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WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/30/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY, 4:30PM, OCT. 30

SUBJECT: SAP: SENIOR ADVISOR VETO THREAT ON S. 1220, THE NATIONAL ENERGY STRATEGY SECURITY ACT OF 1991 BECAUSE OF PROPOSED LANGUAGE CHANGING CAFE STANDARDS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	✓	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☐	✓
SCOWCROFT	✓	☐	PETERSMEYER	☐	☐
DARMAN	☐	☐	PORTER	✓	☐
BRADY	☐	✓	ROGICH	☐	☐
BROMLEY	✓	☐	SMITH	☐	☐
CARD	✓	☐	CLERK	☐	✓
DEMAREST	✓	☐	DELAND	✓	☐
FITZWATER	☐	✓		☐	☐
GRAY	✓	☐		☐	☐
HOLIDAY	✓	☐		☐	☐

REMARKS:

Please provide comments on the attached directly to Fred McClure, 2nd Fl, WW, x2230, with a copy to this office NO LATER THAN 4:30PM, TODAY, WEDNESDAY, OCTOBER 30.

RESPONSE:

OSTP concurs with the veto threat recommended in the SAP. This response has been phoned in to Fred McClure's office.

D. A. Bromley

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

THE WHITE HOUSE

WASHINGTON

91 OCT 30 A9:16

October 30, 1991

MEMORANDUM FOR PHIL BRADY

FROM: FRED McCLURE FM

SUBJECT: Statement of Administration Policy

RE: **Senior Advisor Veto Threat on S. 1220, the National Energy Strategy Security Act of 1991 because of proposed language changing CAFE standards.**

We have just received the attached Statement of Administrative Policy from OMB. We would appreciate your comments by **4:30 p.m., Today, ~~10/31/91~~**. 10-30-91
Please direct all comments to my office at x2230.

October 30, 1991
(Senate)

S. 1220 - National Energy Security Act of 1991
(Johnston (D) LA)

The Administration strongly supports Senate passage of S. 1220. The bill represents a needed effort to achieve balanced, realistic, and comprehensive energy legislation. It will help move America toward a more secure, cleaner, and more efficient energy future. It is estimated that S. 1220 would reduce domestic oil consumption by about 1.2 million barrels per day beginning in the year 2000 and by 2.4 million barrels per day in the year 2010.

The Administration supports provisions to reform energy markets by streamlining regulation and allowing market forces to operate freely. These provisions include reform of the Public Utility Holding Company Act to enhance competition in electricity generation and streamlining or simplification of natural gas, hydropower, and nuclear power regulation. Such provisions are essential components of a balanced energy bill. In addition, the Administration supports provisions to increase energy efficiency, promote renewable energy development, and increase the use of alternative fuels in vehicle fleets. Finally, the Administration beleives that provisions allowing for the environmentally sensitive development of the Arctic National Wildlife Refuge (ANWR) are vital to America's future.

The Administration will not support S. 1220 if certain amendments are included in the bill. In particular, modifications to the Corporate Average Fuel Economy (CAFE) provisions which would jeopardize the safety of American car-buyers and impose unacceptable costs on consumers and manufacturers will result in the President's senior advisors recommending that he veto the bill.

While strongly supporting the overall bill, the Administration recommends that sections of the bill be amended to delete or modify certain objectionable provisions. Changes need to be made to certain alternative fuels provisions in Title IV, specified natural gas related provisions in Title XI, and outlays in the Uranium Enrichment title. These recommended changes are described in the attachment to this statement.

SCORING FOR THE PURPOSE OF PAY-AS-YOU-GO AND DISCRETIONARY CAPS

At least one provision of S. 1220 would increase direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. A budget point of order applies in both the House and Senate, however, against any bill that is not fully offset under CBO scoring. Because ANWR receipts are scored by CBO as an asset sale and because the uranium provisions are not offset under OMB scoring, such a point of order applies. For this reason, the Administration supports amendment of the uranium enrichment title. With the Administration's amendments, the bill would be deficit neutral for pay-as-you-go purposes. It should be noted that under OMB scoring, which is used to determine the size of any necessary sequester of direct spending programs, the leasing of ANWR creates receipts to the Government which are scorable.

