R. 7706, as originally passed by the House and reported by the Senate Finance Committee, dealt solely with the duty on natural graphite. Riders concerning the Title XX social services program were proposed on the Senate floor and agreed to by the conferees on this legislation. As explained further below, these riders are temporary measures dealing with certain perceived problems in Title XX, which took effect on October 1, 1975. Since they are only effective for 4 months, these problems are intended to receive further congressional consideration during this 4-month period.

### Suspension of duty on natural graphite

H.R. 7706 would suspend, until June 30, 1978, the duty on certain forms of natural graphite. The duty suspension would be effective as of the date of enactment, and would apply to imports of such items only from countries accorded most-favored-nation status.

Various forms of natural graphite are commonly blended to obtain final products with the desired properties for specific uses in foundry work, steelmaking, refractories, lubricants, pencils and batteries. Alternate materials cannot be substituted for natural graphite in many uses except at substantially higher cost.

There is only one operating domestic mine which produces very small quantities of one form of natural graphite. Domestic demand, however, far exceeds this limited domestic availability and has been increasing steadily since 1971. In 1974 alone, imports totalled 162 million short tons, more than double the amount of natural graphite imported in 1973. Nearly 90 percent of these 1974 imports entered duty free under existing law not applicable to the forms of natural graphite covered in the enrolled bill.

The enrolled bill would provide similar duty free treatment for imports of various other forms of natural graphite required by U.S. industry which are not covered by the existing law. In reporting to the House Ways and Means Committee on this legislation, the Commerce Department stated:



"We believe that the proposed temporary suspension of the...duties on natural...graphite would be advantageous in helping to control production costs of manufactured graphite articles. At the same time, the measure would not adversely affect U.S. industry or significantly affect the U.S. position in the multilateral trade negotiations."

### Title XX Amendments

#### Suspension of Day Care Standards

The Social Services Amendments of 1974, P.L. 93-647, added a Title XX to the Social Security Act (SSA) which includes 75 percent Federal matching funds to States for the provision of child day care services. However, effective October 1, 1975, no Federal payment can be made unless the day care outside of the home under Title XX or under Title IV of the SSA (AFDC and Child Welfare Services) meets a modified version of the "Federal Interagency Day Care Requirements" (FIDCR), approved by HEW and OEO in 1968.

The FIDCR, among other things, establish staffing ratios for day care. Under Title XX, staffing standards for care of children under age 3 must conform to regulations prescribed by the Secretary of HEW. A ratio of not more than 5 children to one adult is required for children 3 to 4 years of age, and not more than 7 to 1 for children aged 4 to 6. Other ratios apply to school-age children.

Since their inception, the staffing ratios in the FIDCR have been the subject of controversy between those who claim they are not strict enough and others who claim that they are far too rigid and costly. Uncertainty about their appropriateness led to a mandate in Title XX that HEW evaluate the FIDCR and report to Congress between January 1 and July 1, 1977 any recommendations for modifications.

H.R. 7706 would postpone until February 1, 1976 enforcement of the child day care staffing standards for children between the ages of 6 weeks and 6 years, provided that the staffing standards actually being applied comply with State law and are no lower than those in effect on September 15, 1975.

The impetus for this provision is that day care centers in a number of States do not meet the staffing standards of Title XX. Accordingly, enforcement of the standards at this time would result in denial of Federal funds to these States. This could cause substantial service cutbacks or greatly increased State costs to make up for the loss.

As an interim response to this problem, the House passed a six-month postponement of the standards and the Senate passed a one-month postponement. The conferees compromised on the four-month postponement in H.R. 7706.

HEW testified before the House Ways and Means Committee as strongly opposed to simply suspending enforcement of the FIDCR standards because "it would accomplish nothing more than put off the day of reckoning on this issue and even contribute to the uncertainty of the States, the providers and parents over what standards will or won't apply, and when."

HEW proposed instead a draft bill which would allow the Secretary of HEW to penalize the States for noncompliance with the FIDCR standards (except those pertaining to licensure, health, or safety) by withholding 3 percent of total Title XX payments, the same penalty already provided for noncompliance with certain other Title XX requirements. No penalty would have to be imposed if the State was making a good faith effort to upgrade day care facilities in order to come into compliance with FIDCR.

In its letter on the enrolled bill, HEW indicates that it will continue to advocate its proposal in anticipation of the new February 1 effective date. The Department states:

"...notwithstanding that our approach is not adopted by the enrolled bill, we recognize that the bill's disapproval would risk substantial injury to the existing structure within the States for supporting day care services. For this reason, and in light of the Department's current study of the day care requirements, we think a four-month delay in their enforcement is supportable."

## Drug Addiction and Alcoholism Treatment Amendments

The enrolled bill would also amend for the same 4-month period, October 1, 1975 - January 31, 1976, certain provisions of Title XX concerning drug addiction or alcoholism services.

These amendments would:

(1) apply the confidentiality provisions of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, to State services under Title XX to individuals suffering from drug addiction or alcoholism. Those provisions require that the identity, diagnosis, prognosis, or treatment of such persons be kept confidential, except under certain specified circumstances.

(2) exempt expenditures for up to 7 days of initial detoxification of an alcoholic or drug dependent individual from the current prohibition in Title XX against any Federal payment for the provision of services in a hospital or intermediate care facility, if such detoxification is integral to the further provision of services for which the person would be eligible under Title XX.

(3) require that the "entire rehabilitative process" (including initial detoxification, short-term residential treatment, and subsequent outpatient counseling and rehabilitative services) be used as the basis for determining eligibility for Federal funding of social services for drug addiction and alcoholism. Under current law, medical or remedial care services are eligible for the Federal matching share under Title XX only if they are an "integral but subordinate" part of a Title XX service and are not covered by Medicaid. HEW has by regulation restricted the funding of medical expenses to 25 percent, and room and board expenses to 40 percent, of the total cost of services per facility, agency, or stage of treatment. The enrolled bill would require that these percentages be applied against overall treatment costs.

With respect to the confidentiality provision, HEW notes that a virtually identical provision in section 408 of the Drug Abuse Office and Treatment Act of 1972 already applies to all federally assisted drug abuse prevention programs, and

therefore concludes that the provision in H.R. 7706 "would seem to be without any significant consequence."

The other provisions of the enrolled bill dealing with drug abuse and alcoholism services are potentially troublesome. Senator Hathaway, their sponsor, explained the need for these provisions as arising from "the unique nature of the rehabilitative process by which persons end their dependency on alcohol and drugs"--sometimes requiring an initial detoxification period, followed by various stages of different types of services handled in different facilities. He indicated that "much confusion" has developed as a result of the HEW regulations in States with Title XX plans specifying alcoholism and drug abuse treatment as eligible services, and represented the amendments as "more realistic" by specifying that an entire rehabilitative process be considered as a "service" for purposes of HEW's 25-percent medical expenses and 40-percent room and board determinations.

