

Calendar No. 407

104TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 104-273

ENERGY POLICY AND CONSERVATION ACT AMENDMENT ACT

MAY 15, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 1605]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1605) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the “Energy Policy and Conservation Act Amendment Act”.

SEC. 2. Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (1) by striking “standby” and”, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and”; and

(2) by striking paragraph (3).

SEC. 3. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) in section 105 (42 U.S.C. 6213)—

(1) by amending subsection (a) to read as follows—

“(a) The Secretary of the Interior shall permit the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by a person, when more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in that person, unless the Secretary determines prior to any lease sale that this bidding would adversely affect competition or the receipt of fair market value.”; and

(2) by striking subsections (c) and (e);

(b) by striking section 106 (42 U.S.C. 6214);

(c) in section 151 (42 U.S.C. 6231)—

(1) in subsection (a) by striking “limited” and “short-term”; and

(2) by amending subsection (b) to read as follows:

“(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.”;

(d) in section 152 (42 U.S.C. 6232)—

(1) by striking paragraphs (1) and (7), and

(2) in paragraph (11) by striking “, the Early Storage Reserve, and the Regional Petroleum Reserve”;

(e) by striking section 153 (42 U.S.C. 6233);

(f) in section 154 (42 U.S.C. 6234)—

(1) by amending subsection (a) to read as follows:

“(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.”;

(2) by amending subsection (b) to read as follows:

“(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.”;

(3) by amending (c) to read as follows:

“(c) The Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy shall evaluate the effectiveness of the Strategic Petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.”; and

(4) by striking subsections (d), and (e);

(g) by striking section 155 (42 U.S.C. 6235);

(h) in section 156(b) (42 U.S.C. 6236(b)), by striking “To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the” and inserting “The”;

(i) by striking section 157 (42 U.S.C. 6237);

(j) by striking section 158 (42 U.S.C. 6238);

(k) by amending the heading for section 159 (42 U.S.C. 6239) to read, “Development, Operation, and Maintenance of the Reserve”;

(l) in section 159 (42 U.S.C. 6239)—

(1) by striking subsections (a), (b), (c), (d), and (e);

(2) by amending subsection (f) to read as follows:

“(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

“(1) issue rules, regulations, or orders;

“(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

“(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

“(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities;

“(5) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

“(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States.

“(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

“(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

“(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies, in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

“(10) require the maintenance of the Industrial Petroleum Reserve;

“(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land; and

“(12) to the extent provided in an Appropriations Act, and notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized SPR facilities, by lease or otherwise, petroleum product owned by a foreign government or its representative; petroleum product stored under this paragraph is not part of the Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.”;

(3) in subsection (g)—

(A) by striking “implementation” and inserting “development”; and

(B) by striking “Plan”;

(4) by striking subsections (h) and (i);

(5) by amending subsection (j) to read as follows:

“(j) When the Secretary determines that a 680,000,000 barrel inventory can reasonably be expected to be reached in the Reserve within 5 years, a plan for expansion will be submitted to the Congress.”; and

(6) by amending subsection (l) to read as follows:

“(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to rulemaking requirements in section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization act (42 U.S.C. 7191).”;

“(m) in section 160 (42 U.S.C. 6240)—

(1) in subsection (a), by striking all before the dash and inserting the following—

“(a) To the extent funds are available under section 167(b) (2) and (3) and for the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange”;

(2) in subsection (b), by striking “including the Early Storage Reserve and the Regional Petroleum Reserve” and paragraph (2); and

(3) by striking sub sections (c), (d), (e), and (g);

(n) in section 161 (42 U.S.C. 6241)—

(1) by striking subsections (b) and (c);

(2) by amending subsection (d)(1) to read as follows:

“(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.”;

(3) by amending subsection (e) to read as follows:

“(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

“(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this Section.”; and

(4) in subsection (g)—

(A) in paragraph (1), by striking “Distribution Plan” and inserting “distribution procedures”;

(B) by striking paragraphs (2) and (6); and

(C) in paragraph (4), by striking “90” and inserting “95”;

(o) by striking section 164 (42 U.S.C. 6244);

(p) by amending section 165 (42 U.S.C. 6245) to read as follows—

“SEC. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

“(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum in the Reserve;

“(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including those carried out as part of operational maintenance or extension of life activities;

“(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing such remedial actions;

“(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on such rates and capabilities;

“(5) an identification of purchases of petroleum made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

“(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

“(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

“(8) a summary of expenses for the year, and the number of Federal and contractor employees;

“(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part; and

“(10) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary and appropriate to implement this part.”;

(q) in section 166 (42 U.S.C. 6246) by striking all after “appropriated” and inserting “the funds necessary to implement this part.”;

(r) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

(A) by inserting “for test sales of petroleum products from the Reserve,” after “Strategic Petroleum Reserve,” and by inserting “for” before “the drawdown”;

(B) by striking paragraph (1); and

(C) in paragraph (2), by striking “after fiscal year 1982”;

(s) in section 171 (42 U.S.C. 6249)—

(1) by amending subparagraph (b)(2)(B) to read as follows:

“(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum product proposed to be stored, in the Reserve, and an estimate of the proposed benefits.”;

(t) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b);

(u) by striking section 173 (42 U.S.C. 6249b); and

(v) in section 181 (42 U.S.C. 6251), by striking “June 30, 1996” each time it appears and inserting “September 30, 2001”.

SEC. 4. Title II of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking Part A (42 U.S.C. 6261 through 6264);

(b) by striking “section 252(l)(1)” in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting “section 252(k)(1)”;

(c) in section 252 (42 U.S.C. 6272)—

(1) in subsections (a)(1) and (b), by striking “allocation and information provisions of the international energy program” and inserting “international emergency response provisions”;

(2) in subsection (d)(3), by striking “known” and inserting after “circumstances” “known at the time of approval”;

(3) in subsection (e)(2) by striking “shall” and inserting “may”;

(4) in subsection (f)(2) by inserting “voluntary agreement or” after “approved”;

(5) by amending subsection (h) to read as follows—

“(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

“(1) the international energy program, or

“(2) any allocation, price control, or similar program with respect to petroleum products under this Act.”;

(6) in subsection (i) by inserting “annually, or” after “least” and by inserting “during an international energy supply emergency” after “months”;

(7) in subsection (k) by amending paragraph (2) to read as follows—

“(2) The term “international emergency response provisions” means—

“(A) the provision of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

“(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on “Stocks and Supply Disruptions”) for—

“(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

“(ii) complementary actions taken by governments during an existing or impending international oil supply disruption”; and

(8) by amending subsection (l) to read as follows—

“(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.”;

(d) by adding at the end of section 256(h), “There are authorized to be appropriated \$5,000,000 for each of the fiscal years 1996 through 1999.”

(e) by striking Part C (42 U.S.C. 6281 through 6282); and

(f) in section 281 (42 U.S.C. 6285), by striking “June 30, 1996” each time it appears and inserting “September 30, 2001.”

SEC. 5. (a) Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended—

(1) in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

“(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated \$26,500,000 for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.”; and

(2) section 397 (42 U.S.C. 6371f) is amended to read as follows: “For the purpose of carrying out this part, there are authorized \$29,000,000 to be appropriated for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.”

(b) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

“(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1996 through 2001, to remain available until expended.”

SEC. 6. Title V of the Energy Policy and Conservation Act (42 U.S.C. 6381–6422) is amended—

(1) by striking section 507 (42 U.S.C. 6385), and

(2) by striking section 522 (42 U.S.C. 6392).

SEC. 7. (a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

“(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve:

“(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

“(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering; and

“(ii) submit one or more alternative offers, for other categories of petroleum product, that will be binding in the event that no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

“(B) at the request of the Governor of the State of Hawaii, petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

“(2)(A) In administering this subsection, and with respect to each offering, the Secretary may impose the limitation described in subparagraph (B)

or (C) that results in the purchase of the lesser quantity of petroleum product.

“(B) The Secretary may limit the quantity of petroleum product that the State of Hawaii may purchase through a binding offer at any one offering to one-twelfth of the total quantity of imports of petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

“(C) The Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

“(3) Notwithstanding any limitation imposed under paragraph (2), in administering this subsection, and with respect to each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (6), adjust the quantity to be sold to the State of Hawaii as follows:

“(A) The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

“(i) less than one full tanker load; or

“(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(B) The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(4) The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, so long as petroleum product of similar value or quantity is delivered to the State of Hawaii.

“(5) Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

“(6)(A) Notwithstanding the foregoing, and subject to subparagraphs (B) and (C), if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to effectuate the purposes of this Act, such eligible entity may act on behalf of the State of Hawaii for purposes of this subsection.

“(B) The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

“(C) If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a noticed of sale is issued), the Governor shall not certify such company under the paragraph.

“(7) At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.

“(8) As used in this subsection—

“(A) the term ‘binding offer’ means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer;

“(B) the term ‘category of petroleum product’ means a master line item within a notice of sale;

“(C) the term ‘eligible entity’ means an entity that owns or controls a refinery that is located within the State of Hawaii;

“(D) the term ‘fuel tanker load’ means a tank of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii;

“(E) the term ‘insular area’ means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and the freely associated states of the Republic of Palau, Federated States of Micronesia, and Republic of the Marshall Islands;

“(F) the term ‘offering’ means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale; and

“(G) the term ‘notice of sale’ means the document that announces—

“(i) the sale of Strategic Petroleum Reserve products;

“(ii) the quantity, characteristics, and location of the petroleum product being sold;

“(iii) the delivery period for the sale; and

“(iv) the procedures for submitting offers.”.

(b) The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of enactment of this Act or the date that final regulations are promulgated pursuant to section 3, whichever is sooner.