OMB's preliminary scoring estimates of the bill as written are presented in the table below. Final scoring of this legislation may deviate from these estimates. If S. 1220 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

ESTIMATES FOR PAY-AS-YOU-GO
(dollars in millions)

	1992	1993	1994	1995	1992-1995
Outlays					
Title VII (ANWR)	$ --	$ 951	$ .5	$ .5	$ 952
Title X (Uranium)	613	245	178	548	1584
Subtotal	613	1196	178.5	548.5	2536
Receipts/Revenues					
Title III (CAFE)	--	--	-17	-33	-50
Title VII (ANWR)	--	-1901	1	1	-1899
Title VII (OCS)	--	--	5	--	5
Subtotal	--	-1901	-11	-32	-1944
Total	$ 613	$-705	$ 167.5	$ 516.5	$ 592

Attachment

Provisions Recommended for Deletion or Modification - Major Concerns

Subtitle C of Title IV, concerning alternative fuels, is unnecessary and the Administration strongly recommends that it be deleted.

Subtitle C requires the Secretary of Energy to determine if alternative fuels are in short supply and to enter into "voluntary" agreements with fuel producers to produce and sell alternative motor fuels. The Secretary is directed to submit to Congress a plan to ensure that sufficient alternative fuels are available to meet domestic needs. The plan is to include requirements for fuel providers to produce and distribute alternative fuels. This mandatory production allocation requirement goes well beyond the National Energy Strategy. Centralized supply-demand planning and government production allocation are an intrusion into the market place which will serve no useful purpose.

With respect to Title III, the Administration favors a flexible rulemaking approach to the setting of fuel economy standards. The Department of Transportation, with the assistance of the National Academy of Sciences, is assessing the feasibility of future fuel economy levels. Fuel economy levels should not be decided upon before the results of this study have been analyzed.

Title XI authorizes the Federal Energy Regulatory Commission (FERC) to engage in simplified certification procedures to expedite construction, extension, and operation of natural gas pipelines, provided certain terms and conditions are met.

Provisions in sections 11101 and 11102 would limit the use of streamlined licensing options for gas pipelines if such pipelines displace existing service by a local distribution company. These provisions include an "anti-bypass" limitation which is anti-competitive. The anti-bypass limitation would add a layer of regulatory review, uncertainty, and delay to what is intended to be a streamlined alternative to the traditional pipeline construction regulatory process.

Section 11104(e) conditions the approval of natural gas imports on Federal actions to redress any anti-competitive impacts on domestic producers and transfers the authority to approve imports from the Department of Energy (DOE) to the FERC. This provision should be deleted because it would unduly impair the flexibility that FERC currently has to develop rates which are in the public interest. FERC has been acting under existing authority to address the rate conditions which gave rise to this amendment.

This provision, as written, could be interpreted by our trading partners to be in conflict with U.S. obligations under the U.S.-Canada Free Trade Agreement. If legislation on this subject is to be included, the compromise language provided by the Administration to Senator Domenici is far preferable to this section.

Attachment: Technical Changes Sought by the Administration

Title IV, Section 4102, which establishes a time schedule for the Federal purchase of alternative fuel powered vehicles, should be deleted. The prescribed schedule is contrary to the more flexible approach contained in the Executive Order on Federal Energy Management (E.O. 12759), which permits consideration of the availability of alternative fuel vehicles as well as the additional funding necessary to acquire them.

Section 4111, which delegates enforcement of Federal law to State governors, raises constitutional questions by authorizing persons not appointed pursuant to the Appointments Clause to exercise significant Federal authority. This provision should be deleted.

The enforcement provisions in title IV, concerning alternative fuel fleets, are inconsistent with comparable provisions in other environmental laws (e.g. the Oil Pollution Act and the Clean Air Act Amendments). These provisions should be amended to conform to section 716 of S. 570, the Administration's National Energy Strategy legislation

Title V, section 5101 should be amended to remove provisions which infringe upon the President's constitutional power in foreign affairs. The offending provisions require contacts between certain interagency councils and foreign nations or international organizations. This section should also be amended to remove its mandate to establish a Committee on Energy Efficiency Commerce and Trade (COEECT). COEECT would overlap with and duplicate existing interagency working groups on energy trade promotion.

Section 5104 grants DOE expanded energy export promotion responsibilities which are inconsistent with the mandate of the Department of Commerce (DOC), which is the lead Federal agency in export promotion. Section 5104 should be modified to authorize DOE to assist DOC or to undertake mutually agreed upon activities in support of DOC's mandate, thus preserving DOC's role in export promotion.

