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From: Chris Covet - Energy Policy Taskforce Intern

Number of Pages, Including Cover Sheet: 7

Message:

Here is the railroad information
we spoke about as you were leaving the
Thursday Working Groups meeting.

Chris C

23550

DOE024-0956

Obtained and made public by the Natural Resources Defense Council, March/April 2002
March 23, 2001

The Honorable Dick Cheney
The White House
Washington, DC 20500

Dear Mr. Vice President:

I am writing to you in your capacity as chairman of the White House Energy Policy Development Task Force. The Association of American Railroads (AAR) appreciates this opportunity to offer its observations on the impact of higher energy prices on the nation's rail sector.

I would note that AAR's comments are intended to supplement the briefing papers submitted to you earlier by the Coal-Based Generation Stakeholders group of which the railroads are leading members. Some 52 percent of our nation's electricity is generated by coal (with more than two-thirds of that coal transported by rail) and coal is one of the nation's least expensive sources of electrical energy.

In developing an effective energy strategy, it is important to remember that America -- at least until recently -- has enjoyed some of the lowest energy prices in the world. These low energy costs have enhanced our competitive position in all sectors of trade from agriculture to manufacturing.

Railroads applaud the Bush administration's efforts to develop a national energy strategy, and we commend you for personally taking on the responsibility for this effort. Energy improvements will contribute to the industry's bottom line due to both lower diesel fuel costs as well as their impact on railroad customers. These customers range from automobile manufacturers whose products can be affected by higher fuel prices to electric utility customers for whom railroads ship millions of tons of coal each year.
Despite the fact that railroads are three times more fuel efficient than trucks, the price of diesel fuel continues to be a major challenge for the rail industry. In providing cost and energy efficient freight service, U.S. freight railroads consume huge volumes of diesel fuel — over four billion gallons annually. Because the cost of fuel is a major cost component of railroad operations — comprising 71 percent of industry costs — the alarming jump in fuel prices over recent periods has been a substantial hardship for railroads and their customers.

The price of railroad fuel toward the end of 2000 was the highest during the past 20 years, and likely the highest ever. As of the end of 2000, the average price paid by railroads for diesel fuel had rocketed to a level 239 percent of the price at the beginning of 1999. Long term contracts and customer agreements often limit the ability of railroads to recover major cost increases in a timely fashion. Thus, railroads are being forced to expend an additional $2.4 billion annually or $6.6 million more each and every day. Moreover, because this huge increase in costs is required to perform exactly the same level of service, these increased costs have a direct impact on the industry's financial bottom line. In fact, they represent an amount equal to three-quarters of industry net income.

Looking ahead, future pricing policies will have to include major price increases to recover lost profitability as a result of fuel cost increases. Some shippers have indicated that they will be unable to absorb these transportation rate increases and will be forced to pass the expense on to their customers.

Because railroads have huge fixed costs to cover, it makes economic sense to move traffic that is marginally profitable (i.e., railroads handle traffic that is slightly above variable cost because it contributes to fixed cost). However, the fuel cost increases have raised our variable costs to such a degree that, in some segments, variable costs are becoming higher than the revenue, and traffic that has been historically profitable may have to be eliminated.

Moreover, higher energy prices are having a negative effect on some freight shippers, a development that affects freight railroads indirectly. For instance, eight of the ten major aluminum producers served by one leading railroad are currently shut down, and the remaining two are operating at 50 percent capacity. Instead of producing product, these companies are selling their allotted power.

Other railroads report that dramatically higher natural gas prices have led to significant traffic losses due to reductions in production and plant closures in areas such as plastics, cement, fertilizer, and intermediate gases such as propane and butane.

For these reasons, AAR encourages you to take strong and immediate action to formulate an effective national energy strategy. In addition to urging support for actions...
to reduce energy prices and for the positions of the Coal-Based Generation Stakeholders group, I am pleased to enclose AAR briefing papers on the following three railroad priorities: repeal of the 4.3 cent per gallon "deficit reduction" diesel fuel tax, an acceptable resolution of the coal mine valley fill issue, and establishment of a locomotive fuel efficiency program within the Department of Energy.

AAR looks forward to working with you and the other members of the Energy Policy Development Task Force to craft a balanced and effective energy policy for our nation.