(c) The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

(d) Regulations issued to carry out this section, and the amendment made by subsection (a), shall not be subject to—

(1) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(2) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

PURPOSE OF THE MEASURE

The purpose of S. 1605 is to reauthorize certain provisions of the Energy Policy and Conservation Act (EPCA). EPCA deals with issues affecting domestic energy supply and conservation, the Strategic Petroleum Reserve (SPR) and the International Energy Program Agreement. Authorizations for the SPR and U.S. participation in the International Energy Agency expire on June 30, 1996. S. 1605 would extend the authorization through September 30, 2001. Other EPCA authorizations extended through 2001 by the bill are the State Energy Conservation Program, the Energy Conservation Program for Schools and Hospitals, the Alternative Fuels Truck Commercial Application Program. The interagency working groups that promote reports, the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT) would be authorized through 1999. The substitute amendment offered by Senators Murkowski and Johnston incorporates the text of S. 186, “the Emergency Petroleum Supply Act,” introduced by Senator Akaka, which would ensure that Hawaii have guaranteed access to the Strategic Petroleum Reserve during an oil supply disruption.

BACKGROUND AND NEED

The Energy Policy and Conservation Act (EPCA), initially passed in 1975, is concerned with domestic energy security, supply and conservation, including the Strategic Petroleum Reserve (SPR) and the International Energy Program (IEP) Agreement. Authorizations expire on June 30, 1996 for the SPR; the U.S. participation in the International Energy Agency (IEA); the State Energy Conservation Program; the Energy Conservation Program for Schools and Hospitals; the Alternative Fuels Truck Commercial Application Program; and the interagency working groups that promote exports, the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT).

Title I of EPCA provided for the creation of the SPR and sets forth the method and circumstances for its drawdown and distribution in the event of a severe energy supply interruption or to fulfill the U.S.’s obligations under the International Energy Program (IEP) Agreement. The Energy Policy Act of 1992 amended EPCA

to allow for a drawdown in response to severe price increases, as well. Authority to allocate crude oil from the SPR is also provided.

The SPR has a planned storage capacity of 750 million barrels of oil with a maximum drawdown capability for 4.5 million barrels per day (b/d). The SPR currently contains just under 590 million barrels of oil. In 1993, it was discovered that nearly 143 million barrels of oil in the Reserve were unavailable for drawdown due to the natural phenomena of geothermal heating and methane intrusion into the oil in certain of the caverns. The geothermal heating problem has been fully resolved and degassification of the oil is well underway. The stabilization program is expected to take another two years to complete. In addition, the Weeks Island storage facility has developed a geologic fissure, which requires the removal and relocation of the oil to the Big Hill and Bayou Choctaw sites. The oil removal operation started in November 1995 and is expected to be completed by December 1996. Final decommissioning of the Weeks Island facility is expected to be completed by 1999.

The decommissioning of Weeks Island will reduce the storage capacity of the SPR to 680 million barrels and the maximum drawdown capability to 3.9 million b/d. Maximum drawdown capability is currently 3.4 million b/d up from 2.0 million b/d in 1993 when the stabilization program to install heat exchangers and degassification equipment was begun.

The Energy Policy and Conservation Act Amendments of 1990 directed the Department of Energy to submit a plan amendment to Congress by September 15, 1992 with detailed plans to expand the size of the SPR to one billion barrels. Submission of the plan has been indefinitely postponed. The Department has recommended that further plans to expand the Reserve be linked to formation of a plan for completion of fill of the existing capacity. This recommendation is based on the fact that the EPCA requirements for a fill rate of 75,000 barrels per day and the expansion of the Reserve capacity have not been supported with appropriations. Expanding the capacity another 250–320 million barrels would require in excess of \$10 billion additional investment in facilities and oil. The Administration has proposed language in the bill that would clarify the authority of the Secretary to lease storage capacity in underutilized SPR facilities to foreign governments.

With the current reauthorization, the Administration has proposed amending subsection 161 of EPCA to require the Secretary of Energy to distribute oil from the SPR via a public competitive sale to the highest qualified bidder in place of the current allocation authority. The amendment would also make explicit the authority of the Secretary to cancel a sale in progress in the event of changes in market conditions, a sudden reversal in the nature of the shortage or emergency, or to respond to inordinately low bids.

The IEA, founded in 1974 at the instigation of the United States, is the principal forum for energy cooperation among the twenty-one industrialized countries participating in the IEP Agreement. The IEP is designed to reduce the economic risks of oil supply disruptions and to reduce dependence on oil through coordinated efforts.

The IEP Agreement called for the establishment of an information system on the international oil market and other sources of energy. The IEA's information system and assessments, widely cited by Government and industry analysts, are invaluable in tracking international energy markets.

In the event of supply emergencies, the member countries of the IEA may decide to implement the Emergency Sharing System. Under the Emergency Sharing System, IEA member countries commit to reduce oil demand and share available oil supplies according to an established formula. Participation in the program requires countries to maintain the following capabilities:

Emergency oil stocks equivalent to 90 days of net oil imports;

The ability to reduce consumption of oil by 10 percent, or be prepared to draw down oil stocks in excess of the 90 day commitment; and

Legal authority to participate in the system by the Government and private companies.

Title II of EPCA contains the specific authorities for U.S. participation in the IEP. Section 251 provides authority for mandatory oil allocation as a last resort in the event voluntary emergency sharing fails to achieve its goals. Section 252 provides a limited anti-trust exemption for U.S. companies to participate at the IEA on the IEP allocation and information provisions and in tests of the IEA emergency data and sharing systems. Section 254 provides the authority for the Executive Branch to provide to the IEA information and data related to the domestic oil industry.

Coordination of oil stocks through the IEA increases the economic benefits by equitably distributing the burden of building and maintaining those stocks. The efforts of other IEA countries to build up their own oil stocks and willingness to draw on them when necessary are a complement to the U.S. Strategic Petroleum Reserve program. The United States has long advocated a policy at the IEA of coordinated stockdraws in the event of international market disruptions with reliance on the allocation procedures under the Emergency Sharing System only as a last resort. This is now accepted policy within the IEA.

During the Persian Gulf crisis, at the urging of the United States, the IEA successfully tested a coordinated stockdraw in response to the severe economic harm caused by the dramatic increase in oil prices. At that time, conditions in the oil market did not result in a "trigger" situation. U.S. oil companies only have the anti-trust protection for sharing information at the IEA in a "trigger" situation that would invoke the Emergency Sharing System. The "trigger" under the IEP is a 7% physical storage of imports available to a member country. The Administration has proposed modifying the anti-trust provision to cover international emergency response actions agreed upon at the IEA. This amendment would provide the necessary protections for U.S. oil companies to share information with the IEA in anticipation of coordinated actions that do not result in physical allocations.

Title II of EPCA authorizes the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT). CORECT is an inter-agency committee whose 14 Federal agency members work with

private industry to promote exports of renewable energy technologies from the U.S. COEECT performs an identical function for energy efficiency technologies.

The Administration has also proposed extending the authorization for the State Energy Conservation programs, the Energy Conservation Program for Schools and Hospitals, and the Alternative Fuels Truck Commercial Application Program in Title III of EPCA.

Hawaii is the most oil dependent State in the Nation. Oil comprises 92 percent of the State's energy supply. A heavy dependence on oil, absence of indigenous energy resources, and a total reliance on ocean deliveries makes the State exceptionally vulnerable to a cutoff of oil supplies. Hawaii's distance from the SPR is yet another concern. Honolulu is 7,000 miles from the SPR loading docks by way of the Panama Canal—more than one-quarter of the distance around the globe. The State's dependence is a function of geography and geology, not choice.

A May 1994 study completed for the Department of Energy by the East-West Center, "Energy Vulnerability Assessment for the U.S. Pacific Islands," provides strong justification for granting Hawaii priority access to SPR sales during a severe energy emergency. The study found "there are very few opportunities for the islands to reduce their costs for petroleum and their very high dependency on imported petroleum products. These characteristics of the islands combined with their limited resources have resulted in extreme vulnerability to oil supply disruptions."

The need for priority SPR access was also addressed in a December 1993 DOE/State of Hawaii analysis of Hawaii's energy security, which found the following:

Hawaii depends on imported oil for over 92% of its energy. This makes Hawaii the most vulnerable State in the Nation to the disruption of its economy and way of life in the event of a disruption of the world oil market or rapid oil price increases.

Currently, 40% of Hawaii's oil comes from Alaska and the remainder from the Asia-Pacific region. The export capabilities of these domestic and foreign sources of supply are projected to decline by approximately 50 percent by the year 2000. This will likely increase Hawaii's dependence on oil from the reserves of the politically unstable Middle East.

Hawaii is also vulnerable to possible supply disruptions in the event of a crisis. The long distance from the U.S. Strategic Petroleum Reserve in Louisiana and Texas, combined with a declining number of U.S.-flag tankers capable of transiting the Panama Canal, make timely emergency deliveries problematic. The consequences of an oil supply disruption of the U.S. Pacific territories of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI) and Guam were also addressed in these studies. There are no refineries in these territories. American Samoa is supplied from Hawaii. Guam and CNMI are supplied from Singapore. In light of the absence of refineries in these locations, the Committee has authorized the Secretary to assist the insular areas in identifying petroleum supply sources during the period of a drawdown.

LEGISLATIVE HISTORY

S. 1605 was introduced on March 12, 1996 by Senator Murkowski (by request). A hearing was held on S. 1605 and S. 186 on March 27, 1996. The Administration transmitted the text of S. 1605 as proposed legislation and testified in support of both S. 1605 and S. 186 at the March 27, 1996 hearing.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on April 24, 1996, by majority vote of a quorum present recommends that the Senate pass S. 1605, if amended as described herein.

The rollcall vote on the motion to report an amendment in the nature of a substitute was 20 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Hatfield ¹	
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell	
Mr. Thomas	
Mr. Kyl ¹	
Mr. Grams	
Mr. Jeffords ¹	
Mr. Burns	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford ¹	
Mr. Bradley	
Mr. Bingaman	
Mr. Akaka	
Mr. Wellstone	
Mr. Heflin ¹	
Mr. Dorgan ¹	

¹ Indicates vote by proxy.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute to S. 1605.