HEW believes these amendments would add a substantial administrative burden, both to the States and to HEW, since it would be necessary to forecast the length, nature, and number of steps in the "entire rehabilitative process" that each individual would undergo. The Department states that they may render almost meaningless in the case of alcohol and drug abuse programs the Title XX provision that medical or remedial care be no more than a subordinate part of any service provided to a beneficiary.

The principal benefit of the proposed amendments would accrue to those States whose programs treat alcoholics or addicts in a series of facilities and/or separate programs, although it appears that most States do not operate in that fashion. The effect of H.R. 7706 would be to make more medical and room and board costs in those States eligible for reimbursement under Title XX.

Rep. Vander Jagt, in the House floor discussion, raised certain other issues about these provisions, which we believe have merit. He expressed doubt that Title XX is the best vehicle for the treatment and rehabilitation of alcoholics and addicts and indicated that the proposed exceptions to the present limits on medical services could create a precedent for other exceptions, such as for the mentally ill. Noting that there is a \$2.5 billion ceiling on annual Federal funding of social services under Title XX, he expressed concern that

diversion of funds from other groups to alcoholics and drug addicts could lead to pressures to lift the ceiling. He suggested further exploration before the House agrees to an extension of these provisions beyond January 31, 1976.

Despite its concerns, HEW's views letter on the enrolled bill concludes that the proposed requirement for considering the individual's "entire rehabilitative process"--present and future--is not sufficiently objectionable to bring the desirability of the bill as a whole into question.

#### Program Costs

The changes to Title XX proposed by H.R. 7706 would result in little additional cost, since most States' expenditures are at or near their allotment under the legally-imposed ceiling on Title XX expenditures. While it is impossible to estimate with any assurance the costs associated with the drug abuse and alcoholism treatment amendments, it appears unlikely that the States could readjust their operations significantly in the next four months to increase Federal matching costs appreciably. The effect on Federal expenditures could be more substantial, however, if these provisions were to be extended beyond January 31, 1976.

#### Recommendations

HEW recommends approval of H.R. 7706 and we concur. The temporary suspension of the duty on natural graphite is not objectionable. The temporary suspension of Titles XX and IV fund cutoff to States for failure to conform to day care standards will prevent immediate imposition of a hardship on States and users of day care and will give the Congress and the Administration some additional time to work out a solution to this problem. As discussed above, the temporary amendments to the alcoholism and drug abuse treatment programs raise questions and potential problems. We would expect, however, that HEW would work with the Congress to evaluate the effect of these amendments over the next few months and recommend their modification or termination, if experience so warrants.

*James M. Frey*

Assistant Director for  
Legislative Reference

Enclosures



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

OCT 15 1978

Dear Mr. Lynn:

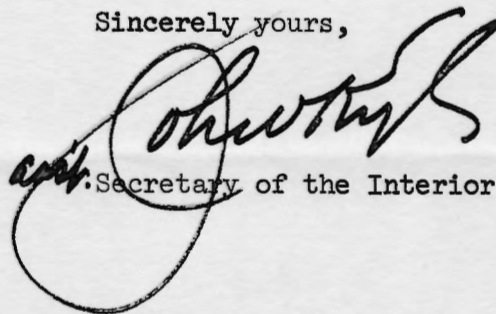
This responds to your request for our views on the enrolled bill H.R. 7706, "To suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes."

With respect to those provisions of H.R. 7706 which would suspend the duty on natural graphite, we recommend approval by the President. With respect to the provisions affecting child day care services and the treatment of drug addiction or alcoholism, we defer to the views of the Department of Health, Education, and Welfare.

H.R. 7706 would amend the Tariff Schedules of the United States to suspend the duty on natural graphite until the close of June 30, 1978.

The temporary suspension of the duty is not expected to result in substantial increases in graphite imports, and the domestic supply is not believed to be presently vulnerable to any adverse effect of a duty suspension.

Sincerely yours,

  
Secretary of the Interior

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



RECEIVED

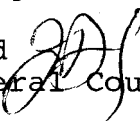
OFFICE OF THE SPECIAL REPRESENTATIVE  
FOR TRADE NEGOTIATIONS

EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON  
20506

MEMORANDUM

October 15, 1975

TO J.F.C. Hyde, Jr.  
Office of Management and Budget

FROM John Greenwald   
Assistant General Counsel

SUBJECT H.R. 7706 (Enrolled Bill)

This office has reviewed H.R. 7706 (enrolled bill), "an Act to suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes" and has no objection to sections 1 and 2 of the bill which suspend the duty on imports of natural graphite. Sections 3 and 4 of the enrolled bill amend P.L. 93-647 and certain sections of the Social Security Act, respectively. These sections deal with matters outside the competence of this office and, accordingly, we express no opinion thereon.



DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 16 1975

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

Dear Mr. Lynn:

The Secretary has asked me to reply to your communication (Office of Management and Budget Memorandum, dated October 13, signed by Mr. Frey) requesting our views on H.R. 7706, an enrolled bill providing temporary duty free entry for natural graphite.

The Department of State has no objection from the standpoint of United States foreign economic relations to approval of the enrolled bill. We note, however, that the text of bill also includes provisions amending our social security legislation and defer to the other interested executive agencies on the effects of the proposed amendments on our social security policy.

Sincerely,

A handwritten signature in black ink that reads "Robert J. McCloskey".

Robert J. McCloskey  
Assistant Secretary  
for Congressional Relations



To Chairman  
10/17

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

OCT 16 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7706 - Suspension of duty on natural graphite; amendments to HEW's social services program.  
Sponsor - Rep. Burleson (D) Texas and 2 others

Last Day for Action

October 22, 1975 - Wednesday. Recommend early Presidential action because of October 1, 1975 effective date of the Social Services Amendments of 1974.

Purpose

Suspends through June 30, 1978 the duty on natural graphite; postpones for 4 months, until February 1, 1976, Federal enforcement of certain day care standards under the social services program in Title XX of the Social Security Act, and liberalizes for the same 4-month period certain provisions of Title XX related to treatment of alcoholics and drug addicts.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of Commerce	Approval
Department of the Interior	Approval
Department of the Treasury	Supports the graphite provision
Department of State	No objection
Department of Labor	No objection (Informally)
Special Representative for Trade Negotiations	No objection

## Discussion

H.R. 7706, as originally passed by the House and reported by the Senate Finance Committee, dealt solely with the duty on natural graphite. Riders concerning the Title XX social services program were proposed on the Senate floor and agreed to by the conferees on this legislation. As explained further below, these riders are temporary measures dealing with certain perceived problems in Title XX, which took effect on October 1, 1975. Since they are only effective for 4 months, these problems are intended to receive further congressional consideration during this 4-month period.