Section 5301, subtitle C, which streamlines the licensing of hydroelectric power projects, should be modified as follows. FERC should be given exclusive authority to set terms and conditions for licenses for non-Federal projects at existing dams. The subtitle should stipulate that a FERC license for a non-Federal project at an existing dam will prevail if there is a conflict between it and any other permit, license, or certificate. Finally, the subtitle should be amended to retain section 4(e) of the Federal Power Act for projects at new dams. Section 4(e) authorizes Secretaries of Federal land management agencies to issue mandatory conditions for new hydroelectric projects on lands under their purview.

Title VI, section 6101 includes a provision amending Title III of the National Energy Conservation Policy Act by requiring DOE to issue a Federal building energy code to assure the inclusion of energy efficiency measures in Federal buildings. This provision should be modified to exclude public, Department of Housing and Urban Development (HUD)-assisted, and HUD-insured housing from the definition of "Federal building". HUD has been directed to promulgate energy efficiency standards for these buildings under section 109 of the National Affordable Housing Act.

Sections 6110 and 6111 contain provisions which authorize private groups to trigger the revision of specified Federal regulatory standards. These provisions raise constitutional questions by authorizing persons not appointed pursuant to the Appointments Clause to exercise significant Federal authority and should be deleted. Sections 6110 and 6111 should also be amended to eliminate command and control style mandatory energy efficiency standards for commercial and industrial equipment and for showerheads.

Section 6201, "Energy Management Requirement for Federal Buildings," should be modified to make the project selection criterion and energy saving goals consistent with E.O. 12759. Section 6201(a)(1) requires each Federal agency, to the maximum extent practicable, to undertake all energy conservation measures with a payback period of less than ten years. E.O. 12759 employs the preferred Federal life cycle cost methodology for project selection. Moreover, E.O. 12759 sets a building energy efficiency goal for each agency of 20 percent savings per square foot by the year 2000 from 1985 usage levels. Section 6201(a)(1) has no specific goal other than the undertaking of numerous projects with lengthy paybacks. As a result, DOE conservatively estimates the cost of implementing Section 6201(a)(1) at $5 billion or more between now and the year 2000.

The enforcement provisions in Title VII, concerning ANWR leasing, are inconsistent with comparable provisions in other environmental laws (e.g. the Oil Pollution Act and the Clean Air Act Amendments). These provisions should be amended to conform to S. 570, the Administration's National Energy Strategy legislation.

Section 7601 should be modified to allow all receipts from the development of ANWR to be retained by the Federal Government consistent with the President's FY 1992 budget.

Title VIII requires DOE and the Nuclear Regulatory Commission to undertake certain actions related to the development of advanced nuclear reactor technologies within unrealistic and inappropriate time-frames. This title should be modified to remove all mandatory time-frames and characterize any remaining time-frames as goals.

OK DOE

Title X, which restructures the Department of Energy's uranium enrichment enterprise as a wholly-owned Government corporation, raises serious constitutional, litigation, indemnification, and trade problems which should be addressed.

Title X restricts the President's authority to appoint and remove the corporation's Administrator, and the Secretary of Energy's ability to supervise the Administrator. The corporation is provided budgetary and legislative bypass authority, and Congress is authorized access to most corporation documents. These authorities would impair the President's constitutional power to supervise his subordinates and withhold confidential documents and should be deleted or modified.

Section 1402(c) gives the corporation authority to litigate in its own name and by its own attorneys and section 1402(k) authorizes the corporation to settle and adjust claims. Both sections impinge upon the Attorney General's litigation authority and should be removed.

Section 1606, which would authorize the corporation to indemnify its contractors for negligence or misconduct should be deleted. Such authority is unjustified, could establish a very undesirable precedent, and could circumvent limitations on government funding to the corporation contained in this title.

Section 1402(r), which would provide Federal Tort Claims Act protection for the corporation for claims arising from a nuclear incident prior to its licensing, should also be deleted as inappropriate.

Subtitle B, which authorizes various Federal programs to aid the domestic uranium industry, should be deleted. This subtitle includes a $300 million subsidy to help uranium companies comply with regulations governing the cleanup of uranium mill tailings. At least 25 percent of this amount will benefit foreign companies.

Subtitle B includes a provision which would establish both a natural and a depleted uranium reserve to be held in stockpiles for military uses. This provision should be deleted. These reserves can be accomplished through administrative actions. Due to a planned reduction in the size of the nuclear stockpile, DOE is currently studying the use of the large supply of enriched uranium that will be returned to the Department.

