

ENERGY POLICY AND CONSERVATION ACT  
REAUTHORIZATION

OCTOBER 1, 1999.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2884]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 2884) to extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 2003, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

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

### SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) by amending section 166 (42 U.S.C. 6246) to read as follows:

#### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 166. There are authorized to be appropriated for fiscal years 2000 through 2003 such sums as may be necessary to implement this part.”;

(2) in section 181 (42 U.S.C. 6251) by striking “September 30, 1999” both places it appears and inserting in lieu thereof “September 30, 2003”; and

(3) in section 281 (42 U.S.C. 6285) by striking “September 30, 1999” both places it appears and inserting in lieu thereof “September 30, 2003”.

### SEC. 2. PURCHASE OF OIL FROM MARGINAL WELLS.

(a) PURCHASE OF OIL FROM MARGINAL WELLS.—Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6232 et seq.) is amended by adding the following new section after section 168:

#### “PURCHASE OF OIL FROM MARGINAL WELLS

“SEC. 169. (a) IN GENERAL.—From amounts authorized under section 166, in any case in which the price of oil decreases to an amount less than \$15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at \$15.00 per barrel, adjusted for inflation.

“(b) DEFINITION OF MARGINAL WELL.—The term “marginal well” means a well that—

“(1) has an average daily production of 15 barrels or less;

“(2) has an average daily production of 25 barrels or less with produced water accounting for 95 percent or more of total production; or

“(3) produces heavy oil with an API gravity less than 20 degrees.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act is amended by inserting after the item relating to section 168 the following:

“Sec. 169. Purchase of oil from marginal wells.”.

## PURPOSE AND SUMMARY

H.R. 2884, as amended, extends until September 30, 2003, the authority of the Department of Energy (DOE) to buy or lease oil for, operate, and draw down the Strategic Petroleum Reserve. The bill also extends authority for the United States to participate in the International Energy Agency until September 30, 2003.

## BACKGROUND AND NEED FOR LEGISLATION

The Energy Policy and Conservation Act (EPCA) was enacted on December 22, 1975, to deal with the chronic energy supply shortages, particularly petroleum supply shortages, experienced by the U.S. in the early 1970s. Among other things, EPCA authorized the creation of a Strategic Petroleum Reserve (SPR) capable of storing up to one billion barrels of oil to reduce the disruption from a cut-off in petroleum imports and to meet U.S. obligations under the International Energy Program (IEP). Other provisions in EPCA restrict exports of energy; regulate certain joint oil exploration ventures on the Outer Continental Shelf; set forth Corporate Average

Fuel Economy (CAFE) standards; provide a limited antitrust exemption for U.S. oil companies that participate in the International Energy Program; and authorize the President to allocate oil supplies in an oil emergency in order to comply with the United States' obligation under the IEP.

#### STRATEGIC PETROLEUM RESERVE

H.R. 2884 extends the EPCA authority to buy or lease oil for, operate, and draw down the Strategic Petroleum Reserve through September 30, 2003, for such sums as may be necessary. Absent this extension, authority for the SPR expires September 30, 1999. The SPR costs approximately \$160 million per year to operate, although recent maintenance and repair programs have led to higher costs in the past few years. DOE has requested funding of \$159 million for Fiscal Year 2000.

The SPR presently consists of six sites on the Gulf Coast in Texas and Louisiana. These sites currently contain about 563.8 million barrels of crude oil and have a total storage capacity of 700 million barrels. The current storage level is equivalent to approximately 60 days of net U.S. imported oil consumption. By law, the SPR is required to contain one billion barrels of oil. However, recent budget constraints have forced the Department to end plans to expand the SPR's capacity and to stop buying oil for the SPR. In addition, Congress authorized three sales of oil from the Reserve for budgetary purposes over the objections of the Committee on Commerce. As a result, the SPR has gotten smaller rather than larger. This trend appears to have been reversed over the last year, with the acceptance by DOE of 28 million barrels of oil as an in-kind payment of royalties from oil production on Federal lands. Importantly, increasing energy consumption and diminishing domestic production has resulted in U.S. dependence on foreign oil imports continuing to grow.