SECTION-BY-SECTION ANALYSIS

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraph (3) of the Statement of Purposes to reflect the bill's elimination of section 106 (Production

of oil or gas at the maximum efficient rate and temporary emergency production rate).

SECTION 3. AMENDMENTS TO TITLE I OF EPCA

Subsection (a) would amend section 105(a) of EPCA by providing that the Secretary of the Interior shall allow joint bidding by major oil companies unless the Secretary determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary decides to prohibit joint bidding, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Subsection (b) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (c) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (d) would amend section 152 of EPCA by deleting the definition of "Early Storage Reserve" and "Regional Petroleum Reserve." Requirements for and all references to these parts of the program would be deleted by this bill.

Subsection (e) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (f) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve. This subsection would require the Secretary to prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown that evaluates the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by EPCA on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy is required to evaluate the effectiveness of the Strategic Petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve and the likelihood of purchases of additional petroleum for storage. Finally the policy statement is required to set forth alternative strategies for drawdown and the criteria to be employed, at the time of drawdown to select among such strategies. The statement of policy is required to be published in the Federal Register and be subject to public comment, but may be prepared without regard to the rulemaking requirements of the Administrative Procedure Act, the Department of Energy Organization Act, and EPCA."

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sale as the drawdown and distribution policy and eliminate allocation as a method of distribution.

Subsection (g) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve has been accomplished and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (h) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Reserve Plan, which are being deleted by other amendments.

Subsection (i) would delete section 157, Regional Petroleum Reserve. Section 157 of the Act requires the establishment of regional petroleum reserve of refined products in Federal Energy Administration regions that are dependent upon imports for more than 20 percent of their consumption. The Department determined to substitute crude oil for products and also determined that the Gulf Coast area is near enough to all areas to provide protection.

Subsection (j) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (k) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (l) would amend section 159 of EPCA.

Paragraph (1) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (f) of this amendment.

Paragraph (2) would amend subsection 159(f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act. In addition, the Secretary is given authority to lease under-utilized Strategic Petroleum Reserve facilities to foreign governments or their representatives. These leases also may exceed the five-year limitation of section 649(b).

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Re-

serve has 592 million barrels of oil in storage and significant unutilized storage capacity. Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C, and the reporting provision has expired by its own terms.

Paragraph (5) would amend subsection 159(j) of EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that the Reserve can reasonably be expected to be filled to 680 million barrels within five years. This reflects the uncertain financing situation for filling available capacity in the Reserve and makes planning for capacity expansion beyond current capacity premature.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution under the requirements in section 523 of this Act, without regard to the rulemaking requirements of the Administrative Procedure Act and section 501 of the Department of Energy Organization Act.

Subsection (m) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the references to the Early Storage Reserve and the Regional Petroleum Reserve, which would be eliminated by this bill.

Paragraph (3) would amend subsections 160 (c), (d), (e) and (g) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States' share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrels per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection 160(g) requires a refined petroleum product reserve test in fiscal years 1992-94, and a report to Congress. The test was not conducted due to insufficient appropriations in fiscal year 1992

and fiscal year 1993 and was waived in fiscal year 1994. The required report has been submitted.

Subsection (n) would amend section 161 of EPCA.

Paragraph (1) would strike subsection 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(d)(1) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or sudden reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute "distribution procedures" for "Distribution Plan."

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subparagraph (4)(C) would amend section 161(g)(4) of EPCA to prevent the Secretary from selling oil during a test sale of the Strategic Petroleum Reserve at a price less than "95 percent" of the sales price of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale rather than "90 percent" currently stipulated in this section. Since 10 percent of current prices ranges upward of \$1.50 per barrel, the Department believes a smaller range of difference in price would protect the Department from selling the oil below normal variations in market prices.

Subsection (o) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No. 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (p) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve, and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports, considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (p) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill and would change some of the requirements for information to

be included in the annual report to reflect more accurately the current status of the Reserve.

Subsection (q) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (r) would amend section 167 of EPCA to clarify that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limited the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will not be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (s) would amend section 171 of EPCA to eliminate the reference to a requirement for information identical to that in section 154(e) of EPCA. Section 154(e) describes information that is included in the Strategic Petroleum Reserve Plan, which is deleted in this legislation. Instead, when the Secretary notifies the Congress that the Department intends to contract for storage of petroleum under part C, the notification will include a requirement for information more pertinent to the contract.

Subsection (t) would amend section 172 of EPCA.

Paragraph (1) would delete subsections (a) and (b). The exemption in subsection 8(a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for Plan amendments. Subsection (b) provides that, for purposes of meeting the fill rate requirement in section 160(d)(1) of EPCA, part C contract oil which is removed from the Reserve at the end of the contract agreement shall be considered part of the Reserve until the beginning of the fiscal year following the fiscal year in which the oil is removed. This subsection is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (u) would delete section 173 of EPCA which requires congressional review and, therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day "lie before" period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by "leasing" and other alternative financing methods authorized by EPCA, part C.

Subsection (v) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from June 30, 1996 to September 30, 2001.

Public Law 103-406 extended the expiration date to June 30, 1996.

SECTION 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1985.

Subsection (b) would amend section 251(e)(1) by striking section "252(l)(1)" and inserting in lieu thereof "252(k)(1)."

Subsection (c) would amend section 252 of EPCA, which makes available to U.S. oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the “allocation and information provisions” of the Agreement on an International Energy Program (“IEP”). These limited defenses are now available only in connection with the companies’ participation in planning for and implementation of the IEP’s emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency (“IEA”) in planning for and implementing coordinated drawdown of Government-owned or Government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA’s Governing Board adopted a decision on ‘Stocks and Supply disruptions’ which established a framework for coordinating the drawdown of member countries’ Government-owned and Government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph (1) would amend subsections 252(a) and (b) of EPCA. These sections would be amended by substituting the term “international emergency response provisions” for the term “allocation and information provisions of the international energy program.” The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph (2) would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney general for approval must be as specific in its description of proposed substantive actions as is reasonable “in light of circumstances known at the time of approval” rather than “in light of known circumstances.”

Paragraph (3) would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph (4) would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph (5) would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102–558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph (6) would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an “international energy supply emergency,” when the reports would be required every six months.

Paragraph (7) would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term “international emergency response provisions” for the present definition of “allocation and information provisions of the international energy program.” The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph (8) would amend subsection 252(l) of EPCA to make clear that the antitrust defense does not extend to international allocation of petroleum unless the IEA’s Emergency Sharing System has been activated.

Subsection (d) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 1999 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (e) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (f) would amend section 281 of EPCA by extending the expiration date of title II from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 5. AMENDMENTS TO TITLE III OF EPCA

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation Programs and the Energy Conservation program for Schools and Hospitals. The amendment would authorize appropriations of \$26.5 million for section 365 and \$29 million for section 397 for fiscal year 1996 and such funds as may be necessary for fiscal years 1997 through 2001.

Subsection (b) would amend section 400BB to extend the authorization for the appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2001.

SECTION 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.

SECTION 7. PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE
BY THE STATE OF HAWAII

Section 7 amends section 161 of EPCA to add a new subsection (j)(1) that provides the State of Hawaii with rights to purchase Strategic Petroleum Reserve oil during a drawdown. With respect to each offering of SPR oil, the State of Hawaii is provided the opportunity to submit a binding offer to purchase a specified quantity of oil at the average sale price. Petroleum products purchased by the State of Hawaii would have preference in the scheduling for lifting and loading on ships for delivery to Hawaii.

Subsection (j)(2) authorizes the Secretary to limit the amount of petroleum products sold to the State during an offering to one-twelfth of Hawaii's annual oil imports or a maximum of 3 percent of any offering.

Section 7 directs the Secretary to promulgate regulations to carry out subsection 161(j) of EPCA. The section also provides the Secretary with the discretion to implement subsection 161(j) without amending the Strategic Petroleum Reserve Plan.

Section 7 also provides that, at the request of the governor of an insular area, during a drawdown of the Strategic Petroleum Reserve, the Secretary shall assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

FEDERAL MANDATE EVALUATION

The Congressional Budget Office federal mandate evaluation has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in implementing S. 1605. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses above those in existing law.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

There are not likely to be significant paperwork requirements for the Department of Energy above those required by existing law.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1605, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENERGY POLICY AND CONSERVATION ACT

Public Law 94–163, as Amended

AN ACT To increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Energy Policy and Conservation Act”.

[42 U.S.C. 6201 note]

TABLE OF CONTENTS

Sec. 2. Statement of purposes.
Sec. 3. Definitions.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

Sec. 101. Coal conversion.
Sec. 102. Incentives to develop underground coal mines.
Sec. 103. Domestic use of energy supplies and related materials and equipment.
Sec. 104. Materials allocation.
Sec. 105. Prohibition of certain lease bidding arrangements.
【Sec. 106. Production of oil or gas at the maximum efficient rate and temporary emergency production rate.】

PART B—STRATEGIC PETROLEUM RESERVE

Sec. 151. Declaration of policy.
Sec. 152. Definitions.
【Sec. 153. Strategic Petroleum Reserve Office.】
Sec. 154. Strategic Petroleum Reserve.
【Sec. 155. Early Storage Reserve.】
Sec. 156. Industrial Petroleum Reserve.
【Sec. 157. Regional Petroleum Reserve.】
【Sec. 158. Other storage reserves.】
Sec. 159. Review by Congress and implementation.
Sec. 160. Petroleum products for storage in the Reserve.
Sec. 161. Drawdown and distribution of the Reserve.
Sec. 162. Coordination with import quota system.
Sec. 163. Disclosure, inspection, investigation.
【Sec. 164. Naval petroleum reserves study.】
Sec. 165. Annual reports.
Sec. 166. Authorization of appropriations.
Sec. 167. SPR Petroleum Account.

PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY THE UNITED STATES

Sec. 171. Contracting for petroleum product and facilities.
Sec. 172. Implementation.

- 【Sec. 173. Contracts for which no implementing legislation is needed.】
- Sec. 174. Contracts for which implementing legislation is needed.

PART D—EXPIRATION

- Sec. 181. Expiration.

TITLE II—STANDBY ENERGY AUTHORITIES

【PART A—GENERAL EMERGENCY AUTHORITIES

- 【Sec. 201. Conditions of exercise of energy conservation and rationing authorities.
- 【Sec. 202. Energy conservation contingency plans.
- 【Sec. 203. Rationing contingency plan.
- 【Sec. 204. Termination date.】

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

- Sec. 251. International oil allocation.
- Sec. 252. International voluntary agreements.
- Sec. 253. Advisory committees.
- Sec. 254. Exchange of information.
- Sec. 255. Relationship of this title to the international energy agreement.
- Sec. 256. Domestic renewable energy industry and related service industries.

【PART C—ENERGY EMERGENCY PREPAREDNESS

- 【Sec. 271. Congressional findings, policy, and purpose.
- 【Sec. 272. Preparation for petroleum supply interruptions.】

PART D—EXPIRATION

- Sec. 281. Expiration.

* * * * *

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

- Sec. 501. Verification examinations.
- Sec. 502. Powers of the Comptroller General and reports.
- Sec. 503. Accounting practices.
- Sec. 504. Enforcement.
- Sec. 505. Amendment to Energy Supply and Coordination Act of 1974.¹
- Sec. 506. Extension of energy information gathering authority.
- 【Sec. 507. Petroleum product information.】

PART B—GENERAL PROVISIONS

- Sec. 521. Prohibition on certain actions.
- 【Sec. 522. Conflicts of interest.】
- Sec. 523. Administrative procedure and judicial review.
- Sec. 524. Prohibited acts.
- Sec. 525. Enforcement.
- Sec. 526. Effect on other laws.
- Sec. 527. Transfer of authority.²
- Sec. 528. Authorization of appropriations for interim period.
- Sec. 529. Intrastate natural gas.
- Sec. 530. Limitation on loan guarantees.

PART C—CONGRESSIONAL REVIEW

- Sec. 551. Procedure for congressional review of Presidential requests to implement certain authorities.
- Sec. 552. Expedited procedure for congressional consideration of certain authorities.

STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

¹Probably should be “Amendment to energy Supply and Environmental Coordination Act of 1974.”

²Public Law 95-619 repealed sec. 527, but did not amend the table of contents.

(1) to grant specific [standby] authority to the President[, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and] to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

[(3) to increase the supply of fossil fuels in the United States through price incentives and production requirements;]

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources;

(7) to provide a means for verification of energy data to assure the reliability of energy data; and

(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.

[42 U.S.C. 6201]

* * * * *

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

* * * * *

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

SEC. 105. [(a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.]

(a) The Secretary of the Interior shall permit the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by a person, when more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in that person, unless the Secretary determines prior to any lease sale that this bidding would adversely affect competition or the receipt of fair market value.

* * * * *

[(c) The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

[(1) such lands have extremely high cost exploration or development problems; and

[(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.

(d) This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

[(e) The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

[(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

[(2) bidding for any right to develop coal and oil shale on such lands.]

[42 U.S.C. 6213]

[PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION RATE

[SEC. 106. (a)(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

[(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

[(A) at the maximum efficient rate of production, and

[(B) during a severe energy supply interruption, at the temporary emergency production rate,

[as determined pursuant to paragraph (1) for such field.

[(b)(1) Each State or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

[(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, dur-

ing a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

[(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate of both, the Secretary of the Interior may, pursuant to subsection (a)(1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any determined for such field.

[(d) If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

[(e) As used in this section:

[(1) The term “maximum efficient rate of production” means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

[(2) The term “temporary emergency production rate” means the maximum rate of production for a field—

[(A) which rate is above the maximum efficient rate of production established for such field; and

[(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas, or both, from such field.

[(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.]

[[42 U.S.C. 6214]]

* * * * *

PART B¹—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interrup-

¹Section 805 of the Energy Security Act provided for the allocation of lower tier crude oil to the Reserve while the entitlements program was effective under the emergency Petroleum Allocation Act of 1973. That section also provided for a special account for the Reserve, into which proceeds from entitlement and Federal royalty oil would be deposited.

tion, and provide [limited] protection from the [short-term] consequences of interruptions in supplies of petroleum products.

[(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.]

(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part and part C:

[(1) The term “Early Storage Reserve” means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.]

(2) The term “importer” means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term “Industrial Petroleum Reserve” means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired stored, or maintained pursuant to section 156.

(4) The term “interest in land” means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term “readily available inventories” means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term “refiner” means any person who owns, operates, or controls the operation of any refinery.

[(7) The term “Regional Petroleum Reserve” means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.]

(8) The term “related facility” means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term “Reserve” means the Strategic Petroleum Reserve.

(10) The term “storage facility” means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term “Strategic Petroleum Reserve” means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

[15 U.S.C. 6232]

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Secretary, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

[42 U.S.C. 6233]

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a)(1) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159(a)) shall contain not less than 150 million barrels of petroleum products.

(2) Beginning on the date of the enactment of the Energy Policy Act of 1992, the President shall take actions to enlarge the Strategic Petroleum Reserve to 1,000,000,000 barrels as rapidly as possible. Such actions may include—

(A) petroleum acquisition, transportation, and injection activities at the highest practicable fill rate achievable, subject to the availability of appropriated funds;

(B) contracting for petroleum product not owned by the United States as specified in part C;

(C) contracting for petroleum product for storage in facilities not owned by the United States, except that no such product may be stored in such facilities unless petroleum product stored in facilities owned by the United States on the date such product is delivered for storage is at least 750,000,000 barrels;

(D) carrying out the activities described in section 160(h);

(E) the transferring of oil from the Naval Petroleum Reserve; and

(F) other activities specified in this title.

(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.

(b) The Secretary, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Secretary’s pro-

posals for designing, constructing, and filling the storage and related facilities of the Reserve.】

(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.

【(c)(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6), the Strategic Petroleum Reserve Plan shall provide that:

【(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

【(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

【(C) within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

【(D) within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A). Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil storage in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

【(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.】

(c) The Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy shall evaluate the effectiveness of the Strategic Petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.

【(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region

which the Secretary determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

[(e) The Strategic Petroleum Reserve Plan shall include:

[(1) a comprehensive environmental assessment;

[(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

[(3) a statement as to the proximity of each such storage facility to related facilities;

[(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

[(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

[(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

[(7) an estimate of the direct cost of the Reserve, including—

[(A) the cost of storage facilities;

[(B) the cost of the petroleum products to be stored;

[(C) the cost of related facilities; and

[(D) management and operation costs;

[(8) an evaluation of the impact of developing the Reserve taking into account—

[(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

[(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

[(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

[(D) the extent to which such acquisition will affect competition in the petroleum industry;

[(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

[(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

[(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

[(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.]

[42 U.S.C. 6234]

EARLY STORAGE RESERVE

[SEC. 155. (a)(1) The Secretary shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

[(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159(a), the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

[(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Secretary determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

[(c) Within 90 days the date of enactment of this Act, the Secretary shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Secretary's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159(a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.]

[42 U.S.C. 6235]

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Secretary may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) [To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the] *The* Secretary may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in

amounts determined by the Secretary, except that the Secretary may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Secretary shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Secretary shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

[42 U.S.C. 6236]

REGIONAL PETROLEUM RESERVE

[Sec. 157. (a)(1) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Secretary. Such volume shall be computed annually.

[(2) For the purpose of carrying out this section—

[(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

[(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

[(C) with respect to determinations made for any State that is an island, the term “refined petroleum product” shall have the same meaning given the term “petroleum product” in section 3(3).

[(b) To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period

specified in subsection (a), in which average monthly import levels were the highest, as determined by the Secretary. Such volume shall be computed annually.

[(c) The Secretary may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.]

[42 U.S.C. 6237]

OTHER STORAGE RESERVES

[SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Secretary shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

[(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

[(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

[(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.]

[42 U.S.C. 6238]

[REVIEW BY CONGRESS AND IMPLEMENTATION] *DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE RESERVE*

SEC. 159. [(a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

[(1) the Secretary has transmitted such Plan to the Congress pursuant to section 154(b); and

[(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

[(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551 (c) and (d) shall be lengthened to 45 calendar days.

[(c) The Secretary may, prior to transmittal of the Strategic Petroleum Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such

Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

[(d) The Secretary may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

[(e) Subject to section 161(g)(2), any amendment transmitted pursuant to subsection (d) may not become effective until 60 days after the date of such transmittal, except that such 60-day period shall not apply if the President determines that such amendment is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

[(f) To the extent necessary or appropriate to implement—

[(2) the Early Storage Reserve Plan;

[(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e);

[(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan; and

[(5) the storage of petroleum products in interim storage facilities,

the Secretary may:

[(A) promulgate rules, regulations, or orders;

[(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

[(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

[(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

[(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

[(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

[(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

[(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

[(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such rea-

sonable terms as the Secretary may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

【(J) require the maintenance of the Industrial Petroleum Reserve;

【(K) maintain the Reserve; and

【(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.】

(f) *In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:*

(1) *issue rules, regulations, or orders;*

(2) *acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;*

(3) *construct, purchase, lease, or otherwise acquire storage and related facilities;*

(4) *use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;*

(5) *acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;*

(6) *store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;*

(7) *execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;*

(8) *require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;*

(9) *require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies, in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States.*

(10) *require the maintenance of the Industrial Petroleum Reserve;*

(11) *bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interest in land, together with any personal property located on or used within the land; and*

(12) *to the extent provided in an Appropriations Act, and not withstanding section 649(b) of the Department of Energy Orga-*

nization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized SPR facilities, by lease or otherwise, petroleum product owned by a foreign government or its representative; petroleum product stored under this paragraph is not part of the Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Secretary be futile or so time-consuming as to unreasonably delay the **implementation** *development* of the Strategic Petroleum Reserve **Plan**, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

[(h)(1) No amendment to the Strategic Petroleum Reserve Plan relating to interim storage facilities shall be required prior to the storage of petroleum products in such facilities.

