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Congress of the United States
House of Representatives
 Committee on Interstate and Foreign Commerce
 Room 2125, Rayburn House Office Building
 Washington, D.C. 20515

file

MEMORANDUM

DATE: November 6, 1973

TO: House Conferees on Senate Bill and House Amendment to
 S. 1570, the "Emergency Petroleum Act of 1973"

In preparation for the Conference Committee on S. 1570, the
 joint Committee staff have prepared the following documents:

1. Comparative Print showing the differences between the
 Senate bill and the House amendment.
2. Committee Print No. 1, which sets forth staff recommen-
 dations for a proposed Conference Report.

Copies of both of these documents are available for the use and
 information of Committee members.

Since passage of the House amendment (H.R. 9681) to the Senate-
 passed bill, S. 1570, the fuel supply situation has grown even more
 critical. Projections of supply and demand curves now show a short-
 fall in supply approaching 15 to 17 percent for this coming winter.

For this reason, Chairman Staggers and Senator Jackson have instructed
 the staff of the Senate Interior and House Commerce Committee to

explore ways of expediting the conference on S. 1570 -- the Emergency Petroleum Allocation Act of 1973.

Toward that end meetings were held with representatives of the President's Energy Policy Office and the Department of Interior to explore more fully Administration positions on these bills. From this has evolved Committee Print No. 1, which is enclosed with this memorandum. The basic text of this Committee Print is the House amendment to S. 1570 (H.R. 9681). In an attempt to accommodate the Administration's objections to the House-passed bill while at the same time preserving the basic character of the legislation, several amendments are suggested for the consideration of the Conferees. Language to be deleted has been stricken through (i.e., linetyped). Additional language is shown in italic.

The amendments suggested to the House bill in Committee Print No. 1 can be summarized as follows:

I. Small Refiners

The staff recommends the addition of a definition of "small refiner" to include a refiner whose capacity does not exceed a yet-to-be specified number of barrels per day. A series of amendments to section 4(b) and section 4(c) gives to the small refiner the same preferential status as would be given to an independent refiner.

(In the mandatory allocation program published for comment in August of this year, the Administration proposed a mechanism which assured an allocation of crude oil to small refiners -- identified as

those which have crude run capacities of 175 barrels per day or less.)

2. Timing

The House amendment calls on the President to promulgate a regulation not less than 10 days after enactment providing for the mandatory allocation of crude oil, residual fuel oil and refined petroleum products. That regulation is required to take effect 15 days thereafter and to continue in effect for the life of the legislation -- 18 months. Several amendments are proposed to build in more flexibility in this schedule. First, it is suggested that the President be required to promulgate his regulation providing for the mandatory allocation of products 15 rather than 10 days after the date of enactment. Second, under new subsection (f), the President would be permitted in certain circumstances to delay the effective date of the regulation with respect to particular products beyond 15 days. The proposed authority in subsection (f) would allow the President to delay the effective date of the regulation as it pertains to the allocation of gasoline to a date not later than 30 days after promulgation of the regulation. Also, in order to provide for the orderly transition from allocation procedures called for under programs already established pursuant to Economic Stabilization Act authority (i.e., allocations of propane and middle distillates), the President would be permitted to delay for 30 days the effective date of the regulation required to be issued under this Act as it pertains to products already subject to allocation controls.

3. Imported Products

Two technical amendments have been added to make clear that the allocation program called for in this Act is to apply to crude oil, residual fuel oil, and refined petroleum products which are both produced in and imported into the United States. The United States is defined to include the territories and possessions of the United States, Puerto Rico, and the District of Columbia.

4. Refinery Capacity

A new paragraph has been added to subsection (b) of section 4 to make clear that it is a goal of the mandatory allocation program to provide for the allocation of crude oil in a manner which makes maximum utilization of the refinery capacity in the United States.

5. Prorata Sharing of Amounts Produced or Imported in Excess of 1972 Levels

An amendment has been proposed to section 4(c) to remove the automatic prorata allocation to marketers of refined petroleum products and refiners of amounts of refined petroleum product and crude oil which are produced in or imported into the United States in excess of those amounts produced and imported in calendar year 1972. Instead a new paragraph is suggested which would require the President beginning on January 1, 1974, to report on a monthly basis to the Congress on the aggregate market share of non-branded independent marketers, branded independent marketers, and others engaged in the

marketing or distributing of refined petroleum products. If allocations of any amount of refined petroleum product produced in or imported into the United States in excess of the amount produced or imported in 1972 contributes to a significant increase in the market share of any class of marketer, the President is required to order an equitable adjustment in the allocations of such products.

6. Authority to Adjust Allocations

A new paragraph has been added to section 4(c) to provide the President with a means of ordering selective adjustments in the allocation program in order to more reasonably accomplish the objectives of subsection (b) or to prevent any person from taking action which would be inconsistent with those purposes.

7. Exemptive Authority

A new mechanism is proposed which would permit the President to exempt from the allocation program any product which he determines is no longer in short supply. Provision is made to allow either House of the Congress, by resolution, to override the President's determination and prevent the exclusion from the allocation program of a particular product.

8. Application to the Producer Level

To avoid what may be unnecessary administrative complexity, an amendment is suggested which would limit the application of the

mandatory allocation program at the producer level. The President would, however, be required to establish equitable prices at the producer level and may extend the reach of the mandatory allocation to producers of crude oil if he determines it is necessary to do so in order to accomplish the objectives of the Act. The staff has also rewritten the exemption for stripper wells in order to more closely parallel the form of that amendment as it appears in the Alaska Pipeline bill.

9. State Authority

Amendments are proposed to expressly permit the President to delegate functions under this Act to states and to authorize grants to be made to states to offset their administrative costs in carrying out those functions.

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Also indicated in italic type are a number of technical and conforming amendments which the staff recommends but which are not discussed above.