### Suspension of duty on natural graphite

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Various forms of natural graphite are commonly blended to obtain final products with the desired properties for specific uses in foundry work, steelmaking, refractories, lubricants, pencils and batteries. Alternate materials cannot be substituted for natural graphite in many uses except at substantially higher cost.

There is only one operating domestic mine which produces very small quantities of one form of natural graphite. Domestic demand, however, far exceeds this limited domestic availability and has been increasing steadily since 1971. In 1974 alone, imports totalled 162 million short tons, more than double the amount of natural graphite imported in 1973. Nearly 90 percent of these 1974 imports entered duty free under existing law not applicable to the forms of natural graphite covered in the enrolled bill.

The enrolled bill would provide similar duty free treatment for imports of various other forms of natural graphite required by U.S. industry which are not covered by the existing law. In reporting to the House Ways and Means Committee on this legislation, the Commerce Department stated:

"We believe that the proposed temporary suspension of the...duties on natural...graphite would be advantageous in helping to control production costs of manufactured graphite articles. At the same time, the measure would not adversely affect U.S. industry or significantly affect the U.S. position in the multilateral trade negotiations."

### Title XX Amendments

#### Suspension of Day Care Standards

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The FIDCR, among other things, establish staffing ratios for day care. Under Title XX, staffing standards for care of children under age 3 must conform to regulations prescribed by the Secretary of HEW. A ratio of not more than 5 children to one adult is required for children 3 to 4 years of age, and not more than 7 to 1 for children aged 4 to 6. Other ratios apply to school-age children.

Since their inception, the staffing ratios in the FIDCR have been the subject of controversy between those who claim they are not strict enough and others who claim that they are far too rigid and costly. Uncertainty about their appropriateness led to a mandate in Title XX that HEW evaluate the FIDCR and report to Congress between January 1 and July 1, 1977 any recommendations for modifications.

H.R. 7706 would postpone until February 1, 1976 enforcement of the child day care staffing standards for children between the ages of 6 weeks and 6 years, provided that the staffing standards actually being applied comply with State law and are no lower than those in effect on September 15, 1975.

The impetus for this provision is that day care centers in a number of States do not meet the staffing standards of Title XX. Accordingly, enforcement of the standards at this time would result in denial of Federal funds to these States. This could cause substantial service cutbacks or greatly increased State costs to make up for the loss.

As an interim response to this problem, the House passed a six-month postponement of the standards and the Senate passed a one-month postponement. The conferees compromised on the four-month postponement in H.R. 7706.

HEW testified before the House Ways and Means Committee as strongly opposed to simply suspending enforcement of the FIDCR standards because "it would accomplish nothing more than put off the day of reckoning on this issue and even contribute to the uncertainty of the States, the providers and parents over what standards will or won't apply, and when."

HEW proposed instead a draft bill which would allow the Secretary of HEW to penalize the States for noncompliance with the FIDCR standards (except those pertaining to licensure, health, or safety) by withholding 3 percent of total Title XX payments, the same penalty already provided for noncompliance with certain other Title XX requirements. No penalty would have to be imposed if the State was making a good faith effort to upgrade day care facilities in order to come into compliance with FIDCR.

In its letter on the enrolled bill, HEW indicates that it will continue to advocate its proposal in anticipation of the new February 1 effective date. The Department states:

"...notwithstanding that our approach is not adopted by the enrolled bill, we recognize that the bill's disapproval would risk substantial injury to the existing structure within the States for supporting day care services. For this reason, and in light of the Department's current study of the day care requirements, we think a four-month delay in their enforcement is supportable."

## Drug Addiction and Alcoholism Treatment Amendments

The enrolled bill would also amend for the same 4-month period, October 1, 1975 - January 31, 1976, certain provisions of Title XX concerning drug addiction or alcoholism services.

These amendments would:

(1) apply the confidentiality provisions of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, to State services under Title XX to individuals suffering from drug addiction or alcoholism. Those provisions require that the identity, diagnosis, prognosis, or treatment of such persons be kept confidential, except under certain specified circumstances.

(2) exempt expenditures for up to 7 days of initial detoxification of an alcoholic or drug dependent individual from the current prohibition in Title XX against any Federal payment for the provision of services in a hospital or intermediate care facility, if such detoxification is integral to the further provision of services for which the person would be eligible under Title XX.

(3) require that the "entire rehabilitative process" (including initial detoxification, short-term residential treatment, and subsequent outpatient counseling and rehabilitative services) be used as the basis for determining eligibility for Federal funding of social services for drug addiction and alcoholism. Under current law, medical or remedial care services are eligible for the Federal matching share under Title XX only if they are an "integral but subordinate" part of a Title XX service and are not covered by Medicaid. HEW has by regulation restricted the funding of medical expenses to 25 percent, and room and board expenses to 40 percent, of the total cost of services per facility, agency, or stage of treatment. The enrolled bill would require that these percentages be applied against overall treatment costs.

With respect to the confidentiality provision, HEW notes that a virtually identical provision in section 408 of the Drug Abuse Office and Treatment Act of 1972 already applies to all federally assisted drug abuse prevention programs, and

therefore concludes that the provision in H.R. 7706 "would seem to be without any significant consequence."

The other provisions of the enrolled bill dealing with drug abuse and alcoholism services are potentially troublesome. Senator Hathaway, their sponsor, explained the need for these provisions as arising from "the unique nature of the rehabilitative process by which persons end their dependency on alcohol and drugs"--sometimes requiring an initial detoxification period, followed by various stages of different types of services handled in different facilities. He indicated that "much confusion" has developed as a result of the HEW regulations in States with Title XX plans specifying alcoholism and drug abuse treatment as eligible services, and represented the amendments as "more realistic" by specifying that an entire rehabilitative process be considered as a "service" for purposes of HEW's 25-percent medical expenses and 40-percent room and board determinations.

HEW believes these amendments would add a substantial administrative burden, both to the States and to HEW, since it would be necessary to forecast the length, nature, and number of steps in the "entire rehabilitative process" that each individual would undergo. The Department states that they may render almost meaningless in the case of alcohol and drug abuse programs the Title XX provision that medical or remedial care be no more than a subordinate part of any service provided to a beneficiary.

