

# RAHALL *Report*

## COAL

BY CONGRESSMAN NICK RAHALL

THIS WEEK'S REPORT IS MORE IN DEPTH THAN OTHERS, BUT I BELIEVE SINCE COAL AND ITS FUTURE IS SO IMPORTANT TO OUR STATE, IT DESERVES A MORE LENGTHY DISCUSSION.

ATTACHED IS A SUMMARY OF MAJOR COAL LEGISLATION AND PROPOSAL THAT I, AS CHAIRMAN OF THE CONGRESSIONAL COAL GROUP, HAVE COMPILED.

I AM SURE YOU WILL FIND IT INTERESTING, AND URGE YOU TO USE IT IN ANYWAY YOU WOULD LIKE.

# Congress of the United States

## House of Representatives

Washington, D.C. 20515

Monday Morning

Dear Friend of Coal:

It gives me great pleasure to forward you a copy of the Congressional Coal Group's Mid-Session Report on major legislative measures affecting the coal industry.

The Coal Group is comprised of 66 members of the House of Representatives who represent coal producing regions of the country. As the founder and chairman of this Group, I have sought to make it an informal forum in which issues relating to coal can be discussed, examined and acted upon in a consolidated way.

During 1981 the Group held open meetings on a variety of issues facing the coal industry, including the Clean Air Act reauthorization, coal exports and foreign takeovers of domestic energy-producing companies. Through these meetings, we have attempted to introduce congressmen from non-coal producing regions to the importance of coal in the national energy mix.

As a West Virginian from a Congressional District which has produced more coal than any other in the Nation, I am committed to work toward the increased production, utilization and export of domestic coal. Other members of the Coal Group have the same sentiment, and together, it is our hope to reduce restrictions burdening the coal industry while seeking passage of legislation which will enhance the industry's ability to meet the energy needs of the Nation and the world.

With this in mind, please feel free to contact me with your suggestions and views on legislative matters which impact your industry. I look forward to hearing from you in the near future.

With warm regard, I am

Sincerely,



NICK J. RAHALL, II  
Member of Congress



## THE CONGRESSIONAL COAL GROUP

### MAJOR LEGISLATIVE MEASURES AFFECTING THE COAL INDUSTRY 97th Congress Mid-Session Report

#### CLEAN AIR ACT

##### H.R. 5252

In December, several members of the Committee on Energy and Commerce introduced what is being seen as the starting point to reauthorize the Clean Air Act. Sponsored by Congressmen Luken, Traxler, Hillis, Broyhill, Madigan and Dingell, H.R. 5252 leaves intact current provisions on how national ambient air quality standards are set. However, the bill allows each state to extend on a case-by-case basis pollution level attainment dates from the current 1982 deadline to 1987. Eliminated is the federal authority to withhold highway and sewer funds if a state does not meet clean air deadlines. In addition, EPA is given discretion in waiving the construction ban in areas which have not reached attainment goals. LAER (lowest achievable emission rate) provisions on new plants locating in nonattainment areas are replaced with a standardized BACT (best available control technology) standard. SIP (state implementation plan) review and approval by EPA is simplified. Under PSD (prevention of significant deterioration), Class II and III is eliminated and increment requirements are replaced by BACT,

Of major interest to the coal industry is the retention of the percentage reduction requirement for new coal-fired powerplants. This provision mandates these facilities to remove a certain percentage of sulfur dioxide emissions regardless of the sulfur content of the coal burned. In practice, powerplants must install scrubbers to meet this requirement. However, under H.R. 5252, percentage reduction would no longer apply to industrial boilers burning coal. The bill does not contain an acid rain provision.

##### Acid Rain

A number of bills--H.R. 4829 (Moffett), H.R. 4936 (Scheuer) and H.R. 4816 (D'Amours)--were introduced in 1981 modeled after the highly publicized S. 1706 by Senator Mitchell seeking to place new controls on sulfur dioxide emissions as a method to reduce occurrences of acid deposition. The basic provisions of these bills are to create an "acid deposition region" consisting of a number of states east of the Mississippi River in which sulfur dioxide emissions would be reduced by 10 million tons over a 10-year period.

In addition, two research oriented bills--H.R. 4830 (Gregg) and H.R. 5055 (Rahall)--were introduced to amend Title VII of the Energy Security Act which created the Interagency Acid Precipitation Task Force within the federal government. The Task Force is doing research into the causes and effects of acid deposition and must make annual reports to the president and Congress on its findings and recommendations over a 10-year period. H.R. 4830 is being advanced as complimentary legislation to H.R. 4829 and requires that the NOAA Administrator report his research findings to the EPA on a regular



THE CONGRESSIONAL COAL GROUP  
Mid-Session Report

basis and that an analysis of these findings be conducted by the National Academy of Science. The bill seeks to further strengthen state and federal cooperation in the area of acid deposition research.

H.R. 5055 was introduced by 11 members of the Congressional Coal Group. It stipulates that no new controls be placed on sulfur dioxide emissions until the Task Force makes a final report on the causes and effects of acid deposition under an accelerated five-year research program. The bill requires the Task Force to examine the feasibility of coal washing and fluidized bed combustion in reducing emissions and requests the Task Force to solicit comments from state agencies doing similar research.

#### TRANSPORTATION

##### Coal Slurry Pipelines

Legislation to grant coal slurry pipelines the power of eminent domain, H.R. 4230 (Udall), passed the Committee on Interior and Insular Affairs by a one-vote margin. The Committee on Public Works and Transportation's Subcommittee on Surface Transportation, which also has jurisdiction over H.R. 4230, completed its hearings and may markup early this year.