#### INTERNATIONAL ENERGY PROGRAM

H.R. 2884 also extends funding and authority for the U.S. to participate in the International Energy Agency (IEA) for such sums as may be necessary through September 30, 2003. Absent such an extension, U.S. participation in the IEA expires at the end of Fiscal Year 1999.

The U.S. has participated in the IEA since 1974. The purpose of the IEA is to coordinate the responses of oil consuming nations to oil supply disruptions to minimize the global impact of those disruptions. EPCA authorizes the President to participate in the program and gives the oil companies a limited antitrust exemption for their participation.

#### OIL PURCHASES FROM MARGINAL WELLS

H.R. 2884 also contains a provision which grants the Secretary of Energy the authority to purchase oil from marginal wells at \$15 per barrel, adjusted for inflation, whenever the price of oil falls below \$15 per barrel, adjusted for inflation. Marginal wells are generally defined as wells that produce less than 15 barrels per day. Importantly, the provision does not require the Department of

Energy to make such purchases, but merely gives them the option to do so, if feasible. The purpose of this provision is to assure that marginal wells, an important and significant source of oil, are not shut-in during periods of extraordinarily low oil prices.

#### HEARINGS

The Subcommittee on Energy and Power held a hearing on September 23, 1999, on Reauthorization of Expiring Energy Policy and Conservation Act Programs. The Subcommittee received testimony from: The Honorable Robert Gee, Assistant Secretary for Fossil Energy, Department of Energy; Mr. Lee Fuller, Vice President of Government Relations, Independent Petroleum Association of America (IPAA), representing IPAA and the National Stripper Well Association; and Mr. Michael Canes, Senior Economic Adviser to the President, American Petroleum Institute.

#### COMMITTEE CONSIDERATION

On September 23, 1999, the Subcommittee on Energy and Power met in open markup session and approved H.R. 2884 for Full Committee consideration, amended, by a voice vote. The Full Committee met in open markup session on September 29, 1999, and ordered H.R. 2884 reported to the House, as amended, by a voice vote, a quorum being present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 2884 reported. A motion by Mr. Blyley to order H.R. 2884 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

#### COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2884, a bill to extend energy conservation programs under the Energy Policy and Conservation Act through Fiscal Year 2003, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 30, 1999.*

Hon. TOM BLILEY,  
*Chairman, Committee on Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2884, a bill to extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 2884—A bill to extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 2003*

Summary: H.R. 2884 would extend the Department of Energy's (DOE's) authorities related to energy emergencies through 2003 and would authorize the appropriation of such sums as necessary for the operation of the Strategic Petroleum Reserve (SPR) for fiscal years 2000 through 2003. The bill also would authorize the Secretary of Energy to purchase oil from certain marginal wells if the price of oil falls below \$15 per barrel, subject to the availability of appropriated funds. This threshold price level, as well as the price to be paid by DOE for the oil, would be adjusted annually for inflation.

CBO estimates that implementing this bill would cost about \$1.4 billion over the 2000–2003 period, assuming appropriation of the necessary amounts. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2884 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
SPR spending under current law:						
Budget authority <sup>1</sup> .....	160	0	0	0	0	0
Estimated outlays .....	197	98	34	8	0	0
SPR Operations Projected at the 1999 Level						
Proposed changes:						
Estimated authorization level .....	0	360	360	360	360	0
Estimated outlays .....	0	232	328	352	360	128
SPR spending under H.R. 2884						
Estimated authorization level <sup>1</sup> .....	160	360	360	360	360	0
Estimated outlays .....	197	330	362	360	360	128
SPR Operations Adjusted for Inflation						
Proposed changes:						
Estimated authorization level .....	0	364	367	371	375	0
Estimated outlays .....	0	234	333	360	372	135
SPR spending under H.R. 2884:						
Estimated authorization level <sup>1</sup> .....	160	364	367	371	375	0
Estimated outlays .....	197	332	367	368	372	135

<sup>1</sup>The 1999 level is the amount appropriated for that year for the SPR development, operations, and management account.

