

105TH CONGRESS  
1ST SESSION

# S. 417

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## AN ACT

To extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

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

1 **SECTION 1. ENERGY POLICY AND CONSERVATION ACT**  
2 **AMENDMENTS.**

3 The Energy Policy and Conservation Act is amend-  
4 ed—

5 (1) at the end of section 154 by adding the fol-  
6 lowing new subsection:

7 “(f) No later than October 1, 1997, the Secretary  
8 shall prepare a statement of policy on Strategic Petroleum  
9 Reserve development, maintenance and drawdown. The  
10 statement of policy shall evaluate the effect of sales of pe-  
11 troleum from the Strategic Petroleum Reserve under au-  
12 thorities other than those provided by this Act on the abil-  
13 ity of the United States to fulfill its obligations under the  
14 international energy program. The statement of policy  
15 shall evaluate the effectiveness of the Strategic petroleum  
16 Reserve at reducing the impact of severe energy supply  
17 interruptions, in light of existing quantities of petroleum  
18 in the Strategic Petroleum Reserve, and the likelihood of  
19 purchases of additional petroleum for storage. The state-  
20 ment of policy shall set forth alternative strategies for  
21 drawdown and the criteria to be employed at the time of  
22 drawdown to select among such strategies. The statement  
23 of policy shall be published in the Federal Register and  
24 be subject to public comment, and may be prepared with-  
25 out regard to the requirements of section 553 of title 5,  
26 United States Code, section 501 of the Department of En-

1 energy Organization Act (42 U.S.C. 7191), and section 523  
2 of this Act.”;

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

5 “AUTHORIZATION OF APPROPRIATIONS

6 “SEC. 166. There are authorized to be appropriated  
7 for each of fiscal years 1998 through 2000 such sums as  
8 may be necessary to implement this part.”;

9 (3) at the end of part B of title I by adding the  
10 following new section:

11 “USE OF UNDERUTILIZED FACILITIES

12 “SEC. 168. (a) Notwithstanding section 649(b) of the  
13 Department of Energy Organization Act (42 U.S.C.  
14 7259(b)), the Secretary is authorized to store in underuti-  
15 lized Strategic Petroleum Reserve facilities, by lease or  
16 otherwise, petroleum product owned by a foreign govern-  
17 ment or its representatives. Petroleum product stored  
18 under this section is not part of the Strategic Petroleum  
19 Reserve, is not subject to part C of this title, and notwith-  
20 standing any provision of this Act, may be exported from  
21 the United States.

22 “(b) Beginning on October 1, 2002, funds resulting  
23 from the leasing or other use of a Reserve facility under  
24 subsection (a) shall be available to the Secretary, without  
25 further appropriation, for the purchase of petroleum prod-  
26 ucts for the Reserve.”;

1 (4) in section 181 (42 U.S.C. 6251) by striking  
2 “1997” other places it appears and inserting in lieu  
3 thereof “2000”;

4 (5) by striking “section 252(l)(1)” in section  
5 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting  
6 “section 252(k)(1)”;

7 (6) in section 252 (42 U.S.C. 6272)—

8 (A) in subsections (a)(1) and (b), by strik-  
9 ing “allocation and information provisions of  
10 the international energy program” and insert-  
11 ing “international emergency response provi-  
12 sions”;

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

16 (C) in subsection (e)(2) by striking “shall”  
17 and inserting “may”;

18 (D) in subsection (f)(2) by inserting “vol-  
19 untary agreement or” after “approved”;

20 (E) by amending subsection (h) to read as  
21 follows:

22 “(h) Section 708 of the Defense Production Act of  
23 1950 shall not apply to any agreement or action under-  
24 taken for the purpose of developing or carrying out—

25 “(1) the international energy program, or

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

4           (F) in subsection (k) by amending para-  
5 graph (2) to read as follows:

6           “(2) The term ‘international emergency re-  
7 sponse provisions’ means—

8           “(A) the provisions of the international en-  
9 ergy program which relate to international allo-  
10 cation of petroleum products and to the infor-  
11 mation system provided in the program, and

12           “(B) the emergency response measures  
13 adopted by the Governing Board of the Inter-  
14 national Energy Agency (including the July 11,  
15 1984, decision by the Governing Board on  
16 ‘Stocks and Supply Disruptions’) for—

17           “(i) the coordinated drawdown of  
18 stocks of petroleum products held or con-  
19 trolled by governments; and

20           “(ii) complementary actions taken by  
21 governments during an existing or impend-  
22 ing international oil supply disruption”;  
23 and

24           (G) by amending subsection (l) to read as  
25 follows:

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

6           (7) by amending the last sentence of section  
7 256(h) (42 U.S.C. 6276(h)) to read as follows:  
8       “‘There are authorized to be appropriated for each of  
9 fiscal years 1998 through 2002 such sums as may  
10 be necessary to carry out this part.’”;

11          (8) in section 281 (42 U.S.C. 6285) by striking  
12 “1997” both places it appears and inserting in lieu  
13 thereof “2002”.