Subtitle B also includes a provision which prohibits the use of foreign uranium in a new "overfeeding" program to produce enriched uranium. This provision should be deleted. It could be interpreted by our trading partners to be in conflict with U.S. obligations under the General Agreement on Trade and Tariffs and the U.S.-Canada Free Trade Agreement. In the same vein, the title also inappropriately restricts Federal purchases of foreign uranium.

Title XI, Section 11101 contains a provision which would require tariff filings by deregulated pipelines. This provision, proposed section 7(j)(1), should be deleted because of its potential anti-competitive effect.

Section 11107, which provides additional antitrust protection for joint ventures selling natural gas, should be deleted. Such additional protections are unnecessary. Legitimate joint ventures are already evaluated by the Justice Department under the rule of reason. Special industry-oriented antitrust protections undermine the general applicability of antitrust laws and can lead to confusion and unintended results in the courts.

Title XII, which provides discretionary financial assistance to States based on OCS drilling activities occurring in coastal waters, should be modified. As currently drafted, title XII will result in substantial litigation against the United States, both with respect to the boundaries drawn and the formulas used for distribution of funds to State and local governments.

The title should be amended to decrease the amount of revenues lost to the Federal Treasury. The bill's definition of "new revenues" (i.e. revenues from new wells on already producing leases) would be virtually impossible to administer. It should be amended to cover only revenues from leases from which no royalty payments have been made. The distribution of assistance should be based solely on actual production of the new leases, not new drilling on existing leases. Specific amounts should be provided directly to impacted local communities rather than providing all the funds to States. The bill's formula for distributing assistance to States based on seaward lateral boundaries should be deleted. Such a formula would be extremely complicated to administer and would result in extensive litigation, thus making it virtually impossible to distribute funds.

Title XIV, section 14108, requiring development of a coal export plan and section 14109, establishing a Clean Coal Technology Export Coordination Council, are unnecessary and should be deleted. The Executive branch already has an effective export program under which DOE, DOC and other appropriate agencies are carrying out numerous initiatives to promote coal and coal-related technology exports. The new council would needlessly duplicate the DOC-chaired interagency Trade Promotion Coordination Committee and its Working Group on Energy, Environment, and Infrastructure. The Administration strongly opposes placing lead responsibility for export promotion or an export promotion council in any agency other than DOC. Such action would seriously detract from the overall coordination of the existing export program.

Section 14109 should also be amended to remove provisions which infringe upon the President's constitutional power in foreign affairs. The offending provisions require contacts between certain interagency councils and foreign nations or international organizations.

* * * * * * *

(Not to be Distributed Outside Executive Office of the President)

This draft position was developed by LR (Fitter) in consultation with ES (Bennethum, Palmieri, and Hezir), NR (Minkler), OIRA (Theroux), TCJ (Corbett, Koch), GM (Kelly), HTF (Jordon), EP (Lyon), OFPP (Vallina), BRCB (Won), BASD (Stigile), GC (Reed), WH Cabinet Affairs (Luttig), White House Counsel (Schaerr), Energy (Stuntz), USDA (Vail), Defense (Brick), HUD (Fuentes), Interior (Lyder), Labor (Hanson), State (Davis), Transportation (Donlin), Treasury (Dorsey), VA (Howe), CEA (Joskow), CEQ (Flick), EPA (McKenna), FEMA (Gormley), GSA (Robinson), NASA (Stehmer), NCS (Melby), NSF (Chester), OSTP (Pryor), SBA (Broadbent), USTR (Eiss), NRC (Rothschild), FTC (Prendergast), SEC (Fulton), and TVA (Simpson).

This position was provided to OPD (Gorman) and OVP (Burrows). Neither office provided comments at this time.

Justice (Hinchman) recommends that the SAP include an Attorney General veto threat based on serious constitutional and litigation concerns in Title X which establishes a Uranium Enrichment Corporation.

Commerce (Clark) recommends that its objections to sections 5104, 14108, and 14109, which would allow DOE to usurp DOC's primacy in export promotion, be elevated to the short list of Major Concerns. Commerce will be appealing to Bob Grady.

Administration Position to Date

The Department of Energy has testified extensively on S. 1220 and its predecessor, S. 341. The testimony advised that the Administration would support the bill if it was amended to more closely resemble the Administration's national energy strategy legislation, S. 570/H.R. 1301.

