

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4752

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IN THE SENATE OF THE UNITED STATES

AUGUST 9 (legislative day, AUGUST 8), 1994

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, 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 “Energy Policy and  
5 Conservation Act Amendments of 1994”.

1 **SEC. 2. TABLE OF CONTENTS AND STATEMENT OF PUR-**  
2 **POSES.**

3 (a)(1) In the table of contents of the Energy Policy  
4 and Conservation Act, strike the items relating to sections  
5 102, 153, 155, 158, and 164, and strike the items relating  
6 to parts A and C of title II.

7 (2) The item in the table of contents of the Energy  
8 Policy and Conservation Act relating to section 159 is  
9 amended to read as follows:

“Sec. 159. Development, operations, and maintenance of the Reserve.”.

10 (3) The item in the table of contents of the Energy  
11 Policy and Conservation Act relating to section 165 is  
12 amended to read as follows:

“Sec. 165. Reports.”.

13 (b) Section 2 of the Energy Policy and Conservation  
14 Act (42 U.S.C. 6201) is amended—

15 (1) in paragraph (1) by striking “standby au-  
16 thority to the President, subject to congressional re-  
17 view, to impose rationing, to reduce demand for en-  
18 ergy through the implementation of energy conserva-  
19 tion plans, and” and inserting in lieu thereof “au-  
20 thority to the President”; and

21 (2) by striking paragraphs (3) and (6) and re-  
22 designating paragraphs (4), (5), (7), and (8) as  
23 paragraphs (3), (4), (5), and (6), respectively.

1 **SEC. 3. TITLE I AMENDMENTS.**

2 Title I of the Energy Policy and Conservation Act  
3 is amended—

4 (1) by striking section 102 (42 U.S.C. 6211);

5 (2) in section 151 (42 U.S.C. 6231)—

6 (A) in subsection (a) by striking “limited”  
7 and by striking “short-term”; and

8 (B) by amending subsection (b) to read as  
9 follows:

10 “(b) It is the policy of the United States to provide  
11 for the creation of a Strategic Petroleum Reserve for the  
12 storage of up to 1,000,000,000 barrels of petroleum prod-  
13 ucts to reduce the impact of disruptions in supplies of pe-  
14 troleum products or to carry out obligations of the United  
15 States under the international energy program.”;

16 (3) in section 152 (42 U.S.C. 6232)—

17 (A) by striking paragraph (1) and redesignig-  
18 nating paragraphs (2) through (11) as para-  
19 graphs (1) through (10), respectively; and

20 (B) in paragraph (10) (as so redesignated  
21 by subparagraph (A) of this paragraph) by  
22 striking “, the Early Storage Reserve”;

23 (4) by striking section 153 (42 U.S.C. 6233);

24 (5) in section 154 (42 U.S.C. 6234)—

25 (A) by amending subsection (a)(1) to read  
26 as follows:

1 “(a)(1) A Strategic Petroleum Reserve for the stor-  
2 age of up to 1,000,000,000 barrels of petroleum products  
3 shall be created pursuant to this part.”;

4 (B) in subsection (a)(2)(D), by striking  
5 “160(h)” and inserting in lieu thereof  
6 “160(e)”;

7 (C) by amending subsection (b) to read as  
8 follows:

9 “(b) The Secretary, acting through the Strategic Pe-  
10 troleum Reserve Office and in accordance with this part,  
11 shall exercise authority over the development, operation,  
12 and maintenance of the Reserve.”;

13 (D) by amending subsection (c) to read as  
14 follows:

15 “(c) The Secretary, not later than 6 months after the  
16 date of enactment of this subsection, and every two years  
17 thereafter, shall prepare and transmit to the Congress a  
18 Strategic Petroleum Reserve Operating and Readiness  
19 Plan. Such plan shall describe the long-range operational,  
20 maintenance, refurbishment, product replacement, testing,  
21 withdrawal and distribution, and readiness requirements  
22 to enable the implementation of the policy declared in sec-  
23 tion 151.”; and

24 (E) by striking subsections (d) and (e);

25 (6) by striking section 155 (42 U.S.C. 6235);

1           (7) in section 156(b) (42 U.S.C. 6236(b)) by  
2 striking “To implement the Early Storage Reserve  
3 Plan or the Strategic Petroleum Reserve Plan which  
4 has taken effect pursuant to section 159(a), the”  
5 and inserting in lieu thereof “The”;