14          (9) in section 365(f)(1) (42 U.S.C. 6325(f)(1))  
15 by striking “not to exceed” and all that follows  
16 through “fiscal year 1993” and inserting in lieu  
17 thereof “for each of fiscal years 1998 through 2002  
18 such sums as may be necessary”;

19          (10) by amending section 397 (42 U.S.C.  
20 6371f) to read as follows:

21           “AUTHORIZATION OF APPROPRIATIONS

22       “SEC. 397. For the purpose of carrying out this part,  
23 there are authorized to be appropriated for each of fiscal  
24 years 1998 through 2002 such sums as may be nec-  
25 essary.”; and

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

3 “(1) There are authorized to be appropriated to  
 4 the Secretary for carrying out this section such sums  
 5 as may be necessary for each of fiscal years 1998  
 6 through 2002, to remain available until expended.”.

7 **SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RE-**  
 8 **SERVE BY ENTITIES IN INSULAR AREAS OF**  
 9 **UNITED STATES AND FREELY ASSOCIATED**  
 10 **STATES.**

11 (a) Section 161 of the Energy Policy and Conserva-  
 12 tion Act (42 U.S.C. 6241) is amended by adding at the  
 13 end the following:

14 “(j) PURCHASES FROM STRATEGIC PETROLEUM RE-  
 15 SERVE BY ENTITIES IN INSULAR AREAS OF UNITED  
 16 STATES AND FREELY ASSOCIATED STATES.—

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

18 “(A) BINDING OFFER.—The term ‘binding  
 19 offer’ means a bid submitted by the State of  
 20 Hawaii for an assured award of a specific quan-  
 21 tity of petroleum product, with a price to be  
 22 calculated pursuant to paragraph (2) of this  
 23 subsection, that obligates the offeror to take  
 24 title to the petroleum product without further  
 25 negotiation or recourse to withdraw the offer.

1           “(B) CATEGORY OF PETROLEUM PROD-  
2           UCT.—The term ‘category of petroleum prod-  
3           uct’ means a master line item within a notice  
4           of sale.

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

9           “(D) FULL TANKER LOAD.—The term ‘full  
10           tanker load’ means a tanker of approximately  
11           700,000 barrels of capacity, or such lesser  
12           tanker capacity as may be designated by the  
13           State of Hawaii.

14           “(E) INSULAR AREA.—The term ‘insular  
15           area’ means the Commonwealth of Puerto Rico,  
16           the Commonwealth of the Northern Mariana Is-  
17           lands, the United States Virgin Islands, Guam,  
18           American Samoa, and the Freely Associated  
19           States of the Republic of the Marshall Islands,  
20           the Federated States of Micronesia, and the  
21           Republic of Palau.

22           “(F) OFFERING.—The term ‘offering’  
23           means a solicitation for bids for a quantity or  
24           quantities of petroleum product from the Stra-

1           tegie Petroleum Reserve as specified in the no-  
2           tice of sale.

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

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

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

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

12                   “(iv) the procedures for submitting of-  
13                   fers.

14           “(2) IN GENERAL.—In the case of an offering  
15           of a quantity of petroleum product during a  
16           drawdown of the Strategic Petroleum Reserve—

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

20                   “(i) submit a binding offer, and shall  
21                   on submission of the offer, be entitled to  
22                   purchase a category of a petroleum prod-  
23                   uct specified in a notice of sale at a price  
24                   equal to the volumetrically weighted aver-  
25                   age of the successful bids made for the re-

1           maining quantity of the petroleum product  
2           within the category that is the subject of  
3           the offering; and

4           “(ii) submit 1 or more alternative of-  
5           fers, for other categories of the petroleum  
6           product, that will be binding if no price  
7           competitive contract is awarded for the  
8           category of petroleum product on which a  
9           binding offer is submitted under clause (i);  
10          and

11          “(B) at the request of the Governor of the  
12          State of Hawaii, a petroleum product purchased  
13          by the State of Hawaii at a competitive sale or  
14          through a binding offer shall have first pref-  
15          erence in scheduling for lifting.

16          “(3) LIMITATION ON QUANTITY.—

17          “(A) IN GENERAL.—In administering this  
18          subsection, in the case of each offering, the Sec-  
19          retary may impose the limitation described in  
20          subparagraph (B) or (C) that result in the pur-  
21          chase of the lesser quantity of petroleum prod-  
22          uct.