##### Coal Ports

The Committee on Merchant Marine and Fisheries reported H.R. 4627 (Biaggi), aimed at expediting port improvements through the implementation of port-specific user fees on a per ton basis. Ports would be authorized to channel dredge below 45 feet after agreeing to pay 50 percent of the costs through the user fee. Incremental operation and maintenance costs from this new construction would be reimbursed by the local port authority on a 75-25 percent local to federal split. There is a dollar per ton cap on the user fee except for those vessels requiring channel drafts deeper than 43.5 feet. H.R. 4627 also requires that within 10 years after enactment, 40 percent of all dry bulk cargo leaving and entering the U.S. be carried on U.S. flagships. The Committee on Public Works and Transportation also has jurisdiction over this legislation, but it is expected that the Subcommittee on Water Resources will markup its own version of port legislation early in 1982.

##### Inland Waterways

Numerous proposals to authorize lock and dam improvements through revenues obtained from an increased barge fuel tax and/or through the imposition of user fees were introduced in 1981. The House is not expected to begin work in this area until it has finished the port improvement legislation.



THE CONGRESSIONAL COAL GROUP  
Mid-Session Report

Coal-Haul Roads

Legislation authorizing the Secretary of Transportation to make grants for the repair of energy-impacted roads and rail crossings, H.R. 1271 (Rahall), was not considered during the one-year fiscal year 1982 highway authorization passed in 1981. However, an attempt to have the bill included as part of a multi-year fiscal year 1983-1985 highway program will be made this year.

Railroads

It is expected legislation will be introduced early in 1982 to amend the Interstate Commerce Act to establish conditions under which traffic is found to be subject to market dominance. The bill may also address rail rate exemptions from ICC jurisdiction.

TAXATION

Economic Recovery Tax Act of 1981

Under the new tax law, provisions were included which provide special incentives for investing in mining equipment and processing facilities. Depreciation rules were replaced with accelerated cost recovery, investment tax credit rules were expanded and rules applying to leased property were adjusted.

Coal operators who have been depreciating their mining equipment over a period of eight to 12 years can now take recovery periods of three, five and 15 years under accelerated cost recovery. Most mining equipment costs can now be recovered over five years and light trucks over three years.

Under the new investment tax credit rules, any piece of equipment with a recovery period of three years is eligible for a six percent credit and equipment with a recovery period of five years and more is eligible for the full 10 percent investment tax credit. The law also increases the amount of used equipment eligible for the credit to \$125,000 and extends the carry-over period.

The new law encourages the use of leverage leases and sale and leaseback transactions. Mining operators who have not been profitable and have had low tax liabilities will benefit the most from these changes.

Another provision of the law allows electric utilities which are converting to coal a 10-year rather than 15-year depreciation of boilers and burners.



THE CONGRESSIONAL COAL GROUP  
Mid-Session Report

Coal Utilization Incentives Act

Legislation to provide incentives for electric utilities to convert from oil and natural gas to coal was introduced with the support of many members of the Coal Group. The bill would allow converting utilities to write-off boilers and burners over a three-year period and pollution control equipment over a one-year period. The 10 percent energy tax credit would be extended to these utilities and they would be allowed to utilize the full investment tax credit. Local municipalities would be able to issue industrial development bonds to assist converting utilities. Other provisions of H.R. 2325 (Rahall) allow plants which voluntarily convert the same delayed compliance from New Source Performance Standards as given to utilities mandated to convert under the Fuel Use Act. The legislation has the support of the National Governors' Association and the Coalition of Northeastern Governors.

Coal Incentives Act

The coal conversion provisions of H.R. 2618 (Shelby) are basically the same as H.R. 2325.

Mining Reclamation Reserve Act

A number of Coal Group members are pushing for enactment of H.R. 4815 (Bailey) which would eliminate any question that an accrual-basis taxpayer is entitled to take current deductions for estimated future reclamation expenses occurred when complying with surface mining reclamation requirements. Current law is unclear as to the right of surface mining operators on this point.

Coal Severance Tax

A bill to place a 12.5 percent cap on the amount of tax a state could place on coal received consideration by a House subcommittee. No further action was taken on H.R. 1313 (Gibbons) in 1981 and its future is unclear.

Black Lung Benefits Revenue Act of 1981

Under this new law, the excise tax on coal was increased from 50 cents per ton to \$1 per ton on underground coal and from 25 cents per ton to 50 cents per ton on surface mined coal. The increase remains in effect until January 1, 1996, or until the trust fund becomes solvent. The law also made certain changes in the eligibility criteria and benefit structure of the black lung benefits program.

THE CONGRESSIONAL COAL GROUP  
Mid-Session Report

DEPARTMENT OF ENERGY PROGRAMS

Powerplant and Industrial Fuel Use Act of 1978

With the enactment of the Omnibus Budget Reconciliation Act of 1981, the utility off-gas provision of the FUA was repealed. Utilities presently burning natural gas will be allowed to continue doing so after 1990. The section of the FUA pertaining to coal conversion was modified so that, in effect, an electric utility must ask DOE for a conversion to coal order.

Budget

DOE's fossil energy research and development budget was slashed for fiscal year 1982. Appropriations for fiscal year 1981 for these programs was \$1.134 billion and for fiscal year 1982, \$416.872 million. It is expected the Administration will present a "close-out" fossil energy R&D budget for fiscal year 1983. Latest figures indicate that DOE has requested \$305.17 million for these programs with the Office of Management and Budget allowing only \$106.9 million.

DOE Dismantlement

The president is expected to forward his plan to Congress to dismantle and transfer DOE programs early this year. All energy R&D programs would go to the Department of Commerce under the jurisdiction of a new agency which may be named the Energy Research and Technology Administration.