The principal benefit of the proposed amendments would accrue to those States whose programs treat alcoholics or addicts in a series of facilities and/or separate programs, although it appears that most States do not operate in that fashion. The effect of H.R. 7706 would be to make more medical and room and board costs in those States eligible for reimbursement under Title XX.

Rep. Vander Jagt, in the House floor discussion, raised certain other issues about these provisions, which we believe have merit. He expressed doubt that Title XX is the best vehicle for the treatment and rehabilitation of alcoholics and addicts and indicated that the proposed exceptions to the present limits on medical services could create a precedent for other exceptions, such as for the mentally ill. Noting that there is a \$2.5 billion ceiling on annual Federal funding of social services under Title XX, he expressed concern that

diversion of funds from other groups to alcoholics and drug addicts could lead to pressures to lift the ceiling. He suggested further exploration before the House agrees to an extension of these provisions beyond January 31, 1976.

Despite its concerns, HEW's views letter on the enrolled bill concludes that the proposed requirement for considering the individual's "entire rehabilitative process"--present and future--is not sufficiently objectionable to bring the desirability of the bill as a whole into question.

Program Costs

The changes to Title XX proposed by H.R. 7706 would result in little additional cost, since most States' expenditures are at or near their allotment under the legally-imposed ceiling on Title XX expenditures. While it is impossible to estimate with any assurance the costs associated with the drug abuse and alcoholism treatment amendments, it appears unlikely that the States could readjust their operations significantly in the next four months to increase Federal matching costs appreciably. The effect on Federal expenditures could be more substantial, however, if these provisions were to be extended beyond January 31, 1976.

Recommendations

HEW recommends approval of H.R. 7706 and we concur. The temporary suspension of the duty on natural graphite is not objectionable. The temporary suspension of Titles XX and IV fund cutoff to States for failure to conform to day care standards will prevent immediate imposition of a hardship on States and users of day care and will give the Congress and the Administration some additional time to work out a solution to this problem. As discussed above, the temporary amendments to the alcoholism and drug abuse treatment programs raise questions and potential problems. We would expect, however, that HEW would work with the Congress to evaluate the effect of these amendments over the next few months and recommend their modification or termination, if experience so warrants.

(Signed) James M. Frey  
Assistant Director for  
Legislative Reference

Enclosures



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

OCT 16 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 in reply to your request for the views of this Department concerning H.R. 7706, an enrolled enactment

"To suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes."

The interest of the Department of Commerce in this legislation is limited to sections 1 and 2 which would provide a temporary suspension of the Column 1 rates of duty until June 30, 1978 for imports of crude and refined natural graphite.

The Department of Commerce recommends approval by the President of H.R. 7706 insofar as sections 1 and 2 are concerned. With respect to the remaining provisions, we have no comment.

The United States is almost completely dependent upon imports for its supply of natural graphite, imports having totaled some 162 million short tons in 1974.

Enactment of this legislation would involve no expenditure of funds by the Department of Commerce.

Sincerely,

*Karl E. Bakke*

General Counsel







DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OCT 16 1975

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

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 7706, an enrolled bill "To suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes."

Insofar as it would affect the programmatic interests of this Department, the enrolled bill would postpone until January 31, 1976, the effective date of a legal requirement that child day care services assisted under the social services title (title XX) of the Social Security Act comply with the Federal interagency day care requirements as modified by that title. We recommend its approval in order to avoid termination of payments for day care services to many States under title XX. The enrolled bill, its background, and certain subsidiary provisions related to alcoholic and drug abuse programs, are described in detail in the enclosed staff memorandum.

When the day care requirements were imposed under title XX, the law concurrently required the Secretary to evaluate them and submit that evaluation and his recommendations to the Congress between January 1 and July 1, 1977. This mandate reflected both congressional and departmental uncertainty as to whether the day care services requirements imposed by title XX were wholly appropriate.

It now appears that a number of States are unable to comply with the title XX day care requirements, which came into effect on October 1. In its most important feature, the enrolled bill is an interim response to this problem. In our own effort to alleviate it, the Department had, prior to the bill's passage, presented a proposal to the Congress to amend the law to vest authority in the Secretary to ameliorate the penalty for a State's noncompliance with the day care requirements, except those requirements

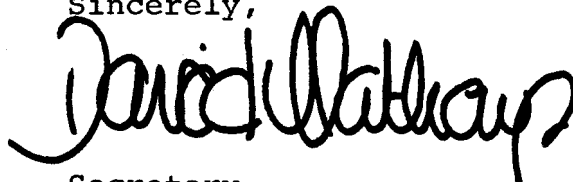
pertaining to licensure, health, or safety. This alternative penalty would be established at three percent of the State's total title XX payments. However, in the case of States making a good faith effort to upgrade their day care services, the Secretary would be empowered to waive the penalty altogether.

In the coming months, as the Congress continues to address the issue in anticipation of the new February 1 effective date, we shall continue to advocate our proposal. However, notwithstanding that our approach is not adopted by the enrolled bill, we recognize that the bill's disapproval would risk substantial injury to the existing structure within the States for supporting day care services. For this reason, and in light of the Department's current study of the day care requirements, we think a four-month delay in their enforcement is supportable.

We are also concerned with a provision of the bill which, during the same four-month period, would require as a condition of eligibility for title XX assistance that we take into account, in determining whether certain medical and remedial services and room and board are integral but subordinate to social services in alcohol and drug abuse programs, the cost of all services to the program's beneficiaries that will or may be rendered at any time in the future. This provision will be difficult to administer in the absence of time limits and may, in the case of these programs, render almost meaningless the current provision of title XX for measuring whether States are satisfying this integral but subordinate provision. Nevertheless, this requirement is of limited duration and is not sufficiently objectionable to bring the desirability of the measure as a whole into question.

Accordingly, we advise the President to sign the enrolled bill.

Sincerely,

A handwritten signature in black ink, appearing to read "David Walker". The signature is written in a cursive, somewhat stylized script.

Secretary

Enclosure

## TECHNICAL SUMMARY OF ENROLLED BILL

### I. APPLICATION OF FEDERAL INTERAGENCY DAY CARE REQUIREMENTS

#### A. Current law

Section 2002(a)(9)(A)(ii) of title XX of the Social Security Act prohibits any payment under title XX for child day care services provided outside the child's home unless the care meets the Federal interagency day care requirements (FIDCR) as approved by the Department and the Office of Economic Opportunity on September 23, 1968, subject to certain modifications. First, the educational requirements of FIDCR are reduced to recommendations, and staffing standards for school-age children in day care centers may be revised by the Secretary. Second, the staffing standards imposed in the case of children under age 3 must conform to regulations prescribed by the Secretary. (FIDCR would otherwise merely require that the State establish acceptable standards for the care of children under 3 years of age.) Third, the staffing standards imposed with respect to children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10, shall require at least one adult for each 15 children. (FIDCR continues to require, in the case of day care center care, a ratio of no more than 5 children to one adult for children 3 to 4 years of age, and a ratio not greater than 7 to 1 for children aged 4 to 6.)