23          “(B) PORTION OF QUANTITY OF PREVIOUS  
24          IMPORTS.—The Secretary may limit the quan-  
25          tity of a petroleum product that the State of

1 Hawaii may purchase through a binding offer  
2 at any offering to  $\frac{1}{12}$  of the total quantity of  
3 imports of the petroleum product brought into  
4 the State during the previous year (or other pe-  
5 riod determined by the Secretary to be rep-  
6 resentative).

7 “(C) PERCENTAGE OF OFFERING.—The  
8 Secretary may limit the quantity that may be  
9 purchased through binding offers at any offer-  
10 ing to 3 percent of the offering.

11 “(4) ADJUSTMENTS.—

12 “(A) IN GENERAL.—Notwithstanding any  
13 limitation imposed under paragraph (3), in ad-  
14 ministering this subsection, in the case of each  
15 offering, the Secretary shall, at the request of  
16 the Governor of the State of Hawaii, or an eli-  
17 gible entity certified under paragraph (7), ad-  
18 just the quantity to be sold to the State of Ha-  
19 waii in accordance with this paragraph.

20 “(B) UPWARD ADJUSTMENT.—The Sec-  
21 retary shall adjust upward to the next whole  
22 number increment of a full tanker load if the  
23 quantity to be sold is—

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

1                   “(ii) greater than or equal to 50 per-  
2                   cent of a full tanker load more than a  
3                   whole number increment of a full tanker  
4                   load.

5                   “(C) DOWNWARD ADJUSTMENT.—The Sec-  
6                   retary shall adjust downward to the next whole  
7                   number increment of a full tanker load if the  
8                   quantity to be sold is less than 50 percent of  
9                   a full tanker load more than a whole number  
10                  increment of a full tanker load.

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

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

21                  “(7) ELIGIBLE ENTITIES.—

22                  “(A) IN GENERAL.—Subject to subpara-  
23                  graphs (B) and (C) and notwithstanding any  
24                  other provision of this paragraph, if the Gov-  
25                  ernor of the State of Hawaii certifies to the

1 Secretary that the State has entered into an  
2 agreement with an eligible entity to carry out  
3 this Act, the eligible entity may act on behalf  
4 of the State of Hawaii to carry out this sub-  
5 section.

6 “(B) LIMITATION.—The Governor of the  
7 State of Hawaii shall not certify more than 1  
8 eligible entity under this paragraph for each no-  
9 tice of sale.

10 “(C) BARRED COMPANY.—If the Secretary  
11 has notified the Governor of the State of Ha-  
12 waii that a company has been barred from bid-  
13 ding (either prior to, or at the time that a no-  
14 tice of sale is issued), the Governor shall not  
15 certify the company under this paragraph.

16 “(8) SUPPLIES OF PETROLEUM PRODUCTS.—At  
17 the request of the governor of an insular area, or  
18 President of a Freely Associated State, the Sec-  
19 retary shall, for a period not to exceed 180 days fol-  
20 lowing a drawdown of the Strategic Petroleum Re-  
21 serve, assist the insular area in its efforts to main-  
22 tain adequate supplies of petroleum products from  
23 traditional and non-traditional suppliers.”.

24 (b) REGULATIONS.—

1           “(1) IN GENERAL.—The Secretary of Energy  
2 shall issue such regulations as are necessary to carry  
3 out the amendment made by subsection (a).

4           “(2) ADMINISTRATIVE PROCEDURE.—Regula-  
5 tions issued to carry out the amendment made by  
6 subsection (a) shall not be subject to—

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

9                   (B) section 501 of the Department of En-  
10 energy Organization Act (42 U.S.C. 7191).

11       (c) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) takes effect on the earlier of—

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

15                   (2) the date that final regulations are issued  
16 under subsection (b).

17 **SEC. 3. ENERGY POLICY ACT OF 1992 AMENDMENT.**

18       Section 2603 of the Energy Policy Act of 1992 (25  
19 U.S.C. 3503) is amended in subsection (c) by striking  
20 “and 1997” each place it appears and inserting “1997,  
21 1998, 1999, and 2000” in lieu thereof.

22 **SEC. 4. ENERGY CONSERVATION AND PRODUCTION ACT**  
23 **AMENDMENT.**

24       Section 422 of the Energy Conservation and Produc-  
25 tion Act (42 U.S.C. 6872) is amended to read as follows:

1                   “AUTHORIZATION OF APPROPRIATIONS

2           “SEC. 422. For the purpose of carrying out the  
3 weatherization program under this part, there are author-  
4 ized to be appointed for each of fiscal years 1998 through  
5 2002 such sums as may be necessary.

Passed the Senate June 27, 1997.

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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**S. 417**

**AN ACT**

To extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.