Sincerely,

Edward R. Hamberger

cc: The Honorable Norman Mineta
The Honorable Spencer Abraham
Mr. Lawrence Lindsey
Mr. Andrew Lundquist
Ms. Karen Knutson
Mr. John Frenzel
Repeal Deficit Reduction Fuel Taxes

AAR supports S. 820 and H.R. 1001 that would repeal deficit reduction fuel taxes paid by railroads and barges. AAR opposes H.R. 2060 that would create a railroad trust fund from deficit reduction fuel taxes.

Inequitable Taxation in a Surplus Environment

The railroad and inland barge industries pay a 4.3 cents per gallon deficit reduction fuel tax even though there is no longer a federal deficit. Furthermore, the railroad and inland barge industries are required to pay deficit reduction fuel taxes while their competitors, the truckers, do not.

Among all U.S. industries, only transportation industries have been obligated to pay special deficit reduction fuel taxes, and today, among the different transportation modes, only railroad and barge companies continue to pay such a tax. The deficit reduction fuel tax rate has varied over time, and currently stands at 4.3 cents per gallon on diesel fuel consumed. Since inception of the tax in 1990, freight railroads have paid over $1.4 billion in deficit reduction fuel taxes. Railroads continue to pay these taxes even though there is no longer a federal deficit.

Trucking companies, direct competitors of railroads and barge companies, do not pay a deficit reduction fuel tax. The entire revenue from the taxes paid by the truckers is paid into the Highway Trust Fund, and is used to pay for improvements and maintenance of highway infrastructure. Therefore, while railroads continue to contribute to a non-existent deficit, the truckers contribute to their own infrastructure improvement.

By contrast, the railroad industry does not have a trust fund but privately funds its own maintained rights-of-way. In 1998, freight railroads spent $7.7 billion maintaining and improving their own infrastructure. This is equivalent to a tax of $2.13 per gallon of fuel consumed by railway locomotives — an amount, which is four to ten times the equivalent of tax paid by the competing modes of transportation.

Both the House and Senate 1999 tax cut bills, acknowledged the tax inequity and included a repeal of the 4.3 cent deficit reduction fuel tax for the railroad and barge
industries, but the final 1999 tax cut bill was vetoed by President Clinton for reasons other than the railroad tax repeal.

Support for an Equitable Solution

The railroads are not alone in calling for a fair and equitable solution to the current deficit reduction fuel tax problem. The U.S. Chamber of Commerce and the American Road and Transportation Builders Association (ARTBA) have adopted policies in support of repealing the 4.3-cent deficit reduction fuel tax. Numerous agriculture groups including the American Farm Bureau Federation, American Soybean Association, National Association of Wheat Growers, and the National Corn Growers Association are also on record supporting the repeal of this tax.

Railroad Trust Fund Proposals

AAR opposes H.R. 2060, the Railway Safety and Funding Equity Act of 1999 (RSAFE), a bill that would transfer the 4.3-cent deficit reduction fuel tax into a new Railroad Trust Fund for highway-rail grade crossing safety programs. H.R. 2060 would divert significant railroad resources to help solve what is fundamentally a highway safety problem. Not only is this proposed cross subsidy of highway needs by the railroads bad public policy, but these railroad fuel tax revenues are needed to meet significant railroad infrastructure needs.

AAR also opposes any effort to use the 4.3 cents per gallon deficit reduction fuel tax paid by the railroads to create a Railroad Trust Fund to finance short-line/regional railroad improvements, intercity or commuter passenger rail needs, or other purposes. In these scenarios, the beneficiaries of the funds, while having contributed little or nothing, would profit from a cross-subsidy from the large freight railroads. It is not appropriate to expect the large railroads to provide additional funding support for passenger rail, short-lines, or highway-rail traffic control devices. Neither do large railroads care to finance their own infrastructure needs through a Railroad Trust Fund by inefficiently sending funds to Washington, DC, simply to be returned to private sector railroads, minus bureaucratic administrative and overhead costs, and subject to political manipulation and government regulatory red tape.

