

Public Law 99-58
99th Congress

An Act

July 2, 1985

[H.R. 1699]

Energy Policy
and
Conservation
Amendments
Act of 1985.
42 USC 6201
note.

To extend title I and Part B of title II of the Energy Policy and Conservation Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Policy and Conservation Amendments Act of 1985".

TITLE I—AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 101. EXTENSION OF TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.

(a) GENERAL EXTENSION.—Title I of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART C—EXPIRATION

"EXPIRATION

"SEC. 171. 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, 1989, 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, 1989."

(b) MATERIALS ALLOCATION.—Section 104(b)(1) of such Act is amended by striking out "December 31, 1984" and inserting in lieu thereof "June 30, 1989".

(c) CONFORMING AMENDMENT.—The table of contents for such Act is amended by adding after the item relating to section 167 the following new items:

"PART C—EXPIRATION

"Sec. 171. Expiration."

SEC. 102. STRATEGIC PETROLEUM RESERVE AMENDMENTS.

(a) AMENDMENTS TO STRATEGIC PETROLEUM RESERVE PLAN.—Section 159(e) of the Energy Policy and Conservation Act is amended to read as follows:

"(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

42 USC 6251.
89 Stat. 875.

50 USC app.
2071 note.

42 USC 6239.

Post, p. 103.

required by a severe energy supply interruption or by obligations of the United States under the international energy program.”.

(b) **SUSPENSION OF PROVISIONS RELATING TO THE STRATEGIC PETROLEUM RESERVE.**—Section 160(e) of such Act is amended—

42 USC 6240.

(1) by inserting “and” at the end of clause (i) of paragraph (1)(B);

(2) by striking out clauses (ii) and (iii) of paragraph (1)(B) and inserting in lieu thereof the following:

“(ii) the President has transmitted such finding to the Congress.”;

(3) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

“(2) The suspension of the 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 earlier date as is specified in such finding.”; and

(4) by redesignating paragraph (4) as paragraph (3).

SEC. 103. STRATEGIC PETROLEUM RESERVE TEST DRAWDOWN AND DISTRIBUTION.

(a) **DIRECTIVE TO CARRY OUT TEST DRAWDOWN.**—Section 161 of the Energy Policy and Conservation Act is amended by adding the following new subsection at the end thereof:

42 USC 6241.

“(g)(1) In order to evaluate the implementation of the Distribution Plan, the Secretary shall, commencing within 180 days after the date of the enactment of this subsection, carry out a test drawdown and distribution under this subsection through the sale or exchange of approximately 1,100,000 barrels of crude oil from the Reserve. The requirement of this paragraph shall not apply if the President determines, within the 180-day period described in the preceding sentence, that implementation of the Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

“(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.

Ante, p. 102.

“(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 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.

5 USC 551.
42 USC 6393.

"(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.

42 USC 6245.
42 USC 6240.

"(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."

(b) CONFORMING AMENDMENTS.—(1) Section 160(d) of such Act is amended by adding the following new paragraph at the end thereof:

Ante, p. 103.

"(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."

42 USC 6241.

(2) Section 161(b) of such Act is amended by striking out "in subsections (c) and (f)" and inserting in lieu thereof "in subsections (c), (f), and (g)".

42 USC 6247.

(3) Section 167(b)(3) of such Act is amended by inserting ", including a drawdown and distribution carried out under subsection (g) of such section" after "section 161".

(4) Section 167(d) of such Act is amended by inserting ", including a drawdown and distribution carried out subsection (g) of such section" after "section 161".

SEC. 104. EXTENSION OF PART B OF TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.

(a) GENERAL EXTENSION.—Title II of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART D—EXPIRATION

"EXPIRATION

42 USC 6285.
42 USC 6261.

"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, 1988, 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, 1988."

(b) TERMINATION OF CERTAIN GENERAL EMERGENCY AUTHORITIES.—Part A of title II of such Act is amended by adding the following new section at the end thereof:

"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 USC 6264.
42 USC 6263.

(c) CONFORMING AMENDMENTS.—(1) The table of contents for such Act is amended—

(A) by adding after the item relating to section 203 the following new item:

"Sec. 204. Termination date.";

(B) by adding after the item relating to section 272 the following new items:

"PART D—EXPIRATION

"Sec. 281. Expiration.";

and

(C) by striking out the item relating to section 531.