Section 3(f) of the Social Services Amendments of 1974, which Amendments enacted title XX, requires that any child day care services provided under any plan of a State approved under part A, or developed under part B, of title IV of the Social Security Act must also meet the above-described requirements.

#### B. Department proposal

The Department's proposal was described in detail in our transmission to the Congress of October 1, 1975. Briefly stated, it would preserve the obligation of the States to assure compliance with the Federal interagency day care requirements, but would allow the Secretary to set the consequences of noncompliance (except in the case of noncompliance with licensure, health, or safety standards) at a penalty of 3 percent of title XX payments. This is the

same penalty already set in the Act for noncompliance with other requirements. No penalty need be imposed if the State is making a good faith effort to upgrade day care facilities in order to come into compliance with the requirements. This feature would also parallel the flexibility provided in the Act for compliance with other requirements.

### C. Description of enrolled bill

The enrolled bill would waive FIDCR staffing standards only in the case of children in day care centers or group day care homes between the ages of 6 weeks and 6 years, i.e., the requirement of one adult for each 5 children of the ages of 3 and 4, and for each 7 children in the 4 through 6 age group. The application of this requirement would be suspended until February 1, 1976. There would be no suspension of the application of FIDCR or the remaining staffing standards described above. Also, the suspension would be effective only so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards that were imposed or required by applicable State law on February 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

## II. ALCOHOLISM AND DRUG ABUSE

During this same four-month period, but not thereafter, the following provisions of law would also be applicable:

### A. Privacy of records

Section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 would apply to services provided by any State under title XX to individuals suffering from drug addiction

or alcoholism. Section 333 provides that records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, with certain exceptions, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized by the section. The section then provides for disclosure in cases of medical emergency, for scientific research (where individual patient identity is protected), and in certain court proceedings. Inasmuch as a virtually identical provision, section 408 of the Drug Abuse Office and Treatment Act of 1972, is now applicable to all federally assisted drug abuse prevention programs, the application of section 333 to title XX drug abuse programs would seem to be without any significant consequence.

B. Reimbursement for medical and remedial care and room and board

Section 2002(a)(7) of the Social Security Act now imposes, so far as may be pertinent to the enrolled bill, a limit on Federal financial participation under title XX with respect to medical or remedial care and room and board. Essentially, the care must be an integral but subordinate part of a title XX service, the expenditure for which care is not available to the State under its Medicaid program. A related provision, section 2002(a)(11), prohibits payments under title XX for expenditures for the provision of services to any individual living in any hospital, subject to certain exceptions.

The enrolled bill would add to the exceptions in section 2002(a)(11) expenditures for up to 7 days of initial detoxification of an alcoholic or drug dependent individual. However, the bill would also require that the entire rehabilitative process for ending the dependency of individuals who are alcoholics or drug addicts, including but not limited to initial detoxification, short-term residential treatment, and subsequent outpatient counseling and rehabilitative

services, be used as the basis for determining whether the relevant 2002(a)(7) standards have been met. The Department has by regulation determined that no more than 25 percent of the entire cost of a service funded under title XX may be allotted for medical expenses, and that no more than 40 percent of the cost may be allotted for room and board. The enrolled bill would require that in the case of alcoholism and drug abuse programs the percentages be taken against a base that includes all of the subsequent services.

In short, the apparent intentions of these amendments are to retain the concept that remedial care, even in the case of alcohol or drug dependent individuals, must be a subordinate part of a title XX service, but for these individuals a service is defined as the total process.



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

OCT 16 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 H.R. 7706, "To suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes."

The enrolled enactment would amend subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (TSUS), by adding immediately after item 907.80, new item 909.01, which would allow free entry until June 30, 1978 in the case of column 1 countries for natural graphite, crude and refined, presently provided for in items 517.21, 517.24, and 517.27, TSUS. The enrolled enactment would also postpone for four months the effective date of new staffing standards for child day care centers required by title XX of the Social Security Act. In addition, it would permit for a four-month trial period the expenditure of social service funds under title XX for the initial detoxification of alcoholics and drug addicts. Present law limits social service funding to persons in mental institutions.

The Department supports a duty suspension on natural graphite, crude and refined, for column 1 countries, and does not anticipate unusual administrative difficulties or a significantly increased workload for the U. S. Customs Service. The Department has no comment on the merits of the nongermane provisions of the enrolled enactment, since they deal with matters outside our primary scope of interest.

Sincerely yours,




General Counsel

MEMORANDUM

6964

NATIONAL SECURITY COUNCIL

October 17, 1975

MEMORANDUM FOR: JAMES CAVANAUGH  
FROM: Jeanne W. Davis   
SUBJECT: Suspension of Duty on  
Natural Graphite: H. R. 7706

The NSC Staff concurs in H. R. 7706.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 653

Date: October 17

Time: noon

FOR ACTION: Art Quern *ak* cc (for information): Jack Marsh  
 Dick Parsons *ak* Paul Leach *ak* Jim Cavanaugh  
 NSC/S *ak* Warren Hendriks  
 Max Friederädorf *ak*  
 Ken Lazarus *ak*

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: noon

SUBJECT:

H.R. 7706 - Suspension of duty on natural graphite;  
 amendments to HEW's social services program

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action     | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply              |
| <input type="checkbox"/> For Your Comments        | <input type="checkbox"/> Draft Remarks            |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

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.

\_\_\_\_\_  
 K. R. COLE, JR.  
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 653

Date: October 17

Time: noon

FOR ACTION: Art Quern ✓ cc (for information): Jack Marsh  
 Dick Parsons Paul Leach Jim Cavanaugh  
 NSC/S Warren Hendriks  
 Max Friedersdorf  
 Ken Lazarus

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: noon

SUBJECT:

H.R. 7706 - Suspension of duty on natural graphite;  
 amendments to HEW's social services program

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action     | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply              |
| <input type="checkbox"/> For Your Comments        | <input type="checkbox"/> Draft Remarks            |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*Recommend approval*

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.