Summary

The railroads' true advantage in cost, environmental impact, reduced highway damage and congestion, safety, and fuel efficiency rightfully have become important criteria in a modal choice. Artificial cost barriers to the use of freight transportation, in terms of inequitable deficit reduction taxes, can only disadvantage rail in the competitive marketplace and distort consumer choice.
AAR supports S. 820 and H.R. 1001 that would repeal the 4.3 cents per gallon deficit reduction fuel tax for the railroads and barges. This tax should be repealed because it is:

1. Discriminatory against railroads, since the trucking industry pays no deficit reduction fuel tax;

2. Economically unsound, because it artificially diverts traffic that otherwise would travel by rail; and

3. Inconsistent with national policy, because it violates the goals of economy, impartiality, energy efficiency, and environmental friendliness.

Additionally, large freight railroads oppose the transfer of these revenues to a federal Railroad Trust Fund or any other form of a transportation trust fund.
THE COAL MINE VALLEY FILL ISSUE

DESCRIPTION: In October 1999, a federal district court in West Virginia stunned the Nation's coal industry with a decision barring the longstanding practice of building valley and hollow fills to store the dirt and rock generated during coal mining. Bragg v. Robertson, 72 F. Supp. 2d 642 (S.D. W. Va. 1999), appeal pending, No. 99-2443 (4th Cir). Notwithstanding the fact that these engineered fill structures are both a necessary part of coal mining operations and expressly authorized by federal laws regulating coal mining, the court interpreted regulations issued under those laws as prohibiting their construction in hollows and valleys that inevitably contain stream courses. While the decision remains pending on appeal, the past Administration abandoned the working men and women of America's coal industry and announced that it now agreed with the court's view. The past Administration's action in this regard is not only contrary to the laws it administers, it will have economic consequences in West Virginia alone that a Marshall University study concluded will be "as great or greater than those of the Great Depression." Earlier in the same litigation, the federal agencies (EPA, OSM & COE) settled the claims related to the use of section 404 permits to authorize these fills under the Clean Water Act. The agencies agreed to conduct a programmatic Environmental Impact Statement which addresses environmental and economic consequences of different actions, as well as evaluate the better coordination of overlapping regulatory programs.

STATUS: The appeal in the 4th Circuit has been briefed and was argued on December 7, 2000. In the meantime, the EPA, OSM and COE are preparing a Draft EIS. EPA and COE also have pending a proposed rule published on April 20, 2000 clarifying that excess spoil is fill material subject to section 404 and not section 402 of the CWA. This rule would remove the ambiguity in the agencies' programs that the district court relied on to reach its erroneous conclusion that these fills as well as other activities that have the effect of replacing waters of the United States are not authorized by section 404.

KEY DECISIONS: Should any part or form of a Draft EIS be publicly released before the completion of the underlying technical, economic and other studies?

OPTIONS: * Delay public release of Draft EIS in any form until all the underlying studies are complete and have been subject to some form of peer review. This option is completely defensible and will assure that the EIS process on this matter will not be subject to criticisms related to its credibility and integrity.

* Allow the agencies to release an executive summary or other form of a draft EIS that purports to provide an overview of the current analysis of complex technical questions. This option will appease few and invite strong criticism from industry and, perhaps, the West Virginia state legislature that has funded part of the studies.

KEY DECISIONS: Whether EPA and COE should adopt as a final rule the proposal clarifying the scope of the section 404 program with respect to excess spoil and other activities that have the effect of replacing waters of the United States.

OPTIONS: * Proceed to adopt as final the proposed rule published on April 20, 2000. The rule is an important part of maintaining the integrity of the 404 program by clarifying a longstanding ambiguity that has caused grave uncertainty for the regulated community and the agencies. It not only addresses the excess spoil issue but other activities as well, e.g. landfills.

* Await the decision of the 4th Circuit to determine whether it would require any modification of the proposal to address the central features of the rule. At some point, the EIS on mountaintop mining will have to analyze how excess spoil fills are to be addressed within the prevailing regulatory schemes under the CWA and SMCRA and whether any conflicts exist.
Public-Private Fuel Efficiency and Emissions Partnerships

WHAT SHOULD BE DONE?
Establish a public-private partnership involving the federal government, railroads, and railroad suppliers designed to increase the fuel efficiency of, and reduce emissions from, diesel locomotives. The partnership should be similar to the "21st Century Truck Initiative" now underway.

