

105TH CONGRESS  
1ST SESSION

# S. 186

To amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 22, 1997

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Petroleum  
5 Supply Act”.

1 **SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RE-**  
 2 **SERVE BY ENTITIES IN INSULAR AREAS OF**  
 3 **UNITED STATES.**

4 Section 161 of the Energy Policy and Conservation  
 5 Act (42 U.S.C. 6241) is amended by adding at the end  
 6 the following:

7 “(j) PURCHASES FROM STRATEGIC PETROLEUM RE-  
 8 SERVE BY ENTITIES IN INSULAR AREAS OF UNITED  
 9 STATES.—

10 “(1) DEFINITIONS.—In this subsection:

11 “(A) BINDING OFFER.—The term ‘binding  
 12 offer’ means a bid submitted by the State of  
 13 Hawaii for an assured award of a specific quan-  
 14 tity of petroleum product, with a price to be  
 15 calculated pursuant to this Act, that obligates  
 16 the offeror to take title to the petroleum prod-  
 17 uct without further negotiation or recourse to  
 18 withdraw the offer.

19 “(B) CATEGORY OF PETROLEUM PROD-  
 20 UCT.—The term ‘category of petroleum prod-  
 21 uct’ means a master line item within a notice  
 22 of sale.

23 “(C) ELIGIBLE ENTITY.—The term ‘eligi-  
 24 ble entity’ means an entity that owns or con-  
 25 trols a refinery that is located within the State  
 26 of Hawaii.

1           “(D) FULL TANKER LOAD.—The term ‘full  
2           tanker load’ means a tanker of approximately  
3           700,000 barrels of capacity, or such lesser  
4           tanker capacity as may be designated by the  
5           State of Hawaii.

6           “(E) INSULAR AREA.—The term ‘insular  
7           area’ means the Commonwealth of Puerto Rico,  
8           the Commonwealth of the Northern Mariana Is-  
9           lands, the United States Virgin Islands, Guam,  
10          American Samoa, the Republic of the Marshall  
11          Islands, the Federated States of Micronesia,  
12          and the Republic of Palau.

13          “(F) OFFERING.—The term ‘offering’  
14          means a solicitation for bids for a quantity or  
15          quantities of petroleum product from the Stra-  
16          tegic Petroleum Reserve as specified in the no-  
17          tice of sale.

18          “(G) NOTICE OF SALE.—The term ‘notice  
19          of sale’ means the document that announces—

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

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

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

2 and

3 “(iv) the procedures for submitting of-

4 fers.

5 “(2) IN GENERAL.—In the case of an offering  
6 of a quantity of petroleum product during a  
7 drawdown of the Strategic Petroleum Reserve—

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

11 “(i) submit a binding offer, and shall  
12 on submission of the offer, be entitled to  
13 purchase a category of a petroleum prod-  
14 uct specified in a notice of sale at a price  
15 equal to the volumetrically weighted aver-  
16 age of the successful bids made for the re-  
17 maining quantity of the petroleum product  
18 within the category that is the subject of  
19 the offering; and

20 “(ii) submit 1 or more alternative of-  
21 fers, for other categories of the petroleum  
22 product, that will be binding if no price  
23 competitive contract is awarded for the  
24 category of petroleum product on which a

1 binding offer is submitted under clause (i);  
2 and

3 “(B) at the request of the Governor of the  
4 State of Hawaii, a petroleum product purchased  
5 by the State of Hawaii at a competitive sale or  
6 through a binding offer shall have first pref-  
7 erence in scheduling for lifting.

8 “(3) LIMITATION ON QUANTITY.—

9 “(A) IN GENERAL.—In administering this  
10 subsection, in the case of each offering, the Sec-  
11 retary may impose the limitation described in  
12 subparagraph (B) or (C) that results in the  
13 purchase of the lesser quantity of petroleum  
14 product.

15 “(B) PORTION OF QUANTITY OF PREVIOUS  
16 IMPORTS.—The Secretary may limit the quan-  
17 tity of a petroleum product that the State of  
18 Hawaii may purchase through a binding offer  
19 at any offering to  $\frac{1}{12}$  of the total quantity of  
20 imports of the petroleum product brought into  
21 the State during the previous year (or other pe-  
22 riod determined by the Secretary to be rep-  
23 resentative).