Pay-As-You-Go (Paygo) Implications of S. 1220

The paygo implications of S. 1220 are as described in the chart on the second page of the SAP. OCS and ANWR estimates were provided by NR (Minkler), uranium estimates were provided by ES (Goldberg), and CAFE estimates were provided by TCJ (Corbett).

Provisions of S. 1220

Similar to the Administration's National Energy Strategy legislation, S. 1220 is a multi-titled bill intended to reduce the Nation's dependence on imported oil. The major provisions of each of the bill's 16 titles are discussed below. Significant similarities and/or differences from the Administration's bill are noted.

Title I - Findings and Purposes

Requires the Secretary of Energy to (1) develop a least-cost energy strategy as part of the annual National Energy Policy Plan and (2) appoint a Director of Climate Protection to represent the Department on global climate change matters.

These provisions are not included in the Administration's bill.

Title II - Definitions

Provides various miscellaneous definitions of terms contained in the bill, none of which are objectionable.

Title III - Corporate Average Fuel Economy (CAFE)

Sets CAFE standards at 27.5 mpg for cars and the "maximum feasible" for light trucks through 1995. Requires the Secretary of Transportation to set manufacturer-specific "maximum feasible" CAFE standards by 1992 for passenger cars and light trucks, using specified criteria. The standards would apply for model years 1996 through 2001, and 2002 and thereafter.

The Secretary is required to assess an excessive fuel consumption fee on manufacturers failing to meet the standards and to deposit these fees in an Excessive Fuel Consumption Fund established in the Treasury. Subject to appropriations, the Secretary of Energy is authorized to use the Fund to subsidize State programs to retire old vehicles and other energy conservation programs.

These provisions are not included in the Administration's bill.

Title IV - Fleets and Alternative Fuels

Requires specified State, municipal, and private fleets and all Federal agencies to purchase alternative fuel vehicles pursuant to prescribed schedules. Beginning in 1995, ten percent of vehicles purchased for State and Federal fleets would have to be alternative fueled, rising to 90 percent in the year 2000. Private and municipal fleets would have a 30 percent purchase requirement beginning in 1998 rising to 70 percent in the year 2000. Civil penalties are authorized for noncompliance; however, purchase requirements may be waived for 12-month intervals under prescribed circumstances.

Directs the Secretary of Energy to initiate demonstration programs, cooperative agreements, and joint ventures to encourage the development of electric vehicles and related infrastructure. The Secretary is also directed to implement a program to promote alternative transportation fuel with a goal of replacing 30 percent of petroleum-based motor fuel by the year 2010. Under this program, the Secretary would be authorized to require motor fuel providers, in certain circumstances, to make enough alternative motor fuel available to meet public demand.

The Administration's bill contains similar alternative fuel fleet requirements for State, municipal, and private fleets, but does not include Federal fleet requirements or electric vehicles and alternative fuel development provisions.

Title V - Renewable Energy

Includes provisions designed to promote the export of renewable energy and energy efficient technologies, particularly to lesser-developed countries, and to encourage the development and application of such products and technologies in those countries. These provisions include expanding the activities of the Committee on Renewable Energy, Commerce, and Trade (CORECT) and establishing a parallel Committee on Energy Efficiency, Commerce, and Trade (COEECT). Both groups would be chaired by the Secretary of Energy.

This title also contains provisions to encourage the use of renewable energy technologies in the United States. These include joint venture demonstrations to accelerate commercial application of renewable energy sources (i.e. biofuels, high and low temperature geothermal energy, etc.) and interest rate subsidies for renewable energy industries.

The process for licensing hydropower projects is streamlined. A single consolidated environmental review, managed by the Federal Energy Regulatory Commission (FERC), is established, and hydropower projects of five megawatts or less are largely exempt from Federal licensing requirements.

The Title V trade provisions are not included in the Administration's bill. The hydropower licensing provisions are generally consistent with the Administration's proposal.

Title VI - Energy Efficiency

Requires the Secretary of Energy to initiate various actions to improve energy efficiency in industrial, commercial, residential, and public buildings. Required actions include issuance of building codes and standards for Federal buildings, and assistance to industry in upgrading voluntary building codes for new residential and commercial structures. The Secretary is also required to promulgate and encourage the adoption of voluntary residential energy efficiency rating guidelines. The Secretary is directed to undertake research and development to improve energy efficiency in energy-intensive industries and industrial processes, and to initiate joint ventures to encourage the commercialization of such technologies.