WHY?
The partnership would encourage conservation of natural resources and reduced emissions by the nation's largest freight transportation provider. Moreover, the "21st Century Truck Initiative" will use hundreds of millions of dollars of federal funds to sharply increase fuel efficiency and lower emissions for motor carriers that compete against railroads. Equity demands that railroads receive the same support.

ISSUE OVERVIEW
In April 2000, the Clinton Administration announced the creation of the "21st Century Truck Initiative," a public-private research partnership involving many of the nation's largest heavy-duty engine and truck companies; the U.S. Departments of Defense, Energy, and Transportation; and the Environmental Protection Agency.

The goals of the Truck Initiative include developing truck and bus technologies that increase fuel economy, improve safety, reduce emissions, and lower costs. The partnership is designed to lead, within 10 years, to prototypes that double existing fuel economy for long-haul trucks and significantly reduce truck emissions of nitrous oxide, particulates, and other air pollutants.

Because of the Truck Initiative, the fiscal year 2001 budget saw an increase of $31 million in truck research spending to a total of $137 million.

Railroads account for more than 40 percent of the nation's freight ton-miles, considerably more than trucks' 29 percent share. Therefore, increases in rail fuel efficiency would significantly benefit our economy and environment. However, there is no public-private program involving railroad locomotives similar to the Truck Initiative. Instead, railroads and their suppliers must fund research and development efforts aimed at increasing fuel efficiency and reducing emissions on their own. For example, the Burlington Northern and Santa Fe Railway and the Union Pacific Railroad are spending more than $1 million apiece on these issues, while the Association of American Railroads is funding an industry-wide emissions research program.

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JUSTIFICATION FOR DESIRED POLICY

- A federal program to increase fuel efficiency and reduce emissions from diesel locomotives will provide public benefits to the environment similar to those of the 21st Century Truck Initiative.

- By providing motor carriers a major federal subsidy through the Truck Initiative, the federal government will artificially reduce motor carrier costs. This imbalance between trucks and railroads will encourage shippers to use trucks, even where railroads provide more efficient services.

- The U.S. Department of Transportation’s Moving America: New Directions, New Opportunities — A Statement of National Transportation Policy notes that “Federal programs and policies must treat modes and carriers fairly.” This condition is clearly violated if motor carriers receive federal benefits not made available to their competitors.

- A federal program will magnify the substantial strides in both fuel efficiency and emissions control already accomplished by the railroads. Railroad fuel efficiency is up 16 percent since 1990 and 58 percent since 1980. Railroads are also committed to substantial reductions in atmospheric emissions, having endorsed an EPA proposal that calls for a 60 percent reduction in nitrogen oxide emissions from locomotives manufactured beginning in 2005. With federal support, the railroad industry can build on its own voluntary achievements and foster improved conservation and emissions control.

![Graph showing Revenue Ton-Miles Per Gallon of Fuel Used from 1981 to 1999](image)

Source: AAR

Obtained and made public by the Natural Resources Defense Council, March/April 2002
A SELECTIVE NUCLEAR ENERGY R&D PROGRAM UNDER SEVERE BUDGET RESTRICTIONS

The broad R&D program (Table 1) recommended by the Nuclear Energy Research Advisory Committee (NERAC) in June 2000 comprises the essentials to assure a re-vitalization of U.S. nuclear energy capability. The funding recommendation, although much higher than present nuclear energy R&D funding by DOE ($70 million in FY2001), is very low compared to funding of alternative fossil and renewable energy sources ($265 million / yr. in 2005 versus $545 million and $373 million in FY2001 for fossil and renewable energy, respectively) if $265 million is not forthcoming because of budget constraints, what should be selected as having the highest priority and at what levels?

The answer has to be shaped from the overall priorities in, and the responsibilities for, actions to revitalize the nation's nuclear power enterprise. These actions, given in order of priority, are interdependent, each depending on effective progress on the preceding one:

(1) Safe and economic operation of the present fleet of U.S. nuclear power plants over an extended lifetime of 60 years, is essential to gain investor confidence in building new plants, and the prime responsibility of industry. (The NEPO program is a miniscule part of this overall industry effort, simply an acknowledgment that the DOE cares about continued viable operation of U.S. nuclear plants.)