[(2) Petroleum products stored in interim storage facilities pursuant to this part shall be considered to be in storage in the Reserve.

[(3)(A) No action relating to the storage of petroleum products in existing interim storage facilities in the Reserve shall be deemed to be “a major Federal action significantly affecting the quality of the human environment” within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

[(B) For purposes of this paragraph, an interim storage facility shall be considered to be an existing interim storage facility if it—

[(i) is in existence on July 1, 1982;

[(ii) was constructed in a manner appropriate for storing petroleum products; and

[(iii) is not modified after July 1, 1982, in any manner which substantially increases the storage capacity of the facility. Any modification of such facility may not include replacement or reconstruction.

[(4) The term “interim storage facilities”, when used in this part, may include any vessel which meets the applicable requirements under this part.

[(i) No later than 18 months after the date of the enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of negotiations undertaken pursuant to part C. The report shall—

[(1) describe the terms of any contracts negotiated pursuant to part C and any cost savings that would result from such contracts relative to the costs of acquisition pursuant to part B; and

[(2) give all available information on any cost savings that would likely result from additional contracts that could be negotiated pursuant to part C for completion of the storage of one billion barrels of petroleum product in the Reserve relative to the costs of acquisition pursuant to part B.

[(j) No later than 24 months after the date of the enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum product in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill or storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 551. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.]

(j) *When the Secretary determines that a 680,000 barrel inventory can reasonably be expected to be reached in the Reserve within 5 years, a plan for expansion will be submitted to the Congress.*

(k) A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.

[(l) Notwithstanding subsection (d), during any period in which the Distribution Plan is being implemented, the Secretary may amend the plan and promulgate rules, regulations, or orders to implement such amendments in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Such amendments shall be transmitted to the Congress together with a statement explaining the need for such amendments.]

(1) *During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to rulemaking requirements in section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).*

[42 U.S.C. 6239]

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

SEC. 160. [(a) The Secretary is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange]—(a) *To the extent funds are available under section 167(b) (2) and (3) and for the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange*

(1) *crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;*

(2) *crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and*

(3) *petroleum products acquired by purchase, exchange, or otherwise.*

(b) The Secretary shall, to the greatest extent practicable, acquire petroleum products for the Reserve, [including the Early Storage Reserve and the Regional petroleum Reserve] in a manner consonant with the following objectives:

- (1) minimization of the cost of the Reserve;
- 【(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;】
- (3) minimization of the Nation's vulnerability to a severe energy supply interruption;
- (4) minimization of the impact of such acquisition upon supply levels and market forces; and
- (5) encouragement of competition in the petroleum industry.

【(c)(1)(A) The President shall immediately undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities, to the extent funds are available pursuant to section 167 (b)(2) and (b)(3), at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least the minimum required fill rate until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels.

【(B) Subject to subparagraph (C), the minimum required fill rate shall be 300,000 barrels per day for purposes of subparagraph (A), unless there is in effect a finding by the President in his discretion for good cause that compliance with such rate would not be in the national interest. Any finding by the President under this subparagraph takes effect on the date such finding is transmitted to the Congress and ceases to have effect at the end of the fiscal year in which such finding was made. Any such finding transmitted to the Congress shall include a statement of the facts upon which the findings is based. Any such finding shall not be subject to judicial review.

【(C) The minimum required fill rate shall be 220,000 barrels per day for purposes of subparagraph (A) during the period in which any finding by the President under subparagraph (B) is in effect.

【(D)(i) If funds are available in any given fiscal year after fiscal year 1982 to achieve an average annual fill rate higher than the minimum required fill rate in effect under subparagraph (C), the minimum required fill rate shall be the highest practicable fill rate achievable, subject to the availability of appropriated funds.

【(ii) The Impoundment Control Act of 1974 (31 U.S.C. 1400 and following) shall apply to funds made available under section 167 (b) and (e).

【(2) After the Strategic Petroleum Reserve reaches a level of 500,000,000 barrels, the President shall immediately seek to undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.

【(3) Notwithstanding paragraph (2), beginning in fiscal year 1987 and continuing through fiscal year 1994 until the quantity of crude oil in storage within the Reserve is at least 1,000,000,000 barrels, the President shall carry out petroleum acquisition, transportation, and injection activities at the highest practicable fill rate achievable, subject to the availability of appropriated funds.

[(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

[(A) the quantity of crude oil in storage within Government owned facilities of the Strategic the Petroleum Reserve is at least 750,000,000 barrels; or

[(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 75,000 barrels per day for that fiscal year and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(j).

[(2) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

[(A) sold to small refiners under section 7430(d) of title 10, United States Code;

[(B) produced, consistent with sound engineering practices, for the purposes of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

[(C) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.

[(3) In determining the number of barrels of crude oil for purposes of subparagraph (A) of paragraph (1), any crude oil drawdown from the Reserve as a result of any drawdown and distribution carried out under section 161(g) and not replaced under section 161(g)(6)(B) shall be considered to be within the Reserve.

[(4) For any fiscal year in which purchases of petroleum products are suspended, or the sale of petroleum products is carried out, under subsection (f), the fill-rate requirements of paragraph (1)(B) shall be reduced by—

[(A) the amount of petroleum products are acquired for such fiscal year as a result of such suspension; plus

[(B) the amount of petroleum products sold under such subsection during such fiscal year.

[(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

[(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program; and

[(ii) the President has transmitted such finding to the Congress.

[(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) may become effective on the day the finding is transmitted to the Congress and shall terminate nine months thereafter or on such date as is specified in such finding.

[(3) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any petroleum product involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.]

(f) If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.

[(g)(1) The Secretary shall conduct a test program of storage of refined petroleum products within the Reserve. The test program shall commence during fiscal year 1992 and continue through fiscal year 1994. The test program shall demonstrate mechanisms for storage of refined petroleum products within the Reserve which may be drawn down in accordance with this part.

[(2) The mechanisms demonstrated under paragraph (1)—

[(A) shall include the acquisition by lease or purchase, or both, of refined petroleum products for storage in the Reserve and shall include the acquisition by lease of storage facilities; and

[(B) may include other mechanisms including, but not limited to, industrial petroleum reserves pursuant to section 156 and State set-aside programs, except that such mechanisms must provide equivalent control over the drawdown and distribution of such refined petroleum products as is provided under this part.

[(3) Any refined petroleum products stored in the Reserve under this subsection shall be stored in locations to be determined by the Secretary, taking into account the proximity of existing distribution systems, the proximity of the area or areas of the United States most dependent on imported petroleum products or likely to experience shortages of refined petroleum products, and the capability for expeditious distribution to such area or areas.

[(4) In the conduct of the test program under paragraph (1), the Secretary shall increase the quantity of refined petroleum products acquired for storage in the Reserve by an amount equal to 10 percent of the fill of the Reserve during each of the fiscal years 1992, 1993, and 1994, except that the Secretary may not expend more than 10 percent of the funds appropriated for the acquisition, transportation and injection of petroleum products into the Reserve during each of the fiscal years covered by the test program.

[(5) In the conduct of the test program under paragraph (1), the Secretary may not construct or purchase facilities for the storage or refined petroleum products.

[(6) Refined petroleum products stored in the Reserve under the test program may be withdrawn from the Reserve before the conclusion of the test program—

[(A) as may be necessary to turn such products over because of changes in the physical characteristics of the product; or

[(B) on the basis of a finding made under section 161.

[(7) No later than January 31, 1994, the Secretary shall transmit to the Congress a report on the test program. The report shall evaluate the mechanisms demonstrated under the test program, other potential mechanisms, and the purchase of facilities. The report shall include an assessment of the costs and benefits of the various mechanisms. The report shall also make recommendations with regard to future storage of refined petroleum products and contain drafts of any legislative provision which the Secretary wishes to recommend.]

(h)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.

[42 U.S.C. 6240]

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Secretary may drawdown and distribute the Reserve only in accordance with the provisions of this section.

[(b) Except as provided in subsections (c), (f), and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

[(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

[(d)(1) Neither the distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.]

(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(2) For purposes of this section, in addition to the circumstances set forth in section 3(8), a severe energy supply interruption shall be deemed to exist if the President determines that—

(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

(C) such price increase is likely to cause a major adverse impact on the national economy.

[(e) The Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.]

(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale of the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this Section.

(f) The Secretary may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Secretary may prescribe.

(g)(1) The Secretary shall conduct a continuing evaluation of the [Distribution Plan] *distribution procedures*. In the conduct of such evaluation, the Secretary is authorized to carry out test drawdown and distribution of crude oil from the Reserve. If any such test drawdown includes the sale or exchange of crude oil, then the aggregate quantity of crude oil withdrawn from the Reserve may not exceed 5,000,000 barrels during any such test drawdown or distribution.

[(2) The Secretary shall carry out such drawdown and distribution in accordance with the Distribution Plan and implementing regulations and contract provisions, modified as the Secretary considers appropriate taking into consideration the artificialities of a test and the absence of a severe energy supply interruption. To meet the requirements of subsections (d) and (e) of section 159, the Secretary shall transmit any such modification of the Plan, along with explanatory and supporting material, to both Houses of the Congress no later than 15 calendar days prior to the offering of any crude oil for sale under this subsection.]

(3) At least part of the crude oil that is sold or exchanged under this subsection shall be sold or exchanged to or with entities that are not part of the Federal Government.