The Secretary is required to assist in the voluntary development of a national energy efficiency rating program for windows, and a rating and labeling program for lamps, luminaries, and commercial office equipment. If industry fails to adopt a voluntary program within two years after the date of enactment of this Act, a Federal program would be established. The Secretary also is required to develop and enforce Federal efficiency standards for certain lamps, commercial air conditioning and heating equipment, and utility distribution transformers. A maximum flow rate for showerheads is established.

January 1, 2000, is set as the deadline for Federal agencies to install efficiency improvements with pay-back periods of 10 years or less. Incentives are provided to encourage Federal agencies to participate in utility incentive programs and shared energy savings contracts. A $50 million Federal Energy Efficiency Project Fund is established to subsidize energy efficiency improvements in Federal facilities, and a financial incentive program is created to reward Federal facility managers for outstanding energy savings.

Financial assistance and other incentives are provided to encourage insular areas, States, and Indian tribes to invest in conservation and energy efficiency measures. Incentives are provided to encourage utilities to improve energy use.

The Administration's bill directed the Federal Trade Commission to promulgate rules for labeling electric lights and commercial products, and authorized Federal agency participation in utility incentive programs. The bill prohibited the Secretary of Energy from prescribing energy conservation standards, and did not contain any of the command and control provisions contained in this title.

<u>Title VII - Oil and Gas Leasing in the Arctic National Wildlife Refuge (ANWR) Coastal Plain</u>

Requires the Secretary of the Interior to initiate competitive oil and gas leasing and development activities on the Coastal Plain in a manner consistent with the protection of the environment. Leasing terms, conditions, and procedures are prescribed, including maximum lease size, minimum royalty rates, antitrust review, and bonding requirements. A detailed development and production plan, including a plan for reclamation of the affected area, is also required. Land must be restored to a condition capable of supporting its pre-lease uses.

The Secretary is directed to collect a five cent per-barrel fee on ANWR oil or natural gas liquids to capitalize a $50 million Coastal Plain Liability and Reclamation Fund. The Fund may be used to compensate entities damaged by leasing activities and to restore any improperly reclaimed lands.

Revenues received from oil and gas leasing are to be divided equally between the United States and the State of Alaska. Federal receipts are to be deposited in an Energy Security Fund and used to fund projects (1) to enhance the Nation's energy security and (2) high priority Arctic research projects. Subject to certain exceptions, the export of ANWR crude oil is prohibited. This title also prohibits oil and gas leasing activities on the outer continental shelf (OCS) off California and New Jersey until January 1, 2000.

The ANWR leasing provisions are generally consistent with the Administration's proposal except for the disposition of receipts. The Administration's proposal deposits all receipts in a general fund receipt account in the Treasury without restrictions on usage. The Administration's bill does not contain the OCS leasing moratoria. Additionally, Title VII does not include authority to: (1) lease Naval Petroleum Reserve No. 1 or (2) deregulate specified oil pipelines, both of which are included in the comparable title of the Administration's bill.

Title VIII - Advanced Nuclear Reactor Commercialization

Directs the Secretary of Energy to carry out a research, development, and demonstration (RD&D) program designed to lead to the commercial use of advanced reactor technologies. A target date of 1995 is set for Nuclear Regulatory Commission (NRC) certification of completed standardized designs for advanced light water reactor technology. Research and development is also required on other advanced nuclear technologies (i.e. high temperature gas-cooled reactors and liquid metal reactors) to support selection of one or more of these technologies for full scale prototype demonstration.

Not contained in the Administration's bill.

Title IX - Nuclear Reactor Licensing

Streamlines the nuclear reactor licensing process by authorizing the NRC to issue a combined nuclear reactor construction and operating license. Also limits the scope of the post-construction licensing hearing and allows an informal post-construction license hearing in most cases.

Generally consistent with the Administration's nuclear licensing proposal, but does not contain provisions to remove impediments to site characterization studies at Yucca Mountain, Nevada, for a nuclear waste repository. The Yucca Mountain provisions are contained in S. 1138, which has been reported out of the Senate Energy and Natural Resources Committee.

Title X - Uranium

Restructures the DOE's uranium enrichment enterprise as a wholly-owned government corporation headed by a Presidentially-appointed Administrator. The Administrator must be specially qualified to manage the corporation and would be removable only for cause. The Administrator would be subject to limited supervision by the Secretary of Energy and to oversight by a corporate board appointed by the President. The corporation is granted budgetary and legislative bypass authority and its books and records are to be made available for congressional review upon request.

