

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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 10, 1995

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 THE STRATEGIC PETROLEUM**  
2 **RESERVE BY ENTITIES IN THE INSULAR**  
3 **AREAS OF THE UNITED STATES.**

4 (a) GENERAL PROVISIONS.—Section 161 of the En-  
5 ergy Policy and Conservation Act (42 U.S.C. 6241) is  
6 amended by adding at the end the following new sub-  
7 section:

8 “(j)(1) With respect to each offering of a quantity  
9 of petroleum product during a drawdown of the Strategic  
10 Petroleum Reserve:

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

13 “(i) submit a binding offer, and shall on  
14 submission of the offer, be entitled to purchase  
15 a category of petroleum product specified in a  
16 notice of sale at a price equal to the  
17 volumetrically weighted average of the success-  
18 ful bids made for the remaining quantity of pe-  
19 troleum product within the category that is the  
20 subject of the offering; and

21 “(ii) submit one or more alternative offers,  
22 for other categories of petroleum product, that  
23 will be binding in the event that no price com-  
24 petitive contract is awarded for the category of  
25 petroleum product on which a binding offer is  
26 submitted under clause (i); and

1           “(B) at the request of the Governor of the  
2           State of Hawaii, petroleum product purchased by  
3           the State of Hawaii at a competitive sale or through  
4           a binding offer shall have first preference in schedul-  
5           ing for lifting.

6           “(2)(A) In administering this subsection, and with re-  
7           spect to each offering, the Secretary may impose the limi-  
8           tation described in subparagraph (B) or (C) that results  
9           in the purchase of the lesser quantity of petroleum  
10          product.

11          “(B) The Secretary may limit the quantity of petro-  
12          leum product that the State of Hawaii may purchase  
13          through a binding offer at any one offering to one-twelfth  
14          of the total quantity of imports of petroleum product  
15          brought into the State during the previous year (or other  
16          period determined by the Secretary to be representative).

17          “(C) The Secretary may limit the quantity that may  
18          be purchased through binding offers at any one offering  
19          to 3 percent of the offering.

20          “(3) Notwithstanding any limitation imposed under  
21          paragraph (2), in administering this subsection, and with  
22          respect to each offering, the Secretary shall, at the request  
23          of the Governor of the State of Hawaii, or an eligible en-  
24          tity certified under paragraph (6), adjust the quantity to  
25          be sold to the State of Hawaii as follows:

1           “(A) The Secretary shall adjust upward to the  
2 next whole number increment of a full tanker load  
3 if the quantity to be sold is—

4                   “(i) less than one full tanker load; or

5                   “(ii) greater than or equal to 50 percent of  
6 a full tanker load more than a whole number  
7 increment of a full tanker load.

8           “(B) The Secretary shall adjust downward to  
9 the next whole number increment of a full tanker  
10 load if the quantity to be sold is less than 50 percent  
11 of a full tanker load more than a whole number in-  
12 crement of a full tanker load.

13           “(4) The State of Hawaii may enter into an exchange  
14 or a processing agreement that requires delivery to other  
15 locations, so long as petroleum product of similar value  
16 or quantity is delivered to the State of Hawaii.

17           “(5) Except as otherwise provided in this Act, the  
18 Secretary may require the State of Hawaii to comply with  
19 the standard sales provisions applicable to purchasers of  
20 petroleum product at competitive sales.

21           “(6)(A) Notwithstanding the foregoing, and subject  
22 to subparagraphs (B) and (C), if the Governor of the State  
23 of Hawaii certifies to the Secretary that the State has en-  
24 tered into an agreement with an eligible entity to effec-  
25 tuate the purposes of this Act, such eligible entity may

1 act on behalf of the State of Hawaii for purposes of this  
2 subsection.

3 “(B) The Governor of the State of Hawaii shall not  
4 certify more than one eligible entity under this paragraph  
5 for each notice of sale.

6 “(C) If the Secretary has notified the Governor of  
7 the State of Hawaii that a company has been barred from  
8 bidding (either prior to, or at the time that a notice of  
9 sale is issued), the Governor shall not certify such com-  
10 pany under the paragraph.

11 “(7) As used in this subsection—

12 “(A) the term ‘binding offer’ means a bid sub-  
13 mitted by the State of Hawaii for an assured award  
14 of a specific quantity of petroleum product, with a  
15 price to be calculated pursuant to this Act, that obli-  
16 gates the offeror to take title to the petroleum prod-  
17 uct without further negotiation or recourse to with-  
18 draw the offer;

19 “(B) the term ‘category of petroleum product’  
20 means a master line item within a notice of sale;

21 “(C) the term ‘eligible entity’ means an entity  
22 that owns or controls a refinery that is located with-  
23 in the State of Hawaii;

24 “(D) the term ‘full tanker load’ means a tanker  
25 of approximately 700,000 barrels of capacity, or

1 such lesser tanker capacity as may be designated by  
2 the State of Hawaii;

3 “(E) the term ‘offering’ means a solicitation  
4 for bids for a quantity or quantities of petroleum  
5 product from the Strategic Petroleum Reserve as  
6 specified in the notice of sale; and

7 “(F) the term ‘notice of sale’ means the docu-  
8 ment that announces—

9 “(i) the sale of Strategic Petroleum Re-  
10 serve products;

11 “(ii) the quantity, characteristics, and loca-  
12 tion of the petroleum product being sold;

13 “(iii) the delivery period for the sale; and

14 “(iv) the procedures for submitting of-  
15 fers.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall take effect on the date that is 180  
18 days after the date of enactment of this Act or the date  
19 that final regulations are promulgated pursuant to section  
20 3, whichever is sooner.

21 **SEC. 3. REGULATIONS.**

22 (a) IN GENERAL.—The Secretary shall promulgate  
23 such regulations as are necessary to carry out the amend-  
24 ment made by section 2.

1 (b) ADMINISTRATIVE PROCEDURE.—Regulations is-  
2 sued to carry out this section, and the amendment made  
3 by section 2, shall not be subject to—

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

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

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