Date: October 17

Time: noon

FOR ACTION: Art Quern  
 Dick Parsons & Paul Leach  
 NSC/S  
 Max Friedersdorf  
 Ken Lazarus

cc (for information): Jack Marsh  
 Jim Cavanaugh  
 Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: noon

SUBJECT:

H.R. 7706 - Suspension of duty on natural graphite;  
 amendments to HEW's social services program

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

~~NO~~ No objection. RQ

Please return to Judy Johnston, Ground Floor West Wing

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.

THE WHITE HOUSE

WASHINGTON

October 20, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M. L. F.*  
SUBJECT: H. R. 7706 - Suspension of duty on natural graphite;  
amendments to HEW's social services program

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 10-20-75

TO: Bob Linder

FROM: Jim Frey

Attached is the Labor views  
letter on H.R. 7706. Please  
have it included in the  
enrolled bill file. Thanks.

OMB FORM 38  
REV AUG 73

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

OCT 17 1975

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

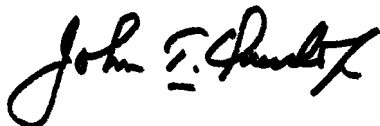
Dear Mr. Lynn:

This is in response to your request for our views on H.R. 7706, an enrolled enactment "To suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes."

This Department has no objection to the provisions of H.R. 7706 relating to the suspension of the duty on natural graphite. With respect to the other provisions of this legislation relating to the delay on implementation of certain staffing requirements for providers of federally-supported day care services and to the treatment of alcoholics and drug addicts, we defer to those agencies more directly involved, such as the Department of Health, Education and Welfare.

Accordingly, we have no objection to Presidential approval of this legislation.

Sincerely,



Secretary of Labor

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## TEMPORARY SUSPENSION OF DUTY ON NATURAL GRAPHITE

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JUNE 16, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

### REPORT

[To accompany H.R. 7706]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### DESCRIPTION OF PROVISIONS

The first section of the bill amends subpart B, part 1 of the Appendix to the Tariff Schedules of the United States (TSUS) to add new item number 909.01 after item number 907.80 to suspend the column 1 rates of duty on natural graphite for a temporary period until June 30, 1978.

Section 2 of the bill applies the temporary duty suspension to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment.

#### GENERAL STATEMENT

Natural graphite is currently imported under four items of the TSUS. The bill would suspend the column 1 rates of duty (applicable to imports from countries accorded nondiscriminatory (MFN) tariff treatment); the column 2 rates (applicable to imports from countries not accorded MFN treatment) would remain unchanged. The column 1 rates of duty on crystalline flake graphite valued not over 5.5 cents per pound (TSUS item 517.21) and valued over 5.5 cents per pound (TSUS item 517.24) are 7.5 percent ad valorem and 0.4 cents per pound (ad valorem equivalent based on 1974 imports of 3.1 percent), respectively. The corresponding column 2 rates of duty for both of these items are 1.65 cents per pound. The column 1 rate of duty on



graphite in crystalline lump or chip form (TSUS item 517.27) is 2.5 percent ad valorem; the column 2 rate is 30 percent ad valorem. Imports of other forms of natural graphite (TSUS item 517.31) already enter duty-free under column 1; the column 2 rate is 10 percent ad valorem.

Graphite, or plumbago, is found naturally as a mineral and marketed in two commercial classes—crystalline and amorphous—as flake, lump, chip, dust, or fine powder. The industry commonly blends different graphites to obtain a final product having the desired properties for specific uses, mainly in foundry facings, steelmaking, lubricants, refractories, pencils, and batteries. Processing and selling are generally done on a custom basis for the specialized market. Alternate materials cannot substitute for natural graphite in many uses except at substantially higher cost.

There is only one operating domestic graphite mine, which produces only small-flake crystalline. Domestic production is reportedly about 2,000 tons per year, only a minor share of domestic consumption, which totalled about 71,000 short tons in 1973. Graphite deposits have been reported in 25 States and commercial quantities have been produced at times in 17 States. Slow market growth, high production costs, and low-grade ore have restricted domestic commercial recovery.

The single domestic producer, as well as its parent firm, reportedly import about 2,000–3,000 short tons of high quality natural graphite each year to augment domestic production. They blend it for their own use as well as for resale to other consumers. About a dozen companies import, process, and sell graphite products to a large number of manufacturing users.

United States imports of natural graphite have steadily increased since 1971 due to greater demand. Imports totalled 162 million short tons valued at \$5.4 million in 1974, an increase from 77 million short tons in 1973. Nearly 90 percent of total imports in 1974 were amorphous graphite mainly from Mexico already entering duty-free under TSUS item 517.31. About 10.2 million short tons valued at \$1.1 million were subject to column 1 rates of duty in 1973. The Malagasy Republic supplies about two-thirds of United States imports of crystalline natural graphite. The U.S.S.R. and the People's Republic of China supply some graphite under column 2 rates of duty.

Certain grades of natural graphite are considered essential to the national defense and have been designated strategic materials. These grades include lump graphite from Ceylon and flake graphite from the Malagasy Republic. Virtually all surplus graphite in United States Government stockpiles has been committed to purchasers in competitive offerings. As a result, and because of a reduction in world production while demand has increased, the prices of graphite for industrial consumers have been increasing substantially.

The parent firm of the single domestic producer is seeking the duty suspensions. Favorable reports have been received from the Special Representative for Trade Negotiations and the Departments of Commerce, Interior, State, and Treasury, principally on the grounds that the duty suspensions would help reduce production and consumer costs of natural graphite and make United States-produced graphite products more competitive in foreign markets. An information report was received from the International Trade Commission.

Public hearings were held by the Subcommittee on Trade of the Committee on Ways and Means on April 23 and 24, 1975 on duty-free entry and temporary duty suspension bills. During these hearings favorable testimony and written comments were received on H.R. 1794, a bill similar to H.R. 7706. No objections to this legislation have been received by the committee from any source.

Your committee believes H.R. 7706 to be meritorious and unani- mously urges its approval.

#### EFFECT OF THE BILL ON THE REVENUES AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect on the revenues of this bill. Your committee estimates that the temporary suspension of duties on natural graphite provided by the bill would result in a loss in revenues of approximately \$54,820 in the first full year of enactment based on 1974 imports.

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by the committee on the motion to report the bill. This bill was unanimously ordered favorably reported by the committee.

#### OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 2(1)(3) and 2(1)(4) of rule XI of the Rules of the House of Representatives, the following statements are made.

With regard to subdivision (A) of clause 3 relating to oversight findings, your committee advises that in its review of the present economic situation with respect to natural graphite, it concluded it would be desirable to enact legislation changing the present law to suspend the duties temporarily on imports of natural graphite, by reason of the considerations outlined above in the General Statement.