Most material and financial assets of the existing enterprise would transfer to the corporation without further appropriations action. The corporation would issue to the Treasury stock equal to the book value of the assets. The corporation is required to pay dividends on the stock, if feasible, and to repay to the Treasury $364 million. The corporation's borrowing authority from the private sector would be capped at $2.5 billion. The Federal Government would be required to pay a percent of the decontamination and decommissioning costs of the corporation's facilities. Additional legislation would be required to privatize the corporation.

The title also includes provisions to benefit the uranium mining industry. The corporation is required to develop and to encourage the use of a voluntary "overfeeding" program. Under this program customers for enrichment services would be given price rebates for using additional quantities of domestic uranium during the enrichment process. A 50 million pound National Strategic Uranium Reserve restricted to military purposes and government research is established. With certain limited exceptions, all Federal entities would be required to purchase uranium from domestic sources. Approximately $300 million would be authorized to be appropriated to licensees of active uranium and thorium mill sites to subsidize cleanup of uranium mill tailings. The U.S. International Trade Commission would be required to investigate whether non-domestic suppliers of uranium and uranium enrichment services are selling their products below production costs. If such practices are discovered, the President would be required to report to Congress on activities taken to discourage them.

Not contained in the Administration's proposal.

Title XI - Natural Gas

Authorizes FERC to engage in simplified certification procedures to expedite construction, extension, and operation of natural gas pipelines, provided certain terms and conditions are met. The simplified procedures would not be available for pipelines bypassing a local distribution company (LDC) without the LDC's consent. The Federal environmental review process for new pipelines is simplified and consolidated under FERC, and FERC is authorized to deregulate the rates a pipeline charges for gas sold in competitive markets.

Oversight of natural gas imports and exports is delegated to FERC from DOE. FERC is required to condition approval of natural gas imports to redress anti-competitive impacts on domestic producers (i.e. different rate designs). The Department of Justice is directed to report to Congress on existing authority to remedy regulatory advantages that may be conferred on imported natural gas.

FERC is authorized to order the interconnection of gas delivery pipelines under certain circumstances. Certain unintended regulatory disincentives to the development of retail distribution infrastructure for vehicular natural gas are eliminated, and limited antitrust relief for independent producer cooperatives is provided.

Title XI contains many of the provisions contained in the Administration's bill, but does not contain provisions to deregulate the international gas trade or restructure FERC.

Title XII - Outer Continental Shelf (OCS)

Establishes a Coastal State and Community Outer Continental Shelf Impact Assistance Fund in the Treasury into which the Secretary of the Interior is required to deposit 37.5 percent of new revenues generated by OCS lease activities. Subject to appropriations and based on a prescribed formula, the Secretary is directed to use the Fund to provide impact assistance to States affected by OCS leasing. States may use these funds as directed by their respective legislatures, giving priority to prescribed activities in areas impacted by OCS leasing.

Although this provision is not contained in the Administration's bill, the Administration supports the concept of providing impact assistance to affected States and local communities. The Administration, however, has numerous concerns about Title XII as currently drafted.

Title XIII - Research, Development, Demonstration, and Commercialization Activities

Requires the Secretary of Energy to provide Congress with an energy technology RD&D and commercialization priorities management plan and to undertake specified projects. These projects are intended to result in the commercialization of new and advanced natural gas utilization technologies, high efficiency heat engines, and fusion for electricity generation. Expanded RD&D on natural gas and electric heating and cooling technologies for commercial and residential buildings is required. Other projects are to focus on high temperature superconducting electric power systems, electric and electric-hybrid vehicles, increasing domestic oil and natural gas resource recovery, and the energy potential of oil shale.

Required studies and reports to Congress include the energy potential of tar sands, the costs and benefits of telecommunicating, means to minimize nuclear waste, and the adequacy of the Nuclear Waste Policy Act of 1982. The Secretary is also directed to promote math and science education for low-income and first-generation college students.

Not contained in the Administration's bill.

Title XIV - Coal, Coal Technology, and Electricity

Directs the Secretary of Energy to conduct RD&D on advanced coal-based technologies, and to develop an RD&D plan on technologies for non-fuel use of coal. The Secretary is also required to undertake RD&D leading to the commercialization of coal-refining and underground coal gasification technologies. Other R&D projects are to focus on low rank coal, magnetohydrodynamics, and coal-fired locomotives.