**Basis of estimate:** In the absence of specified authorizations, CBO assumes that the \$160 million appropriated for the development, operation, and management of the SPR for fiscal year 1999 represents the level of funding needed to perform the functions authorized under current law. (This account does not include funding for purchasing oil for the reserve.) The table shows two alternative sets of authorization levels for fiscal years 2000–2003: one in which the funding for the SPR operations is not adjusted for anticipated inflation and a second that reflects an adjustment for inflation. For purposes of this estimate, CBO assumes that outlays for this account will follow historical trends.

In addition to continuing SPR operations, CBO estimates that H.R. 2884 would authorize the appropriation of about \$200 million a year over the 2000–2003 period for the purchase of oil for the SPR. In the absence of an energy emergency, current law requires that appropriations for the purchase of oil for the reserve be authorized on an annual basis. This bill would provide such authority for fiscal years 2000 through 2003, subject to the terms and conditions in the bill. Specifically, if the market price of domestic oil decreases to an amount less than \$15 per barrel, adjusted for inflation, the Secretary of DOE could purchase oil from “marginal wells” as defined in the bill. The purchase price would be \$15 per barrel, adjusted for inflation.

CBO’s estimate of the cost of this provision is based on the expectation that oil prices could drop below the \$15 per barrel threshold in the bill. Under our current oil price projections, for example, we estimate that there is about a 35 percent chance that the annual average price of oil will be below the \$15 per barrel threshold in the bill in each of the four years. For purposes of this estimate, we assume that the amount of oil purchased in any year would be limited by the rate and type of oil that can be stored in the SPR and other technical factors. Our estimated cost of about \$200 million a year is equivalent to authorizing appropriations for the purchase of roughly 13 million barrels of oil a year.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 2884 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Kathleen Gramp.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Section 1 extends the EPCA authority to buy or lease oil for, operate, and draw down the Strategic Petroleum Reserve for such sums as may be necessary, through September 30, 2003. Absent this extension, authority for the SPR expires September 30, 1999.

Section 1 also extends funding and authority for the U.S. to participate in the International Energy Agreement until September 30, 2003, and authorizes such funds as may be necessary. Absent such an extension, U.S. participation in the IEA expires on September 30, 1999.

##### SECTION 2. PURCHASE OF OIL FROM MARGINAL WELLS

Section 2 grants the Secretary of Energy authority to purchase oil from marginal wells at \$15 per barrel, adjusted for inflation, whenever the national average price of oil falls below \$15 per barrel, adjusted for inflation. Marginal wells are defined as wells that produce less than 15 barrels of oil per day, wells that produce 25 barrels per day with 95 percent or greater of its total production

being water, or wells that produce heavy oil with an API gravity of less than 20 degrees.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as 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**

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Sec. 2. Statement of purposes.

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PART B—STRATEGIC PETROLEUM RESERVE

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*Sec. 169. Purchase of oil from marginal wells.*

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**TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY  
AVAILABILITY**

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PART B—STRATEGIC PETROLEUM RESERVE

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**[AUTHORIZATION OF APPROPRIATIONS**

**[SEC. 166. There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to implement this part.]**

*AUTHORIZATION OF APPROPRIATIONS*

*SEC. 166. There are authorized to be appropriated for fiscal years 2000 through 2003 such sums as may be necessary to implement this part.*

\* \* \* \* \*

*PURCHASE OF OIL FROM MARGINAL WELLS*

*SEC. 169. (a) IN GENERAL.—From amounts authorized under section 166, in any case in which the price of oil decreases to an amount less than \$15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at \$15.00 per barrel, adjusted for inflation.*

*(b) DEFINITION OF MARGINAL WELL.—The term “marginal well” means a well that—*

*(1) has an average daily production of 15 barrels or less;*

*(2) has an average daily production of 25 barrels or less with produced water accounting for 95 percent or more of total production; or*

*(3) produces heavy oil with an API gravity less than 20 degrees.*

\* \* \* \* \*

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, September 30, **[1999] 2003**, 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, September 30, **[1999] 2003**.