(4) The Secretary may not sell any crude oil under this subsection at a price less than that which the Secretary determines

appropriate and, in no event, at a price less than **[90]** 95 percent of the sales price, as estimated by the Secretary, of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale in such area under this subsection.

(5) The Secretary may cancel any offer to sell or exchange crude oil as part of any drawdown and distribution under this subsection if the Secretary determines that there are insufficient acceptable offers to obtain such crude oil.

[(6)(A)] The minimum required fill rate in effect for any fiscal year shall be reduced by the amount of any crude oil drawdown from the Reserve under this subsection during such fiscal year.

[(B)] In the case of a sale of any crude oil under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire crude oil for the Reserve within the 12-month period beginning after the completion of the sale. Such acquisition shall be in addition to any acquisition of crude oil for the Reserve required as part of a fill rate established by any other provision of law.

(7) Rules, regulations, or orders issued in order to carry out this subsection which have the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, shall not be subject to the requirements of subchapter II of chapter 5 of such title or to section 523 of this Act.

(8) The Secretary shall transmit to both Houses of the Congress a detailed explanation of the drawdown and distribution carried out under this subsection. Such explanation may be a part of any report made to the President and the Congress under section 165.

[(h)(1)] If the President finds that—

(A) a circumstance, other than those described in subsection (d), exists that constitutes, or is likely to become, a domestic or international energy supply shortage of significant scope or duration; and

(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such shortage,

then the Secretary may, subject to the limitations of paragraph (2), draw down and distribute the Strategic Petroleum Reserve.

(2) In no case may the Reserve be drawn down under this subsection—

(A) in excess of an aggregate of 30,000,000 barrels with respect to each such shortage;

(B) for more than 60 days with respect to each such shortage;

(C) if there are fewer than 500,000,000 barrels of petroleum product stored in the Reserve; or

(D) below the level of an aggregate of 500,000,000 barrels of petroleum product stored in the Reserve.

(3) During any period in which there is a drawdown and distribution of the Reserve in effect under this subsection, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and distribution of petroleum products under this subsection and an assessment of its effect.

(4) In no case may the drawdown under this subsection be extended between 60 days with respect to any domestic energy supply shortage.

(i) Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an arrangement for the delivery of refined petroleum products to the United States.

(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve:

(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering; and

(ii) submit one or more alternative offers, for other categories of petroleum product, that will be binding in the event that no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

(B) at the request of the Governor of the State of Hawaii, petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

(2)(A) In administering this subsection, and with respect to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

(B) The Secretary may limit the quantity of petroleum product that the State of Hawaii may purchase through a binding offer at any one offering to one-twelfth of the total quantity of imports of petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

(C) The Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

(3) Notwithstanding any limitation imposed under paragraph (2), in administering this subsection, and with respect to each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (6), adjust the quantity to be sold to the State of Hawaii as follows:

(A) The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

(i) less than one full tanker load; or

(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(B) The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold

is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(4) The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, so long as petroleum product of similar value or quantity is delivered to the State of Hawaii.

(5) Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

(6)(A) Notwithstanding the foregoing, and subject to subparagraphs (B) and (C), if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to effectuate the purposes of this Act, such eligible entity may act on behalf of the State of Hawaii for purposes of this subsection.

(B) The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

(C) If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify such company under the paragraph.

(7) At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.

(8) As used in this subsection—

(A) the term “binding offer” means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer;

(B) the term “category of petroleum product” means a master line item within a notice of sale;

(C) the term “eligible entity” means an entity that owns or controls a refinery that is located within the State of Hawaii;

(D) the term “full tanker load” means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii;

(E) the term “insular area” means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and the freely associated states of the Republic of Palau, Federated States of Micronesia, and Republic of the Marshall Islands;

(F) the term “offering” means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale; and

(G) the term “notice of sale” means the document that announces—

(i) the sale of Strategic Petroleum Reserve products;

- (ii) *the quantity, characteristics, and location of the petroleum product being sold;*
- (iii) *the delivery period for the sale; and*
- (iv) *the procedures for submitting offers.*

* * * * *

NAVAL PETROLEUM RESERVES STUDY

【SEC. 164. the Secretary shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Secretary; the Secretary of the Navy shall provide to the Secretary and the Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Secretary in the preparation of such report.】

【[42 U.S.C. 6244]】

ANNUAL REPORTS

【SEC. 165. (a) The Secretary shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

【(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

【(A) an estimate of the final capacity of the Reserve and the scheduled annual fill rate for achieving such capacity;

【(B) the scheduled quarterly fill rate for the 12-month period beginning on the date on which such report is transmitted;

【(C) the type and quality of crude oil to be acquired for the Reserve pursuant to the schedule described in subparagraph (A);

【(D) the schedule of construction of any facilities needed to achieve the final capacity of the Reserve, including a description of the type and location of such facilities and of enhancements and improvements to existing facilities;

【(E) an estimate of the cost of acquiring crude oil and constructing facilities necessary to complete the Reserve;

【(F) a description of the current distribution plan for using the Reserve, including the method of drawdown and distribution to be utilized; and

【(G) an explanation of any changes made in the matters described in subparagraphs (A) through (F) since the transmittal of the previous report under this subsection;

[(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

[(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

[(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

[(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Secretary to implement the provisions of this part.

[(b)(1) On or before the fifteenth day of the second calendar quarter which begins after the date of the enactment of this subsection and every calendar quarter thereafter, the Secretary shall report to the Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by the Strategic Petroleum Reserve Amendments Act of 1981, including—

[(A) the amounts of petroleum products stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

[(B) the projected fill rate for the Strategic Petroleum Reserve for the then current calendar quarter and the provision calendar quarter;

[(C) the average price of the petroleum products acquired during the previous calendar quarter;

[(D) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

[(E) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum products in the Reserve and with the expansion of storage capacity for the Reserve; and

[(F) the amount of funds obligated by the Secretary from the SPR Petroleum Account, as well as other funds available for the Reserve, during the previous calendar quarter and in total under the amendments made by such Act.

(2) The first report submitted under paragraph (1) shall include—

[(A) a detailed statement on the planned use of the SPR Petroleum Account as well as other funds available for the Strategic Petroleum Reserve;

[(B) a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan; and

[(C) detailed plans of the Secretary for acquisition or new construction of storage and related facilities.]

SEC. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum in the Reserve;

(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including

those carried out as part of operational maintenance or extension of life activities;

(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing such remedial actions;

(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on such rates and capabilities;

(5) an identification of purchases of petroleum made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

(8) a summary of expenses for the year, and the number of Federal and contractor employees;

(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part; and

(10) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary and appropriate to implement this part.

[42 U.S.C. 6245]

AUTHORIZATION OF APPROPRIATIONS

SEC. 166. (a) There are authorized to be appropriated *the funds necessary to implement this part.* [—]

[(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable;

[(2) \$1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve;

[(3) such funds for the fiscal year ending September 30, 1978, not to exceed \$1,210,000,000, as are necessary to permit the acquisition and storage of petroleum products in the Strategic Petroleum Reserve, in accordance with the storage schedule set forth in the Strategic Petroleum Reserve Plan then in effect in excess of the minimum volume specified in section 154(a), but not in excess of 500,000,000 barrels; and

[(4) for the fiscal year ending September 30, 1982, not to exceed \$260,000,000 to carry out the provisions of this part, except—

[(A) acquisition, transportation, and injection of petroleum products for the Reserve, and

[(B) the carrying out of any drawdown and distribution of the Reserve.]

[42 U.S.C. 6246]

SPR PETROLEUM ACCOUNT

SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States an account to be known as the “SPR Petroleum Account” (hereinafter in this section referred to as the “Account”).

(b) Amounts in the Account may be obligated by the Secretary of Energy for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve, *for test sales of petroleum products from the Reserve*, and for the drawdown and delivery of petroleum products from the Reserve—

[(1) in the case of fiscal year 1982, in an aggregate amount, not to exceed \$3,900,000,000, as may be provided in advance in Appropriation Acts;]

[(2) in the case of any fiscal year [after fiscal year 1982], subject to section 660 of the Department of Energy Organization Act, in such aggregate amounts as may be appropriated in advance in Appropriation Acts; and

[(3) in the case of any fiscal year, notwithstanding section 660 of the Department of Energy Organization Act, in an aggregate amount equal to the aggregate amount of the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161, including a drawdown and distribution carried out under subsection (g) of such section, or from the sale of petroleum products under section 160(f).

Funds available to the Secretary of Energy for obligation under this subsection may remain available without fiscal year limitation.

* * * * *

PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY THE UNITED STATES

CONTRACTING FOR PETROLEUM PRODUCT AND FACILITIES

SEC. 171. (a) IN GENERAL.—Subject to the other provisions of this part, the Secretary may contract—

(1) for storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum product not owned by the United States; and

(2) for storage, in storage facilities other than those of the Reserve, of petroleum product either owned or not owned by the United States.

(b) CONDITIONS.—(1) Petroleum product stored pursuant to such a contract shall, until the expiration, termination, or other conclu-

sion of the contract, be a part of the Reserve and subject to the Secretary's authority under part B.

(2) The Secretary may enter into a contract for storage of petroleum product under subsection (a) only if—

(A) the Secretary determines (i) that entering into one or more contracts under such subsection would achieve benefits comparable to the acquisition of an equivalent amount of petroleum product, or an equivalent volume of storage capacity, for the Reserve under part B, and (ii) that, because of budgetary constraints, the acquisition of an equivalent amount of petroleum product or volume of storage space for the Reserve cannot be accomplished under part B; and

[(B) the Secretary notifies each House of the Congress of such determination and includes in such notification the same information required under section 154(e) with regard to storage and related facilities proposed to be included, or petroleum product proposed to be stored, in the Reserve]

(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum product proposed to be stored, in the Reserve, and an estimate of the proposed benefits.

* * * * *

IMPLEMENTATION

SEC. 172. [(a) AMENDMENT TO PLAN NOT REQUIRED.—An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.]

