Public Law 97-229
97th Congress

An Act

Aug. 3, 1982
[S. 2332]

To amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes.

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

Energy Emergency Preparedness Act of 1982.
42 USC 6202 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Emergency Preparedness Act of 1982".

SEC. 2. INTERNATIONAL ENERGY PROGRAM AMENDMENTS.

Ante, p. 196.

(a) EXTENSION.—Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "August 1, 1982" and inserting in lieu thereof "at midnight December 31, 1983".

(b) LIMITATIONS.—(1) Section 251 of the Energy Policy and Conservation Act (42 U.S.C. 6271) is amended by adding at the end thereof the following new subsection:

"(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(l)(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.".

(2) Section 252 of such Act (42 U.S.C. 6272) is amended by adding at the end thereof the following new subsection:

"(m) 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 program.".

SEC. 3. ENERGY EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Title II of the Energy Policy and Conservation Act, relating to standby energy authorities, is amended by adding at the end thereof the following new part:

"PART C—ENERGY EMERGENCY PREPAREDNESS

"CONGRESSIONAL FINDINGS, POLICY, AND PURPOSE

42 USC 6281.

"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

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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 public health, safety, and welfare.

"(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.

"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.

Memorandum of law, submittal to Congress.
42 USC 6282.

"(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 Reserves:

"(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.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act is amended by adding after the item relating to section 255 the following new items:

"PART C—ENERGY EMERGENCY PREPAREDNESS

"Sec. 271. Congressional findings, policy, and purpose.
"Sec. 272. Preparation for petroleum supply interruptions.".

SEC. 4. STRATEGIC PETROLEUM RESERVE AMENDMENTS.

(a) REQUIRED RATE FOR FILLING RESERVE.—

(1) IN GENERAL.—Subsection (c) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

"(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

42 USC 6247.

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 finding 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).

42 USC 6247; *Infra.*

"(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.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1982.

42 USC 6240 note.

(b) INTERIM STORAGE.—

(1) AUTHORITY FOR IMPLEMENTATION.—Section 159(f) of the Energy Policy and Conservation Act (42 U.S.C. 6239(f)) is amended by striking out "and" at the end of paragraph (3), by striking out the comma at the end of paragraph (4) and inserting "; and" in lieu thereof, and by inserting after paragraph (4) the following new paragraph:

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

(2) USE OF SPR PETROLEUM ACCOUNT; CONFORMING AMENDMENTS.—(A) Section 167 of such Act (95 Stat. 619; to be codified at 42 U.S.C. 6247) is amended by adding at the end thereof the following:

"(e)(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the Strategic Petroleum Reserve.

"(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such

fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.".

(B) Section 159 of such Act (42 U.S.C. 6239) is amended by adding at the end thereof the following new subsection:

"(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.

42 USC 4332.

"(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.

"Interim storage facilities."

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

(C) Section 160(e)(4) of such Act (42 U.S.C. 6240(e)(4)) is amended by striking out "crude oil" and inserting in lieu thereof "petroleum product".

42 USC 6234 note.

(c) STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN.—On or before December 1, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act. Such plan shall be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan. Such amendment shall take effect on the date it is transmitted to the Congress and shall not be subject to section 159(e) of such Act relating to Congressional review. Subsequent amendments to such plan shall be in accordance with subsections (d) and (e) of such section 159.

42 USC 6234. Effective date.

42 USC 6239.

SEC. 5. CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION.

(a) IN GENERAL.—Part A of title V of the Energy Policy and Conservation Act (42 U.S.C. 6381 and following) is amended by adding at the end thereof the following new section:

"PETROLEUM PRODUCT INFORMATION

42 USC 6385.

"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.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting the following new item after the item relating to section 506:

"Sec. 507. Petroleum product information.".

SEC. 6. REPORTS TO CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS. 42 USC 6245 note.

(a) IMPACT ANALYSIS.—(1) The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall— Consultation with other Federal agencies.

(A) examine the equity and efficiency of such reliance,

(B) distinguish between the impacts of such reliance on various categories of business (including small business and agriculture) and on households of different income levels,

(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

(D) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

(2) Within one year after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection, including a detailed step-by-step description of the procedures by which the policies specified in paragraph (1)(C) would be accomplished in an emergency, along with such recommendations as the Secretary of Energy deems appropriate.

(b) STRATEGIC PETROLEUM RESERVE DRAWDOWN AND DISTRIBUTION REPORT.—The President shall prepare and transmit to the Congress, at the time he transmits the drawdown plan pursuant to section 4(c), a report containing—

(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy.

The description of each strategy under paragraph (2) shall include an explanation of the methods which would likely be used to determine the price and distribution of petroleum products from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such petroleum products under the strategy.

Submittal to Congress.

(c) REGIONAL RESERVE REPORT.—The President or his delegate shall submit to the Congress no later than December 31, 1982, a report regarding the actions taken to comply with the provisions of section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237). Such report shall include an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves, including—

(1) an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in section 157(a) of such Act;

(2) the comparative costs of creating and operating Regional Petroleum Reserves for such regions as compared to the costs of continuing current plans for the Strategic Petroleum Reserve; and

(3) a list of potential sites for Regional Petroleum Reserves.

(d) STRATEGIC ALCOHOL FUEL RESERVE REPORT.—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

(e) MEANING OF TERMS.—As used in this section, the terms "international energy program", "petroleum product", "Reserve", "severe energy supply interruption", and "Strategic Petroleum Reserve" have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232).

Approved August 3, 1982.

LEGISLATIVE HISTORY—S. 2332 (H.R. 6337):

HOUSE REPORTS: No. 97-585, pt. 1 (Comm. on Energy and Commerce), 97-585, pt. 2 (Comm. on Merchant Marine and Fisheries) both accompanying H.R. 6337; and 97-663 (Comm. of Conference).

SENATE REPORT No. 97-393 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 26, considered and passed Senate.

June 23, H.R. 6337 considered and passed House; passage vacated and S. 2332, amended, passed in lieu.

July 29, House agreed to conference report.

July 30, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 31 (1982):

Aug. 3, Presidential statement.