(2) A decision to proceed with the licensing and construction of a permanent repository for spent nuclear fuel at the Yucca Mountain site. Continued uncertainty on providing the repository is a major barrier to expanding nuclear power in the U.S. DOE carries full responsibility, although the industry pays the way.

(3) Building new nuclear power plants in the U.S. in this decade. The need to minimize financial risk to the private sector investors places a high premium on proven technology and assured licensability. The NRC's standardization policy (as incorporated in CFR Part 52) provides a stable and timely licensing process. It is essential to obtain an early site permit (or equivalent) and a certified design with which to achieve a combined construction and operating license before a private sector owner(s) puts up the major investments to construct a nuclear plant. Plants that already have NRC design certification (presently all advanced light water reactors) should be given the highest priority for this reason. The private sector has the prime investment responsibility, but since the government is responsible for the crucial element of regulation, it is reasonable to expect some resource sharing from DOE to implement the critical elements of the standardized licensing process. More nuclear power capacity in the short term will pave the way for advanced nuclear power plants in the long term by sustaining investment confidence in nuclear power while establishing the demand for an expanded nuclear fuel supply.

(4) Developing advanced nuclear power plants that are capable of sustaining nuclear energy production over the long term, in particular by opening up the vast reserves of nuclear fuel contained in uranium and thorium. Incorporation of advanced technology will provide for even greater safety and environmental benefit, assured proliferation resistance, and improved economy. Because of the long time before deployment can be realized government has the prime responsibility for this effort.
Government funding in FY 2002 for the above four efforts in a very restricted budget should be in accordance with the following pattern (Industry co-sharing is also indicated):

(1) Continued DOE support of the NEPO program at a level of $10 million annually, shared by industry at $10 million annually. Industry is independently expending at least $80 million annually if only EPRI funds are included. Total funding: $100 million, $10 million by DOE.

(2) Utilization of the presently planned DOE budget on the Yucca Mountain project to permit a go-ahead decision on the repository. Present budget: $390.4 million, provided by rate-payers to DOE through nuclear utilities.

(3) DOE budget support of selective actions to achieve near term deployment of design certified advanced light water reactor plants at a level of $28 million, matched by industry, to:

- obtain early site permits.
- define the detailed process of obtaining a combined construction and operating plant and assuring that both the construction is carried out and the plant is operated in accord with the license.
- develop advanced information management and virtual construction technologies to reduce ALWR capital costs and construction times.
- support a design certification application for a passive ALWR (AT-1000), twice the power output of the presently certified design (AT-600).

A significant portion of these funds are to pay for NRC fees for the required licensing action. Total funding: $56 million, equally shared by industry and government.

(4) DOE support of advanced nuclear power plant development through a modest expansion of the NERI Program, the international NERI Program, continued support of the Roadmap development for future nuclear power plants, and initiation of NRC confirmatory testing of the fuel and power conversion materials for the Pebble Bed Modular Reactor (Industry, through international participation in the S. African PBMR development, will fund the design and initial test). Total funding: $75 million, a small portion of which is cost-shared by contractors.

Thus, funding in FY2002 for these efforts, in a very restricted budget, should be at least $113 million, compared with $39 million at present.

Contacts:
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Robert N. Schock, Lawrence Livermore National Laboratory, 925-422-6199, schock1@llnl.gov

Table 1. NERAC* Recommended Funding Need.

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*Includes $20M for TREAT
*Includes $10M for ATR
No new facility
TOPS report

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DOE024-0967
American Gas Association

March 1, 2001

Natural Gas Utilities
Recommendations for National Energy Policy

Overview
It is in the nation's best interest to cultivate and develop a varied portfolio of energy resources that makes the most of each fuel's unique attributes and advantages. Natural gas is making a significant contribution to meeting Americans' energy needs for an affordable, reliable energy resource. In order to provide Americans an energy future that is free of oil embargoes and rolling power blackouts, we must now adopt a balanced national energy policy that recognizes the vital role of natural gas. Such a policy provides the energy to ensure the prosperity of American families and businesses.