In compliance with subdivision (B) of clause 3, your committee states that the changes made in present law by this bill involve no new budgetary authority or new or increased tax expenditures.

With respect to subdivisions (C) and (D) of clause 3, your committee advises that no estimate or comparison has been prepared by the Director of the Congressional Budget Office relative to H.R. 7706, nor have any oversight findings or recommendations be submitted to the committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause (2)(1)(4) of rule XI, your committee states that the temporary suspension of duties on imports under this bill would not have an inflationary impact on prices and costs in the operation of the general economy.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TARIFF SCHEDULES OF THE UNITED STATES

APPENDIX TO THE TARIFF SCHEDULES

Item	Articles	Rates of duty		Effective period
		1	2	
<b>PART 1.—TEMPORARY LEGISLATION</b>				
<b>Subpart B.—Temporary Provisions Amending the Tariff Schedules</b>				
907.80	Logwood, canaigre, chestnut, curupay, divi-divi, eucalyptus, hemlock, larch, tara, mangrove, myrobalan, oak, quebracho, sumac, urunday, wattle, and valonia, all the foregoing provided for in items 470.15, 470.23, 470.55, 470.57, and 470.65, part 9A, schedule 4.	Free-----	Free-----	On or before 9/30/75.
909.01	Graphite, crude and refined, natural (provided for in item 517.21, 517.24, or 517.27, part 1E, schedule 5).	Free-----	No change-----	On or before 6/30/78.



In compliance with clause 3(1)(c) and 3(1)(d) of rule XI of the Rules of the House of Representatives, the following statements are made:  
 With regard to subsection (A) of clause 3 of rule XI of the Rules of the House of Representatives, your committee advises that in its report on the measure, your committee will report to the House of Representatives a bill which would be desirable to amend the law in order to provide for the duties temporary suspension of duties on imports of certain commodities of the commodities outlined above in the General Schedule. In compliance with subsection (B) of clause 3 of your committee's report, the changes made in present law by the bill involve no new industry, and no new or increased tax expenditures.  
 With respect to subsection (C) and (D) of clause 3 of your committee's report, no estimate of comparison has been prepared by the Director of the Congressional Budget Office relative to the bill, nor have any savings estimates or recommendations been submitted to the committee by the Committee on Government Operations with respect to the subject matter contained in the bill.  
 In compliance with clause 3(1)(d) of rule XI, your committee states that the temporary suspension of duties on imports under the bill would not have an inflationary impact on prices and costs in the operation of the general economy.  
 CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED  
 In compliance with clause 3 of rule XI of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter printed in italics, existing law in which no change is proposed is shown in roman):

## SUSPENDING THE DUTY ON NATURAL GRAPHITE

JULY 30 (legislative day, JULY 29), 1975.—Ordered to be printed

Mr. LONG, from the Committee on Finance,  
submitted the following

### REPORT

[To accompany H.R. 7706]

The Committee on Finance, to which was referred the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### DESCRIPTION OF PROVISIONS

The first section of the bill amends subpart B, part 1 of the Appendix to the Tariff Schedules of the United States (TSUS) to add new item number 909.01 after item number 907.80 to suspend the column 1 rates of duty on natural graphite for a temporary period until June 30, 1978.

Section 2 of the bill applies the temporary duty suspension to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment.

#### GENERAL STATEMENT

Natural graphite is currently imported under four items of the TSUS. The bill would suspend the column 1 rates of duty (applicable to imports from countries accorded nondiscriminatory (MFN) tariff treatment); the column 2 rates (applicable to imports from countries not accorded MFN treatment) would remain unchanged. The column 1 rates of duty on crystalline flake graphite valued not over 5.5 cents per pound (TSUS item 517.21) and valued over 5.5 cents per pound (TSUS item 517.24) are 7.5 percent ad valorem and 0.4 cents per pound (ad valorem equivalent based on 1974 imports of 3.1 percent), respectively. The corresponding column 2 rates of duty for both of



these items are 1.65 cents per pound. The column 1 rate of duty on graphite in crystalline lump or chip form (TSUS item 517.27) is 2.5 percent ad valorem; the column 2 rate is 30 percent ad valorem. Imports of other forms of natural graphite (TSUS item 517.31) already enter duty-free under column 1; the column 2 rate is 10 percent ad valorem.

Graphite, or plumbago, is found naturally as a mineral and marketed in two commercial classes—crystalline and amorphous—as flake, lump, chip, dust, or fine powder. The industry commonly blends different graphites to obtain a final product having the desired properties for specific uses, mainly in foundry facings, steelmaking, lubricants, refractories, pencils, and batteries. Processing and selling are generally done on a custom basis for the specialized market. Alternate materials cannot substitute for natural graphite in many uses except at substantially higher cost.

There is only one operating domestic graphite mine, which produces only small-flake crystalline. Domestic production is reportedly about 2,000 tons per year, only a minor share of domestic consumption, which totalled about 71,000 short tons in 1973. Graphite deposits have been reported in 25 States and commercial quantities have been produced at times in 17 States. Slow market growth, high production costs, and low-grade ore have restricted domestic commercial recovery.

The single domestic producer, as well as its parent firm, reportedly import about 2,000–3,000 short tons of high quality natural graphite each year to augment domestic production. They blend it for their own use as well as for resale to other consumers. About a dozen companies import, process, and sell graphite products to a large number of manufacturing users.

United States imports of natural graphite have steadily increased since 1971 due to greater demand. Imports totalled 162 million short tons valued at \$5.4 million in 1974, an increase from 77 million short tons in 1973. Nearly 90 percent of total imports in 1974 were amorphous graphite mainly from Mexico already entering duty-free under TSUS item 517.31. About 10.2 million short tons valued at \$1.1 million were subject to column 1 rates of duty in 1973. The Malagasy Republic supplies about two-thirds of United States imports of crystalline natural graphite. The U.S.S.R. and the People's Republic of China supply some graphite under column 2 rates of duty.

Certain grades of natural graphite are considered essential to the national defense and have been designated strategic materials. These grades include lump graphite from Ceylon and flake graphite from the Malagasy Republic. Virtually all surplus graphite in United States Government stockpiles has been committed to purchasers in competitive offerings. As a result, and because of a reduction in world production while demand has increased, the prices of graphite for industrial consumers have been increasing substantially.

The parent firm of the single domestic producer is seeking the duty suspensions. No unfavorable comment was received by the Committee from the general public on this bill. No executive agencies objected to this bill.

## COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect on the revenues of the bill. The Committee estimates that the temporary suspension of duties on natural graphite provided by the bill would result in a loss in revenues of approximately \$54,820 in the first full year of enactment based on 1974 imports.