24 “(C) PERCENTAGE OF OFFERING.—The  
25 Secretary may limit the quantity that may be

1 purchased through binding offers at any offer-  
2 ing to 3 percent of the offering.

3 “(4) ADJUSTMENTS.—

4 “(A) IN GENERAL.—Notwithstanding any  
5 limitation imposed under paragraph (3), in ad-  
6 ministering this subsection, in the case of each  
7 offering, the Secretary shall, at the request of  
8 the Governor of the State of Hawaii, or an eli-  
9 gible entity certified under paragraph (7), ad-  
10 just the quantity to be sold to the State of Ha-  
11 waii in accordance with this paragraph.

12 “(B) UPWARD ADJUSTMENT.—The Sec-  
13 retary shall adjust upward to the next whole  
14 number increment of a full tanker load if the  
15 quantity to be sold is—

16 “(i) less than 1 full tanker load; or

17 “(ii) greater than or equal to 50 per-  
18 cent of a full tanker load more than a  
19 whole number increment of a full tanker  
20 load.

21 “(C) DOWNWARD ADJUSTMENT.—The Sec-  
22 retary shall adjust downward to the next whole  
23 number increment of a full tanker load if the  
24 quantity to be sold is less than 50 percent of

1 a full tanker load more than a whole number  
2 increment of a full tanker load.

3 “(5) DELIVERY TO OTHER LOCATIONS.—The  
4 State of Hawaii may enter into an exchange or a  
5 processing agreement that requires delivery to other  
6 locations, if a petroleum product of similar value or  
7 quantity is delivered to the State of Hawaii.

8 “(6) STANDARD SALES PROVISIONS.—Except as  
9 otherwise provided in this Act, the Secretary may re-  
10 quire the State of Hawaii to comply with the stand-  
11 ard sales provisions applicable to purchasers of pe-  
12 troleum product at competitive sales.

13 “(7) ELIGIBLE ENTITIES.—

14 “(A) IN GENERAL.—Subject to subpara-  
15 graphs (B) and (C) and notwithstanding any  
16 other provision of this paragraph, if the Gov-  
17 ernor of the State of Hawaii certifies to the  
18 Secretary that the State has entered into an  
19 agreement with an eligible entity to carry out  
20 this Act, the eligible entity may act on behalf  
21 of the State of Hawaii to carry out this sub-  
22 section.

23 “(B) LIMITATION.—The Governor of the  
24 State of Hawaii shall not certify more than 1

1 eligible entity under this paragraph for each no-  
2 tice of sale.

3 “(C) BARRED COMPANY.—If the Secretary  
4 has notified the Governor of the State of Ha-  
5 waii that a company has been barred from bid-  
6 ding (either prior to, or at the time that a no-  
7 tice of sale is issued), the Governor shall not  
8 certify the company under this paragraph.

9 “(7) SUPPLIES OF PETROLEUM PRODUCTS.—At  
10 the request of the governor of an insular area, the  
11 Secretary shall, for a period not to exceed 180 days  
12 following a drawdown of the Strategic Petroleum  
13 Reserve, assist the insular area in its efforts to  
14 maintain adequate supplies of petroleum products  
15 from traditional and non-traditional suppliers.”.

16 **SEC. 3. REGULATIONS.**

17 (a) IN GENERAL.—The Secretary of Energy shall  
18 issue such regulations as are necessary to carry out the  
19 amendment made by section 2.

20 (b) ADMINISTRATIVE PROCEDURE.—Regulations is-  
21 sued to carry out the amendment made by section 2 shall  
22 not be subject to—

23 (1) section 523 of the Energy Policy and Con-  
24 servation Act (42 U.S.C. 6393); or

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

3 **SEC. 4. EFFECTIVE DATE.**

4           The amendment made by section 2 takes effect on  
5 the earlier of—

6           (1) the date that is 180 days after the date of  
7           enactment of this Act; or

8           (2) the date that final regulations are issued  
9           under section 3.

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