Future of Natural Gas in the United States
The United States relies on natural gas for one-fourth of its energy needs. Natural gas burns cleaner than any other fossil fuel, is almost 100 percent North American and provides efficient, responsive heat and energy for consumers. Because of the many advantages that natural gas offers Americans, demand for natural gas could grow by as much as 60 percent in the first two decades of the 21st century, according to projections by the Department of Energy and the American Gas Foundation—but only if recommended policy changes are made.

Results of Greater Use of Natural Gas
The increased use of natural gas would provide numerous benefits for all Americans:

- Lower oil imports by 4.5 million barrels per day, providing national security.
- Provide Americans an extremely efficient use of energy, especially in its "direct" applications, such as furnaces, water heaters, microturbines, desiccant dehumidifiers and combined heat and power.
- Supply needed relief to the over-burdened electric grid, along with greater reliability to businesses and home offices, through new technologies which generate both heat and electricity and can be sited closer to the consumer.
- Clean up the air by lowering carbon dioxide emissions by 930 million tons per year.

(Over for AGA's specific policy recommendations)
AGA's Recommendations for a National Energy Policy

- **Protection of low-income consumers:** Expand current Low Income Home Energy Assistance Program (LIHEAP) and weatherization funding.

- **Expansion of natural gas infrastructure:** Change the current tax depreciation schedule for natural gas utility expenses to an accelerated 7-year schedule. This will free up capital for natural gas utilities to invest in new pipelines, storage facilities and upgrading the existing infrastructure; ensuring continued reliable service for all natural gas consumers. Also increase RD&D on natural gas infrastructure reliability and safety; repeal tax on new customer connections (Contributions in Aid of Construction.)

- **Development of new natural gas technologies:** Provide RD&D funding for new technologies to produce, deliver and use natural gas in a highly-efficient and safe manner; provide favorable tax treatment for highly efficient end-use technologies; reduce or eliminate barriers to market entry.

- **Increased energy efficiency:** Provide funding to improve the energy efficiency of government facilities and schools; RD&D and tax incentives for highly efficient technologies; policy recognition of total energy efficiency.

- **Adequate supplies of natural gas:** North America has abundant supplies of natural gas. More supply of natural gas means lower prices for consumers. AGA supports the recommendations by natural gas producers for expanded access to federal lands for exploration and production; tax provisions to stimulate domestic production; simplified agency review and permitting process.

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AGA - American Gas Association  
March 1, 2001

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Federal Energy Legislation
Comparison of AGA Recommended Provisions
And Provisions Contained in Senator Murkowski’s
National Energy Security Act of 2001 (S. 389)

Summary: The bill introduced by Senator Murkowski contains almost every provision recommended by AGA. It would:

• Encourage increased production of natural gas
• Allow seven-year depreciation of all new natural gas distribution, transmission, and storage facilities (representing potential tax savings to AGA gas distribution members of approximately $8 billion over ten years)
• Repeal CIAC and PUHCA
• Remove barriers to infrastructure expansion
• Create incentives for distributed generation and
• Increase LIHEAP authorizations.

On November 30, 2000, the Government Relations Policy Committee and the Executive Committee of the Board of Directors created the AGA Energy Legislative Steering Committee under the leadership of Dick Reiten of NW Natural. During the months of December and January, the steering committee worked closely with AGA Staff to craft a set of core principles essential to any legislation as well as specific legislative proposals embodying the advocacy priorities of AGA member companies. The result of these efforts was circulated on January 16, 2001, and was approved by the GRPC and the AGA Board of Directors on February 26, 2001. AGA Staff has also been working with other associations and Congressional Staff to ensure that these principles and proposals are incorporated in the comprehensive, bipartisan legislation that will soon be a topic of Congressional attention.

On February 26, 2001, Senator Frank Murkowski, Chairman of the Senate Energy and Natural Resources Committee, introduced the National Energy Security Act of 2001 (S. 389.). This bill addresses a broad spectrum of energy issues and incorporates most of the principles and proposals that AGA has advocated throughout this effort. This memorandum highlights the natural gas provisions of interest to AGA members in the bill as well as some of the other more important energy issues it addresses.

Although much effort has already been invested, introduction of the Murkowski bill is only the starting point in the legislative process. AGA Staff will work closely with Senator Murkowski, his staff, other Senators, Members of the House of Representatives, and the Bush Administration in the weeks ahead to advance the AGA legislative proposals approved by the GRPC.