### VOTE OF COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a roll call vote and without objection.

### 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, 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):

## TARIFF SCHEDULES OF THE UNITED STATES

* * * * *				
APPENDIX TO THE TARIFF SCHEDULES				
Item	Articles	Rates of duty		Effective period
		1	2	
	<b>PART 1.—TEMPORARY LEGISLATION</b>			
	<b>Subpart B.—Temporary Provisions Amending the Tariff Schedules</b>			
907.80	Logwood, canaigre, chestnut, curupay, divi-divi, eucalyptus, hemlock, larch, tara, mangrove, myrobalan, oak, quebracho, sumac, urunday, wattle, and valonia, all the foregoing provided for in items 470.15, 470.23, 470.55, 470.57, and 470.65, part 9A, schedule 4.	Free.....	Free.....	On or before 9/30/75.
908.01	Graphite, crude and refined, natural (provided for in item 517.21, 517.24, or 517.31, part 1E, schedule 6).	Free.....	No change.....	On or before 6/30/78.

SUSPENSION OF DUTY ON NATURAL GRAPHITE; STAFFING STANDARDS FOR CHILD DAY CARE UNDER SOCIAL SERVICES PROGRAM; SERVICES FOR INDIVIDUALS SUFFERING FROM ALCOHOL OR DRUG ABUSE

OCTOBER 7, 1975.—Ordered to be printed

Mr. ULLMAN, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 7706]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

*SEC. 3. Section 7(a) of Public Law 93-647 is amended by adding at the end thereof the following new paragraph:*

*"(3) Notwithstanding paragraph (1) of this subsection or section 3(f), payments under title IV or section 2002(a)(1) of the Social Security Act with respect to expenditures made prior to February 1, 1976, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act, so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corre-*

spending standards actually being applied in such center or home on September 15, 1975."

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with amendments as follows:

On page 3, line 11 of the Senate engrossed amendments, strike out "SEC. 5." and insert the following: *SEC. 4.*

On page 5 of the Senate engrossed amendments, after line 3, add the following new subsection:

(c) *The amendments made by this section shall be effective only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7), 2002(a)(11), and 2003 of the Social Security Act shall read as they would if such amendments had not been made.*

And the Senate agree to the same.

Amendment to title:

That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

AL ULLMAN,  
JAMES C. CORMAN,  
CHARLES B. RANGEL,  
PETE STARR,  
JOE D. WAGGONER, JR.,  
H. T. SCHNEEBELI,  
G. VANDER JAGT,

*Managers on the Part of the House.*

RUSSELL B. LONG,  
GAYLORD NELSON,  
WALTER MONDALE,  
W. D. HATHAWAY,  
CARL CURTIS,  
PAUL FANNIN,  
CLIFFORD P. HANSEN,

*Managers on the part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7706) to suspend the duty on national graphite until the close of June 30, 1978, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment included the text of the House bill H.R. 9803 but added a subsequent subsection making it inoperative. The Senate also added its own amendment which is substantially identical to the language of H.R. 9803 but which would terminate on November 1, 1975, instead of on March 31, 1976, as the House bill would have (the amendment includes a technical change to make it applicable to two other day care programs).

The subject matter of this amendment deals with postponement of penalties in the form of loss of federal participation in costs of day care which fail to meet federal standards prescribed under Public Law 93-647.

The conferees agreed to an expiration date on postponement of penalties of January 31, 1976, with the understanding that the Senate would probably act within this period and send back the original House bill (H.R. 9803) in amended form for the consideration of the House.

The second amendment of the Senate (there was no corresponding provision in the House bill) dealt with the inclusion of the costs of a 7-day detoxification period for drug addicts and alcoholics as part of a total rehabilitation program for such persons when it meets the tests of being a minor cost. This would change specific prohibitions in title XX of the Social Security Act under certain circumstances. It also makes explicit the application of the confidentiality provisions of the Comprehensive Alcohol Prevention, Treatment, and Rehabilitation Act Amendments of 1974 to title XX. The same provisions would apply to drug addicts. The Senate amendment would have provided for these changes on a permanent basis and the conferees agreed to the

(3)

amendment for the period ending January 31, 1976, at which time it would be repealed.

**AL ULLMAN,  
JAMES C. CORMAN,  
CHARLES B. RANGEL,  
PETE STARK,  
JOE D. WAGGONER, JR.,  
H. T. SCHNEEBELL,  
G. VANDER JAGT,**

*Managers on the Part of the House.*

**RUSSELL B. LONG,  
GAYLORD NELSON,  
WALTER MONDALE,  
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CARL CURTIS,  
PAUL FANNIN,  
CLIFFORD P. HANSEN,**

*Managers on the Part of the Senate.*

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# 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 suspend the duty on natural graphite until the close of June 30, 1978, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding immediately after item 907.80 the following new item:

“	909.01	Graphite, crude and refined, natural (provided for in item 517.21, 517.24, or 517.27, part 1E, schedule 5).	Free	No change	On or before 6/30/78	”.
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SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. Section 7(a) of Public Law 93-647 is amended by adding at the end thereof the following new paragraph:

“(3) Notwithstanding paragraph (1) of this subsection or section 3(f), payments under title IV or section 2002(a)(1) of the Social Security Act with respect to expenditures made prior to February 1, 1976, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act, so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.”

SEC. 4. (a) Section 2003 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.”

(b)(1) Section 2002(a)(7) of such Act is amended by adding at the end thereof the following new sentence: “With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met.”



H. R. 7706—2

- (2) Section 2002(a)(11) of such Act is amended by—
- (A) striking out “and” at the end of clause (B) thereof,
  - (B) striking out the period at the end of clause (C) thereof and inserting in lieu of such period “; and”, and
  - (C) adding after clause (C) thereof the following new clause:  
“(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the further provision of services for which such individual would otherwise be eligible under this title.”
- (3) Section 2002(a)(7)(A) of such Act is amended by inserting “(except as provided in paragraph (11)(D))” immediately after “other remedial care”.
- (4) Section 2002(a)(7)(E) of such Act is amended by inserting “and paragraph (11)(D)” immediately after “paragraph (11)(C)”.
- (c) The amendments made by this section shall be effective only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7), 2002(a)(11), and 2003 of the Social Security Act shall read as they would if such amendments had not been made.

*Speaker of the House of Representatives.*

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

October 10, 1975

Dear Mr. Director:

The following bills were received at the White House on October 10th:

H.J. Res. 683 ✓

H.R. 7706 ↗

H.R. 8240 ↘

Please let the President have reports and recommendations as to the approval of these bills 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.