[(b) FILL RATE REQUIREMENT.—For purposes of section 160(d)(1), any petroleum product stored in the Reserve under this part that is removed from the Reserve at the expiration, termination, or other conclusion of the agreement shall be considered to be part of the Reserve until the beginning of the fiscal year following the fiscal year in which the petroleum product was removed.]

(c) LEGAL STATUS REGARDING OTHER LAW.—Petroleum product and facilities contracted for under this part have the same status as petroleum product and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

(d) RETURN OF PRODUCT.—At such time as the petroleum product contracted for under this part is withdrawn from the Reserve upon the expiration, termination or other conclusion of the contract, such petroleum product (or the equivalent quantity of petroleum product withdrawn from the Reserve pursuant to the contract) shall be deemed, for purposes of determining the extent to which such product is thereafter subject to any Federal, State or local law or regulation, not to have left the place where such petroleum product was located at the time it was originally committed to a contract under this part.

[42 U.S.C. 6249a]

CONTRACTS FOR WHICH NO IMPLEMENTING LEGISLATION IS NEEDED

【SEC. 173. (a) CONGRESSIONAL REVIEW.—In the case of contracts entered into under this part, and amendments to such contracts, for which no implementing legislation is needed, the Secretary shall transmit each such contract and each such amendment to the Committee on Appropriations and the Committee on Energy and Natural Resources of the Senate and to the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives within 30 days after the signing thereof.

【(b) EFFECTIVE DATE.—(1) Any such contract, and any such amendment, shall not become effective until the end of the 30-day period of continuous session of Congress after the date of such transmittal, except that such contract may become effective without regard to such period if the President determines that such contract is required as a result of a severe energy supply interruption or by obligations of the United States under the international energy program.

【(2) For purposes of paragraph (1)—

【(A) continuity of session is broken only by an adjournment of Congress sine die; and

【(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the calendar-day period involved.]

【42 U.S.C. 6249b】

* * * * *

PART D—EXPIRATION

EXPIRATION

SEC. 181. Except as otherwise provided in title I, all authority under any provision of title I (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, **【June 30, 1996】** but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, **【June 30, 1996】** *September 30, 2001*.

【42 U.S.C. 6251】

TITLE II—STANDBY ENERGY AUTHORITIES

【PART A—GENERAL EMERGENCY AUTHORITIES**【CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES**

【SEC. 201. (a)(1) Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress pursuant to subsection (b)(1) one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may re-

main in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

[(2) For purposes of this section, the term “contingency plan” means—

[(A) an energy conservation contingency plan prescribed under section 202; or

[(B) a rationing contingency plan prescribed under section 203.

[(b) Except as otherwise provided in subsection (c), no energy conservation contingency plan may become effective unless—

[(1) the President has transmitted such contingency plan to the congress in accordance with section 552(a);

[(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552; and

[(3) after approval of such contingency plan the President—

[(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

[(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

[(c)(1) Except as provided in paragraph (2) and (3), an energy conservation contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

[(2) An amendment to an energy conservation contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 551(b) and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

[(3) The President may prescribe technical or clerical amendments to an energy conservation contingency plan in accordance with section 523.

[(d)(1) For purposes of this subsection, any rationing contingency plan shall be considered to be approved if—

[(A) the President has transmitted such rationing contingency plan to the Congress in accordance with section 552, and

[(B) such rationing contingency plan has not been disapproved by a joint resolution adopted into law after passage by both Houses of the Congress in accordance with section 552.

[(2)(A) Except to the extent provided under subparagraph (B), the President may put into effect a rationing contingency plan which is considered approved under the preceding provisions of this subsection only if—

[(i) the President has found, in his discretion, that putting such rationing contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with

obligations of the United States under the international energy program, subject to paragraph (3);

[(ii) the President has transmitted such finding to the Congress in accordance with section 551, together with a request to put such rationing contingency plan into effect; and

[(iii) neither House of the Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

[(B)(i) The President may put into effect such an approved rationing plan without the finding required under subparagraph (A)(i) and without regard to the requirements of subparagraph (A)(ii) and (iii) if—

[(I) the President has transmitted to the Congress in accordance with section 552 a request to waive such requirements; and

[(II) such request has been approved by a resolution by each House of the Congress within 30 days of continuous session of Congress after the date of its transmittal, in accordance with the provisions of section 552 applicable thereunder to energy conservation contingency plans.

[(ii) Any authority to put a rationing contingency plan into effect under clause (i) pursuant to a request under such clause shall terminate on the 60th calendar day after the date on which a resolution approving that request is adopted by the second House to have so approved that request.

[(iii) In applying the provisions of section 552 for purposes of this subparagraph—

[(I) subsections (b), (d)(2)(B), and (d)(7) shall not apply;

[(II) the references to 60 calendar days and 20 calendar days shall be considered to refer to 30 calendar days and 10 calendar days, respectively; and

[(III) the references to an contingency plan shall be considered to refer to a request under this subparagraph.

[(3) For purposes of paragraph (2)—

[(A) The term “severe energy supply interruption” means a national energy supply shortage which the President determines—

[(i) has resulted or is likely to result in a daily shortfall in the United States of gasoline, diesel fuel, and No. 2 heating oil supplies for a period in excess of 30 days (including reductions as a result of an allocation away from the United States under the international energy program) of an amount equal to 20 percent or more of projected daily demand for such supplies;

[(ii) is not manageable under other energy emergency authorities, including any energy conservation contingency plans approved under subsection (b) and any emergency conservation authority available under title II of the Emergency Energy Conservation Act of 1979;

[(iii) is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic stocks of gasoline, diesel fuel, and No. 2 heating oil; and

[(iv) is having or can reasonably be expected to have a major adverse impact on national health or safety or the national economy.

[(B) For purposes of determining the shortfall of supplies under subparagraph (A)(i), the projected daily demand for gasoline, diesel fuel, and No. 2 heating oil supplies shall be the amount of such supplies that were available during any consecutive period of 12 calendar months which the President considers appropriate and which occurred during the 36 calendar month period which immediately precedes the month in which such finding is made, such amount to be adjusted—

[(i) to take into account, for the period between the base period and the month in which the determination is made, the normal growth in demand for gasoline, diesel fuel, and No. 2 heating oil, as determined by the President on the basis of growth experienced during the 36-month period from which the base period was selected; and

[(ii) to take into account seasonal variations in demand for such fuels, as determined by the President.

[(C) The term “necessary to comply with obligations of the United States under the international energy program” refers to a necessity which the President determines to have impacts comparable to those provided for in subparagraph (A) of this paragraph.

[(4)(A) A rationing contingency plan may not be amended after it is transmitted to the Congress and before it is considered approved under paragraph (1).

[(B) Except as provided in subparagraphs (C) and (D), a rationing contingency plan which is considered approved under this subsection may not be amended other than by an amendment with respect to which—

[(i) a period of 15 calendar days of continuous session (within the meaning of section 552(c)) has passed after the receipt of the proposed amendment by the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate; or

[(ii) each such committee before the expiration of such period has transmitted to the President written notice stating in substance that such committee has no objection to the proposed amendment.

[(C) Except as provided in subparagraph (D), a rationing contingency plan may not be amended during any period in which such plan is in effect pursuant to paragraph (2) unless the President has transmitted such amendment to the Congress in accordance with section 551(b), and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

[(D) The requirements of subparagraphs (B) and (C) shall not apply with respect to any amendment which is a technical or clerical amendment.

[(E) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (d)(1) shall contain a specific statement explaining the need for and the rationale and oper-

ation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

[(1) any effects of such plan on—

[(A) vital industrial sectors of the economy;

[(B) employment (on a national and regional basis);

[(C) the economic vitality of states and regional areas;

[(D) the availability and price of consumer goods and services; and

[(E) the gross national product; and

[(2) any potential anticompetitive effects.

[Notwithstanding the preceding provisions of this subsection, such economic analysis and evaluation is not required to be performed, or transmitted to the Congress, under this subsection in the case of any rationing contingency plan.

[[42 U.S.C. 6261]

[ENERGY CONSERVATION CONTINGENCY PLANS

[SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term “energy conservation contingency plan” means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

[(2) An energy conservation contingency plan prescribed under this section may not—

[(A) impose rationing or any tax, tariff, or user fee;

[(B) contain any provision respecting the price of petroleum products; or

[(C) provide for a credit or deduction in computing any tax.

[(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

[(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

[(d)(1) In the case of an energy conservation contingency plan that regulates building temperatures, any State or political subdivision thereof may submit to the President a comparable plan, as described in subsection (b)(1), and include in such plan procedures permitting any person affected by such contingency plan to use alternative means of conserving at least as much energy in affected buildings as would be conserved by the energy conservation contingency plan that regulates building temperatures. Such plan shall include effective procedures for the approval and enforcement of such alternative plans by such State or such political subdivision thereof.

[(2) The alternative plan under paragraph (1) need not conserve energy in the same fashion as the energy conservation contingency plan that regulates building temperatures.

[(3) Nothing in this subsection shall preclude any political subdivision of a State from applying directly to the President for approval of a comparable plan under paragraph (1).]

[[42 U.S.C. 6262]

【RATIONING CONTINGENCY PLAN

【SEC. 203. (a)(1) As soon as practicable after the date of the enactment of the Emergency Energy Conservation Act of 1979, the President shall prescribe, by rule, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—

【(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

【(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

【The President, to the maximum extent practicable, shall consult with the Governors of the various States (or the representatives of such Governors) during the development of any rationing contingency plan under this section.

【(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

【(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

【(3) Any rationing contingency plan prescribed under this section shall provide that—

【(A) the end-user rights specified in paragraph (1) shall be distributed on a State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States, considering the most recent base period use data available;

【(B) to the maximum extent practicable, such rights shall be made available to classes of end-users on a basis which takes into account fairly the relative needs of such end-users; and

【(C) adequate end-user rights are available to carry out paragraph (1) (A) and (B) as required under paragraph (1).