(2) Section 252 of such Act is amended by striking out subsection (j) and by redesignating subsections (k), (l), and (m), and all references thereto, as subsections (j), (k), and (l), respectively.

42 USC 6272.

(3) Section 531 of such Act is hereby repealed.

Repeal.
42 USC 6401.
42 USC 6272.

(4) Section 252(d)(1) of such Act is amended by striking out "(f) or (k)" in the last sentence and inserting in lieu thereof "(f) or (j)".

SEC. 105. LIMITATION ON NEW PLANS OF ACTION.

Section 252 of the Energy Policy and Conservation Act, as amended by section 104(c)(2) of this Act, is amended by adding at the end thereof the following:

"(m)(1) With respect to any plan of action approved by the Attorney General after the date of enactment of the Energy Policy and Conservation Amendments Act of 1985—

42 USC 6272.

"(A) the defenses under subsection (f) and (j) shall be applicable to Type 1 activities (as that term is defined in the International Energy Agency Emergency Management Manual, dated December 1982) only if—

Ante, p. 102.

"(i) the Secretary has transmitted such plan of action to the Congress; and

"(ii)(I) 90 calendar days of continuous session have elapsed since receipt by the Congress of such transmittal; or

"(II) within 90 calendar days of continuous session after receipt of such transmittal, either House of the Congress has disapproved a joint resolution of disapproval pursuant to subsection (n); and

"(B) such defenses shall not be applicable to Type 1 activities if there has been enacted, in accordance with subsection (n), a joint resolution of disapproval.

"(2) The Secretary may withdraw the plan of action at any time prior to adoption of a joint resolution described in subsection (n)(3) by either House of Congress.

"(3) For the purpose of this subsection—

"(A) continuity of session is broken only by an adjournment of the Congress sine die at the end of the second session of Congress; 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.

"(n)(1)(A) The application of defenses under subsections (f) and (j) for Type 1 activities with respect to any plan of action transmitted to Congress as described in subsection (m)(1)(A)(i) shall be disapproved if a joint resolution of disapproval has been enacted into law during the 90-day period of continuous session after which such transmission was received by the Congress. For the purpose of this subsection, the term 'joint resolution' means only a joint resolution of either House of the Congress as described in paragraph (3).

"(B) After receipt by the Congress of such plan of action, a joint resolution of disapproval may be introduced in either House of the Congress. Upon introduction in the Senate, the joint resolution shall be referred in the Senate immediately to the Committee on Energy and Natural Resources of the Senate.

"(2) This subsection is enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by paragraph (3); it supersedes other rules only to the extent that is inconsistent therewith; and

"(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(3) The joint resolution disapproving the transmission under subsection (m) shall read as follows after the resolving clause: 'That the Congress of the United States disapproves the availability of the defenses pursuant to section 252 (f) and (j) of the Energy Policy and Conservation Act with respect to Type 1 activities under the plan of action submitted to the Congress by the Secretary of Energy on . . . , the blank space therein being filled with the date and year of receipt by the Congress of the plan of action transmitted as described in subsection (m).

"(4)(A) If the Committee on Energy and Natural Resources of the Senate has not reported a joint resolution referred to it under this subsection at the end of 20 calendar days of continuous session after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other joint resolution which has been referred to the committee with respect to such plan of action.

"(B) A motion to discharge shall be highly privileged (except that it may not be made after the Committee on Energy and Natural Resources has reported a joint resolution with respect to the plan of action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the joint resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same transmission.

“(5)(A) When the Committee on Energy and Natural Resources of the Senate has reported or has been discharged from further consideration of a joint resolution, it shall be in order at any time thereafter within the 90-day period following receipt by the Congress of the plan of action (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider a vote by which the motion was agreed to or disagreed to.

“(B) Debate on the joint resolution shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. A motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

“(6)(A) Motions to postpone made with respect to the discharge from committee or consideration of a joint resolution, shall be decided without debate.

“(B) Appeals from the decision of the Chair relating to the application of rules of the Senate to the procedures relating to a joint resolution shall be decided without debate.”.

TITLE II—REPORTS CONCERNING COAL IMPORTS

SEC. 201. SHORT TITLE.

This title may be cited as the “National Coal Imports Reporting Act of 1985”.