Following is a brief summary of what is included in the bill, organized to follow the order of the legislative proposals as recommended and ultimately approved by the AGA Legislative Steering Committee and GRPC.

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Federal E&P Studies
The bill calls for reports on all federal actions affecting energy supply or delivery and annual reports on progress toward energy independence, which would be produced by DOE rather than the National Academy of Sciences. (Sections 101, 102.)

Renewal and Expansion of Infrastructure
Senator Murkowski has decided not to mandate a White House Office of National Energy Policy in light of President Bush's creation of a Cabinet-level "National Energy Policy Development Group" led by Vice President Cheney. The staff director of this group is Andrew Lundquist, until recently the staff director of the Senate Energy and Natural Resources Committee. However, codifying such an effort in the Executive Office of the President is still desirable.

The bill requires federal studies of rights of way over federal lands to determine which of these can support additional energy infrastructure. (Section 104.)

It requires FERC and other pertinent agencies to review the pipeline certification process to determine where time and cost can be saved. (Section 109.)

The bill requires DOE, FERC and other agencies having a role in the pipeline certification process to enter into an interagency agreement regarding environmental review of interstate pipeline certificate applications with deadlines for completion of required review. (Section 113.)

It requires DOT to implement an accelerated cooperative program of R&D regarding pipeline safety. (Section 114.)

The bill contains several significant tax incentives to expand infrastructure that are described under Tax Provisions in this memorandum.

Equitable Energy Efficiency Regulations
The bill does not address the need to give fair and equitable treatment to natural gas in energy-efficiency standards and related administrative proceedings before DOE and other federal agencies. AGA expects to continue to pursue this issue as this bill and others move forward through Congress.

LIHEAP
The bill increases LIHEAP authorization to $3 billion annually for the years 2000-2010 and $1 billion in emergency funds annually. It does not call for indexing authorizations to rising costs. (Section 601.)

Building Efficiency
The bill extends authority regarding federal energy-savings performance contracts. (Section 605.)

The bill creates in DOE an energy-efficient schools program, with authorizations in excess of $200 million. (Section 602.)

Natural Gas Provisions of S. 389 2 03/13/01

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DOE024-0972
**Tax Provisions**

The bill provides for seven-year tax depreciation for new natural gas pipe, storage facilities, equipment and appurtenances. (Section 921.) It also allows the expensing of storage facilities. (Section 922.)

It provides for a tax credit for distributed power facilities used in nonresidential real or rental residential property used in trade or business (in excess of 1 kW) and used in manufacturing or plant activities (in excess of 500 kW). A credit is also extended to combined heat and power systems. (Section 971.)

The bill provides for the repeal of the tax on contributions in aid of construction (CIAC). (Section 959.)

The bill provides tax incentives for NGVs and other alternative-fuel vehicles. (Sections 981-985.)

**New Natural Gas Technologies**

DOE is required to conduct a five-year RD&D program to increase the reliability, efficiency, safety, and integrity of the natural gas delivery infrastructure and for distributed energy resources with such funds authorized as are necessary. (Section 115.)

Each federal agency is required to carry out periodic review of its regulations to ensure that they do not inhibit market entry of new energy-efficient technologies. (Section 112.)

**Production Incentives**

- Tax credit for nonconventional fuels (Section 29)
- Expensing geological and geophysical costs and shut-in royalties
- Tax credits for marginal oil and gas wells
- Royalty relief when the Henry Hub price is less than $2.30 per MMBtu
- Deepwater royalty relief

**Other significant gas-related provisions included in the Murkowski bill include:**

- PUHCA repeal
- Improvements to federal oil and gas leasing management, including the ability of states to assume responsibility for leasing on federal lands
- ANWR leasing program
- FERC jurisdiction over wholesale electric reliability
- Prospective PURPA repeal
- Tax credits for energy-efficient appliances and homes

A copy of the complete bill can be downloaded at:

AGA Contacts: Darrell Henry 202-824-7219, dhenry@aga.org (Advocacy)
Jeff Petrash 202-824-7231, jpetrash@aga.org (Legislation)