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TITLE II—STANDBY ENERGY AUTHORITIES

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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, September 30, **[1999] 2003**, 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, September 30, **[1999] 2003**.

\* \* \* \* \*

## DESSENTING VIEWS

A major shortcoming of H.R. 2884 is the omission of reauthorization for export promotion programs for energy-efficiency and renewable energy. The Council on Energy Efficiency Commerce and Trade (COEECT) and the Council for Renewable Energy Commerce and Trade (CORECT) were designed to help facilitate the export of U.S. energy-efficiency and renewable energy technology. These programs are needed now more than ever, making the failure of the Committee to include them in the reauthorization of the Energy Policy and Conservation Act a critical flaw in the bill.

Regardless of one's view of the Kyoto Protocol on climate change, promoting exports of renewable energy and energy efficiency technology makes good sense. Both COEECT and CORECT were designed to help U.S. companies make contact with buyers in developing countries, facilitate innovative financing strategies, and promote the development of policies in developing nations that favor clean energy investments.

We must ask why, with a soaring trade deficit, would we fail to support programs that are helping to sell American products in multi-billion dollar markets for energy equipment abroad, leaving U.S. manufacturers to be swallowed up by heavily subsidized competitors from other industrialized nations.

These are tiny programs that are producing impressive results. Although the authorization of appropriation has expired, COEECT has been funded continuously. In the four years of its existence, funded at less than \$1 million per year, COEECT has led over 100 U.S. producers of energy-efficient products to Australia, Brazil, Chile, China, Mexico, Portugal, Russia, the Philippines, Thailand, and other nations for focused meetings and workshops with foreign buyers, leveraging over \$600,000 of in-kind company contributions, and resulting in over \$7 million in completed sales to date, with over \$10 million worth of projects in the pipeline.

Meanwhile, COEECT has worked hard in this country to alert the manufacturers of energy-efficient products to the opportunities available to them abroad. Many of these are small to medium-sized companies that do not have the resources to do extensive international marketing efforts. Through their work with COEECT, however, many of these U.S. companies have been able to make direct contact with key buyers around the world, increasing sales substantially and creating jobs here in the U.S.

CORECT has a more woeful tale to tell. While similar positive results were being achieved on the renewable energy side, the export program for renewable energy has been zeroed out for the past two years by the Energy and Water Subcommittee of Appropriations. This will not be reversed unless the Committee reauthorizes this program. We should not be ceding energy policy decisions to the Appropriations Committee. In the business of wind turbines,

photovoltaic cells, biomass combustion technologies and the production of other renewable energy technologies, U.S. companies are forced to go head to head against highly subsidized competitors from the Netherlands, Japan, and other nations. The failure of the Commerce Committee to reauthorize this program compounds this folly, making it even more difficult to restore CORECT funding in future years.

There are many reasons why the U.S. government should support—even significantly expand—these successful, cost-effective efforts to promote U.S. exports of renewable energy and energy-efficient technologies. These programs have cost us pennies and are yielding millions in results. We urge that issue be revisited in conference.

JOHN D. DINGELL.  
KAREN MCCARTHY.  
GENE GREEN.  
BOBBY L. RUSH.  
RON KLINK.  
PETER DEUTSCH.  
FRANK PALLONE, Jr.  
SHERROD BROWN.  
BART STUPAK.  
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DIANA DEGETTE.  
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TOM SAWYER.  
ALBERT R. WYNN.

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