SEC. 202. REPORT CONCERNING REVIEW OF UNITED STATES COAL IMPORTS.

(a) IN GENERAL.—The Energy Information Administration shall issue a report quarterly, and provide an annual summary of the quarterly reports to the Congress, on the status of United States coal imports. Such quarterly reports may be published as a part of the Quarterly Coal Report published by the Energy Information Administration.

(b) CONTENTS.—Each report required by this section shall—

(1) include current and previous year data on the quantity, quality (including heating value, sulfur content, and ash content), and delivered price of all coals imported by domestic electric utility plants that imported more than 10,000 tons during the previous calendar year into the United States;

(2) identify the foreign nations exporting the coal, the domestic electric utility plants receiving coal from each exporting nation, the domestically produced coal supplied to such plants, and the domestic coal production, by State, displaced by the imported coal;

(3) identify (to the extent allowed under disclosure policy), at regional and State levels of aggregation, transportation modes and costs for delivery of imported coal from the exporting country port of origin to the point of consumption in the United States; and

(4) specifically highlight and analyze any significant trends of unusual variations in coal imports.

National Coal
Imports
Reporting Act of
1985.
42 USC 7277
note.
42 USC 7277.

(c) **DATE OF REPORTS.**—The first report required by this section shall be submitted to Congress in March 1986. Subsequent reports shall be submitted within 90 days after the end of each quarter.

(d) **LIMITATION.**—Information and data required for the purpose of this section shall be subject to the law regarding the collection and disclosure of such data.

SEC. 203. ANALYSIS OF AND REPORT CONCERNING THE UNITED STATES COAL IMPORT MARKET.

42 USC 7277
note.

(a) **IN GENERAL.**—The Secretary of Energy shall, through the Energy Information Administration, conduct a comprehensive analysis of the coal import market in the United States and report the findings of such analysis to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives, within nine months of the date of enactment of this Act.

(b) **CONTENTS.**—The report required by this section shall—

(1) contain a detailed analysis of potential domestic markets for foreign coals, by producing nation, between 1985 and 1995;

(2) identify potential domestic consuming sectors of imported coal and evaluate the magnitude of any potential economic disruptions for each impacted State, including analysis of direct and indirect employment impact in the domestic coal industry and resulting income loss to each State;

(3) identify domestically produced coal that potentially could be replaced by imported coal;

(4) identify contractual commitments of domestic utilities expiring between 1985 and 1995 and describe spot buying practices of domestic utilities, fuel cost patterns, plant modification costs required to burn foreign coals, proximity of navigable waters to utilities, demand for compliance coal, availability of less expensive purchased power from Canada, and State and local considerations;

(5) evaluate increased coal consumption by domestic electric utilities resulting from increased power sales and analyze the potential coal import market represented by this increased coal consumption, including consumption by existing coal-fired plants, new coal-fired plants projected up to the year 1995, and plants planning to convert to coal by 1995;

(6) identify existing authorities available to the Federal Government relating to coal imports, assess the potential impact of exercising each of these authorities, and describe executive branch plans and strategies to address coal imports;

(7) identify and characterize the coal export policies of all major coal exporting nations, including the United States, Australia, Canada, Colombia, Poland, and South Africa, with specific analysis of—

(A) direct or indirect Government subsidies to coal exporters;

(B) health, safety, and environmental regulations imposed on each coal producer; and

(C) trade policies relating to coal exports;

(8) evaluate the excess capacity of foreign producers, potential development of new export-oriented coal mines in foreign nations, operating costs of foreign coal mines, capacity of ocean vessels to transport foreign coal, and constraints on importing

coal into the United States because of port and harbor availability;

(9) identify specifically the participation of all United States corporations involved in mining and exporting coal from foreign nations; and

(10) identify the policies governing coal imports of all coal-importing industrialized nations (including the United States, Japan, and European nations) by considering such factors as import duties or tariffs, import quotas, and other governmental restrictions or trade policies impacting coal imports.

Approved July 2, 1985.

LEGISLATIVE HISTORY—H.R. 1699 (S. 979):

HOUSE REPORT No. 99-152 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 131 (1985):

June 4, considered and passed House.

June 18, considered and passed Senate, amended, in lieu of S. 979.

June 27, House concurred in Senate amendments.