Required reports to Congress include reports on the status of coal fuel mixtures technology and means to expand U.S. coal exports and increase utilization of coal combustion byproducts. A Clean Coal Technology Export Coordination Council, chaired by the Secretary of Energy, is established to promote export of clean coal technologies. The Secretary is required to establish a national clearing house on coal technology and to develop a data base on coal transportation rates.

The title also exempts certain power plant modifications from Clean Air Act requirements (the so called "WEPCO fix"), and sets out a process for establishing Federal regulatory incentives for clean coal technologies.

Not contained in the Administration's bill.

Title XV - Public Utility Holding Company Act Reform (PUCHA)

Establishes a new class of independent power producers to be known as exempt wholesale generators (EWGs), who would be exempt from PUCHA restrictions. PUCHA currently limits a utility holding company (any company that controls at least ten percent of a public utility's stock) to investing in electric power facilities in a single geographic area. EWGs would be authorized to build, own, and operate power plants, and to sell their power at wholesale anywhere in the United States. EWGs would be prohibited from selling power directly to the general public.

Holding companies currently exempted from or registered under PUCHA would be able to acquire EWGs. Other entities not subject to PUCHA would be able to own EWGs without being deemed holding companies. Rates and charges for interstate sales of electricity by most EWGs would be regulated by FERC. Additional conditions designed to prevent non-competitive actions are placed on EWGs.

Generally consistent with the Administration's proposal, however, does not include the Power Marketing Administration Repayment Reform provision contained in the comparable title of the Administration's bill.

Title XVI - Strategic Petroleum Reserve (SPR)

Directs the President to complete development of a 750 million barrel SPR and to enlarge the SPR to 1 billion barrels as rapidly as possible. Authorizes the creation of a ten billion barrel Defense Petroleum Inventory (DPI). Also authorizes the President, acting through the Secretary of Energy, to procure foreign oil for the SPR or the DPI without regard to competitive bidding procedures.

The Administration's bill also established a DPI, but funded it through receipts generated by the leasing of DOE's Naval Petroleum Reserves. The other provisions in this title are not included in the Administration's proposal.

THE WHITE HOUSE

WASHINGTON

July 15, 1992

Dear Ed:

Many thanks for your letter of June 3 which arrived while I was out of the country in which you support the proposal to divert a portion of SLAC's operating funds to upgrade the SLAC facility to include a B-Factory.

Clearly there is no question but what a B-Factory would produce good physics and, were funds readily available, I would enthusiastically support it and Burt Richter's approach to getting it. I say this particularly because I have nothing but admiration for SLAC over its long history and understand that loss of SLAC would clearly hurt California's science.

However, having said that, I have to emphasize that although the B-Factory enjoys a high HEPAP priority, it is neither the highest nor second highest on HEPAP's priority list. Beyond that there are some higher priority scientific projects outside of high energy physics including, for example, an advanced neutron source, additional beam lines for the Brookhaven light source, etc. And finally I would have to point out that although I know Burt's arguments to the contrary, there are those who still argue vehemently that the Cornell proposal would yield a more cost effective B-Factory.

All that being the case, from an overall perspective there is at the moment no justification for attempting to override the DOE position on a SLAC B-Factory.

I do, nonetheless, very much appreciate your writing to me on this important point and I am sorry that our overall budget situation in science and technology is not such that we could move forward with what is really a very attractive proposal; as you know both the Spaniards and the Japanese are currently considering the possibility of constructing B-Factories, but it is too early to tell what the result of their present considerations will be.

Sincerely yours,

D. Allan Bromley
The Assistant to the President
for
Science and Technology

Mr. Ed Zschau
Chairman and Chief Executive Officer
Censtor
530 Race Street
San Jose, California 95126

censtor

Ed Zschau
Chairman of the Board and
Chief Executive Officer

0/8

Karl Erb: to comment.
DAB

June 3, 1992

Please see attached note
KAE 6/15

Dr. D. Allan Bromley, Director
Office of Science & Technology Policy
Old Executive Office Building, Suite 360
17th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Allan,

Recently, I sent a letter to President Bush encouraging him to support the proposal of the Stanford Linear Accelerator Center to divert a portion of SLAC's operating funds to upgrade the SLAC facility to include a B-Factory. Enclosed is a copy of that letter.

I am hopeful that you will agree with me that the SLAC proposal will result in good science and makes good economic sense too. I shall appreciate your endorsement of the SLAC proposal and your efforts to secure the necessary approvals.

With warm regards.

Sincerely,

Ed Zschau

Enclosure

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