【(b) Any finding required to be made by the President pursuant to section 201(b)(3) and any request to put a rationing contingency

plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act.

[(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this Act.

[(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

[(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

[(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in subsection (a)(1).

[Such boards shall operate under the procedure prescribed by the President by rule.

[(2) Any rationing contingency plan under this section shall set forth—

[(A) criteria for delegation of the President's functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

[(B) procedures for petitioning for the receipt of such delegation.

[(3)(A) Officers or local boards of States or political subdivisions thereof, beginning 30 days (or such earlier date as the President considers appropriate) after a rationing contingency plan is considered approved under this section, may petition the President to receive delegation under such paragraph.

[(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

[(e) No rationing contingency plan under this section may—

[(1) impose any tax,

[(2) provide for a credit or deduction in computing any tax,

or

[(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in subsection (a)(1).

[(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as au-

thority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

[(g) Any authority of the President with respect to a rationing contingency plan under this Act which is delegated to the Secretary shall be exercised by the Secretary without regard to section 404 of the Department of Energy Organization Act (42 U.S.C. 7174).

[(h) Any rationing contingency plan, or any amendment thereto, as well as any regulation thereunder, shall be prescribed in accordance with section 523(a), except that the period for any oral or written comments on any such proposed plan, amendment, or regulation may not extend beyond the 45th day the date of the publication of the notice of the proposed plan, amendment, or regulation.

[(i) Any ration coupon or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of title 18, United States Code.]

[[42 U.S.C. 6263]]

【TERMINATION DATE

【SEC. 204. Except as provided in section 203(f), authority to carry out the provisions of this part and any rule, regulation, or order issued pursuant to such part shall expire at midnight, June 30, 1985.】

[[42 U.S.C. 6264]]

* * * * *

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC 251. (a) * * *

* * * * *

(e) No rule under this section may be put into effect unless—

(1) an international energy supply emergency, as defined in the first sentence of [section 252(K)(1)], is in effect; and

(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program.

[42 U.S.C. 6271]

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the [allocation and informational provisions of the international energy program] *international emergency response provisions*, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Secretary, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the **【allocation and information provisions of the international energy program】** international emergency response provisions.

* * * * *

(d)(1) * * *

* * * * *

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of **【known】** circumstances *known at the time of approval*.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Secretary, **【shall】** *may* promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

* * * * *

(f)(1) * * *

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved *voluntary agreement or plan of action*.

* * * * *

【(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708(a)(o)¹ of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary

¹ So in original. Probably should have been to section "708A(o)".

agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.】

(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

(1) the international energy program, or

(2) any allocation, price control, or similar program with respect to petroleum products under this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least *annually, or once every 6 months during an international energy supply emergency*, a report on the impact on competition and on small business of actions authorized by this section.

(j) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(k) As used in this section and section 254:

(1) The term “international energy supply emergency” means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

【(2) The term “allocation and information provisions of the international energy program” means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.】

(2) *The term “international emergency response provisions” means—*

(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on “Stocks and Supply Disruptions”) for—

(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

(ii) complementary actions taken by governments during an existing or impeding international oil supply disruption.

【(1) The authority granted by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy programs.】

(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.

* * * * *

DOMESTIC RENEWABLE ENERGY INDUSTRY AND RELATED SERVICE
INDUSTRIES

SEC. 256. (a) * * *

* * * * *

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) \$10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle. *There are authorized to be appropriated \$5,000,000 for each of the fiscal years 1996 through 1999.*

[42 U.S.C. 6276]

【PART C—ENERGY EMERGENCY PREPAREDNESS

【CONGRESSIONAL FINDINGS, POLICY, AND PURPOSE

【SEC. 271. (a) FINDINGS.—The Congress finds that—

【(1) a shortage of petroleum products caused by reductions in imports of petroleum products may occur at any time;

【(2) such a shortage may be sufficiently large to cause severe economic dislocations and hardships, or constitute a serious threat to public health, safety, and welfare; and

【(3) prior to the occurrence of such a shortage, the Federal Government has a responsibility to be prepared to mitigate the adverse impacts of such a shortage as a supplement to reliance on free market pricing and allocation of available petroleum product supplies.

【(b) POLICY.—The Congress declares that it shall be the policy of the United States that the Federal Government shall be prepared prior to any shortage of petroleum products to respond to energy emergencies, pursuant to authorities under provisions of law other than this part, as a supplement to reliance on the free market to mitigate the adverse impacts of a shortage of petroleum products on

【(c) PURPOSE.—The purpose of this part is to carry out the policy in subsection (b) by providing for the preparation of comprehensive energy emergency response procedures to be available for use by the President under authorities contained in any provision of law other than this part.】

【[42 U.S.C. 6281]】

【PREPARATION FOR PETROLEUM SUPPLY INTERRUPTIONS

【SEC. 272. (a) DESCRIPTION OF AVAILABLE LEGAL AUTHORITIES.—

(1) The President shall submit to the Congress no later than November 15, 1982, a memorandum of law which describes the nature

and extent of the authorities available to the President under existing law to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

[(2) The memorandum of law required by paragraph (1) shall be prepared by the Attorney General, in consultation with the Secretary of Energy.

[(3) The memorandum of law submitted to the Congress pursuant to this subsection shall—

[(A) include the following subjects—

[(i) activities of the United States in support of the international energy program and the December 10, 1981, International Energy Agency agreement entitled “Decision on Preparation for Future Supply Disruptions” including—

[(I) the National Emergency Sharing Organization;

[(II) emergency sharing systems; and

[(III) the supply right project;

[(ii) activities of the United States pursuant to its energy emergency preparedness obligations to the North Atlantic Treaty Organization;

[(iii) development and use of the Strategic Petroleum Reserve;

[(iv) Government incentives to encourage private petroleum product stocks;

[(v) reactivation of the following Executive Manpower Reserve;

[(I) the Emergency Electric Power Reserve;

[(II) the Emergency Petroleum and Gas Reserve; and

[(III) the Emergency Solid Fuels Reserve;

[(vi) energy emergency response management in coordination with State and local governments; and

[(vii) emergency public information activities; and

[(B) distinguish among—

[(i) situations involving limited or general war, international tensions that threaten national security, and other Presidentially declared emergencies;

[(ii) events resulting in activation of the international energy program; and

[(iii) events or situations less severe than those described in clauses (i) and (ii).

[(b) COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES.—(1) Not later than December 31, 1982, the President shall submit to the Congress comprehensive energy emergency response procedures for implementation, in whole or in part, of the authorities described under subsection (a).

[(2) The comprehensive energy emergency response procedures shall—

[(A) describe the various options the President would consider using to implement the authorities described in the memorandum of law submitted under subsection (a) to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States, including a description of the likely sequence in which such options would be taken;

[(B) specify how appropriate governmental actions in response to international and domestic energy shortages would be selected and implemented under such options, particularly which official or governmental entity would select and implement such actions, and what procedures would be used in doing so; and

[(C) recommend any additional statutory authority the President considers necessary to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

[(c) DISCLAIMERS.—(1) Nothing in this part or in the comprehensive energy emergency response procedures submitted pursuant to subsection (b), shall—

[(A) limit the authority of the President under any provision of law to respond to a reduction in the amount of petroleum products available to the United States; or

[(B) grant any authority to the President to respond to a reduction in the amount of petroleum products available to the United States.

[(2) No State law or State program in effect on the date of the enactment of this part, or which may become effective thereafter, shall be construed to be superseded by any provision of this part.]

[[42 U.S.C. 6282]]

PART D—EXPIRATION

EXPIRATION

SEC. 281. Except as otherwise provided in title II, all authority under any provision of title II (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, [June 30, 1996], *September 30, 2001*, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, [June 30, 1996], *September 30, 2001*.

[42 U.S.C. 6285]

TITLE III—IMPROVING ENERGY EFFICIENCY

* * * * *

PART D—STATE ENERGY CONSERVATION PLANS

* * * * *

GENERAL PROVISIONS

SEC. 365. (a) * * *

* * * * *

(f)[(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated not to exceed \$25,000,000 for fiscal year 1991, \$35,000,000 for fiscal year 1992, and \$45,000,000 for fiscal year 1993.]

(1) *Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated \$26,500,000 for fiscal year 1996 and for fiscal year 1997 through 2001, such sums as may be necessary.*

* * * * *

PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

* * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 397. **【**For the purpose of carrying out this part, there are authorized to be appropriated not to exceed \$40,000,000 for fiscal year 1991, \$50,000,000 for fiscal year 1992, and \$60,000,000 for fiscal year 1993.**】** *For the purpose of carrying out this part, there are authorized \$29,000,000 to be appropriated for fiscal year 1996 and for fiscal year 1997 through 2001, such sums as may be necessary.*

* * * * *

PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

* * * * *

SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alternative fuels in heavy duty trucks and, if appropriate, other heavy duty applications.

(b) **FUNDING.**—**【**(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.**】**

(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1996 through 2001, to remain available until expended.

* * * * *

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

* * * * *

【PETROLEUM PRODUCT INFORMATION

【SEC. 507. The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products by product category at the wholesale and retail levels, on a State-by-State basis, which was collected as of September 1, 1981, by the Energy Information Administration.**】**

PART B—GENERAL PROVISIONS

* * * * *

【CONFLICTS OF INTEREST

【SEC. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

【(1) performs any function or duty under this Act; and

【(2) has any known financial interest—

【(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

【(B) in property from which coal, natural gas, or crude oil is commercially produced;

【shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

【(b) The Secretary and the Secretary of the Interior shall each—

【(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

【(A) to define the term “known financial interest” for purposes of subsection (a); and

【(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary or the Secretary of the Interior, as the case may be, of such statements; and

【(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

【(c) In the rules prescribed in subsection (b), the Secretary and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a non-regulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

【(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.】

【[42 U.S.C. 6392]】