TAB F

ALTERNATIVES IF S. 622 IS VETOED

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 effected.

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

Pros:

- 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.

Cons:

- 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: Propose simple extension of allocation act through the election:

Pros:

- 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.

Cons:

- 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.

TAB G
General Conclusion

TAB G

GENERAL CONCLUSIONS

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

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

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

- The provision will have the effect of reducing production from domestic sources by up to 250,000 barrels per day after two years, compared to the level from instant decontrol. It gives up using the even higher prices we have sought to assure conservation, and thereby increases demands by 430,000 barrels per day.

- Most of the loss in production will be from stripper wells (less than 10 barrels/day). The FEA believes that pricing provision will allow, however, an upper tier high enough to provide adequate incentive to producers to explore, develop and produce new fields such as the OCS and Alaska.

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

- If the bill is enacted, new regulatory decisions of a different kind will be required to determine the prices to be allowed for crudes of different origins and a product entitlements program will be required.

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

- The provision is the best that could be achieved from this Conference Committee and probably this Congress (e.g., the Conferees started with a domestic composite

price of $5.50 and no escalator and eventually stretched to the limit allowed within the scope of the Conference Bill). The Congress will not agree to a higher price or shorter period, even with a veto.

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

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

TAB H
Reasons to Reject
Conference Bill

TAB H

REASONS TO REJECT THE PRICING PROVISION

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

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

- There are other provisions in the bill that are undesirable, particularly the coal loan guarantee program, the GAO audit provisions, discretionary authority to set appliance standards, and an unduly high target in 1985 for autos. (See Tab J.)

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

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

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

- The need for the President to take action to increase the composite price -- both with and without Congressional approval -- will put the political burden of any necessary price increases on the President.

- Some will view acceptance of the bill as a reversal of several of the basic principles of the Administration, even though Congress would move no further.

- A continuation of controls will lead to long-term resource misallocations and corresponding effects on growth.

- Prior to February, 1977, producers will be uncertain regarding allowed crude oil prices after February, 1977. The unknown variable will center around whether Congress will allow an escalator higher than the $7.66 plus the GNP deflator.

TAB I
Reasons to Accept
Conference Bill

TAB I

REASONS TO ACCEPT CONFERENCE BILL

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

- The provision is the best that could be achieved from the Conference and probably the best from this Congress.

- Uncertainty over the government's oil pricing policy will be eliminated, even though there will be uncertainty regarding specific crude prices after February, 1977 at levels over the $7.66 plus the automatic GNP deflator.

- Continuing debate over a windfall profits tax will be eliminated and pressures for divestiture will be cooled substantially.

- Although not everything we have asked for, we still have the ability to keep the presssure on for higher prices every 90 days.

- As outlined later, the bill contains many components of your original energy program.

- Acceptance of the provision will remove the pricing issue and, to a great extent, the petroleum industry from the election debate next year.

- If vetoed, complete decontrol might not last long and there would be repeated attempts at legislating a rollback either separately or as an amendment to numerous other related bills. Future measures could be less desirable than the current provision. The other parts of your energy program contained in the bill might not be achieved until after the election.

- Part of the public will perceive acceptance as an agreement on energy policy between the Executive and Legislative branches, something an increasing number of people are calling for. This agreement and progress would be viewed by many as having been brought about by your efforts and pressure on the Congress.

- Acceptance will strengthen the recovery and lead in the short-run to higher output and lower unemployment.

PART II

TAB J
Other Provisions