6           (8) by amending section 157 (42 U.S.C.  
7 6237)—

8           (A) in subsection (a), by striking “The  
9 Strategic Petroleum Reserve Plan shall provide  
10 for the establishment and maintenance of” and  
11 inserting in lieu thereof “The Secretary shall  
12 establish and maintain as part of the Strategic  
13 Petroleum Reserve”; and

14           (B) in subsection (b), by striking “To im-  
15 plement the Strategic Petroleum Reserve Plan,  
16 the Secretary shall accumulate and maintain”  
17 and inserting in lieu thereof “The Secretary  
18 shall establish and maintain as part of the  
19 Strategic Petroleum Reserve”;

20           (9) by striking section 158 (42 U.S.C. 6238);

21           (10) in section 159 (42 U.S.C. 6239)—

22           (A) by amending the section head to read  
23 as follows:

1 “DEVELOPMENT, OPERATIONS, AND MAINTENANCE OF  
2 THE RESERVE”;

3 (B) by striking subsections (a), (b), (c),  
4 (d), (e), (h), and (i), and redesignating sub-  
5 sections (f), (g), (j), (k), and (l) as subsections  
6 (a), (b), (c), (d), and (e), respectively;

7 (C) by amending subsection (a) (as so re-  
8 designated by subparagraph (B) of this para-  
9 graph) to read as follows:

10 “(a) In order to develop, operate, or maintain the  
11 Strategic Petroleum Reserve, the Secretary may—

12 “(1) issue rules, regulations, or orders;

13 “(2) acquire by purchase, condemnation, or oth-  
14 erwise, land or interests in land for the location of  
15 storage and related facilities;

16 “(3) construct, purchase, lease, or otherwise ac-  
17 quire storage and related facilities;

18 “(4) use, lease, maintain, sell, or otherwise dis-  
19 pose of storage and related facilities acquired under  
20 this part, under such terms and conditions as the  
21 Secretary considers necessary and appropriate;

22 “(5) acquire, subject to the provisions of section  
23 160, by purchase, exchange, or otherwise, petroleum  
24 products for storage in the Strategic Petroleum Re-  
25 serve, including the Regional Petroleum Reserve;

1           “(6) store petroleum products in storage facili-  
2 ties owned and controlled by the United States or in  
3 storage facilities owned by others if those facilities  
4 are subject to audit by the United States;

5           “(7) execute any contracts necessary to develop,  
6 operate, or maintain the Strategic Petroleum Re-  
7 serve;

8           “(8) require an importer of petroleum products  
9 or refiner to acquire and to store and maintain, in  
10 readily available inventories, petroleum products in  
11 the Industrial Petroleum Reserve, under section 156;

12           “(9) require the storage of petroleum products  
13 in the Industrial Petroleum Reserve, under section  
14 156, on such reasonable terms as the Secretary may  
15 specify, in storage facilities owned and controlled by  
16 the United States or in storage facilities other than  
17 those owned by the United States if those facilities  
18 are subject to audit by the United States;

19           “(10) require the maintenance of the Industrial  
20 Petroleum Reserve; and

21           “(11) bring an action, when the Secretary con-  
22 siders it necessary, in any court having jurisdiction  
23 over the proceedings, to acquire by condemnation  
24 any real or personal property, including facilities,  
25 temporary use of facilities, or other interests in land,

1 together with any personal property located on or  
2 used with the land.”;

3 (D) in subsection (b) (as so redesignated  
4 by subparagraph (B) of this paragraph)—

5 (i) by striking “implementation” and  
6 inserting in lieu thereof “development”;  
7 and

8 (ii) by striking “Plan”;

9 (E) by amending subsection (c) (as so re-  
10 designated by subparagraph (B) of this para-  
11 graph) to read as follows:

12 “(c) When the Secretary determines that a  
13 750,000,000 barrel inventory can reasonably be expected  
14 to be reached in the Reserve within 5 years, the Secretary  
15 shall submit to the Congress a plan for expansion of the  
16 Strategic Petroleum Reserve to a capacity of  
17 1,000,000,000 barrels.”; and

18 (F) by amending subsection (e) (as so re-  
19 designated by subparagraph (B) of this para-  
20 graph) to read as follows:

21 “(e) During any period in which drawdown and dis-  
22 tribution are being implemented, the Secretary may issue  
23 rules, regulations, or orders to implement the drawdown  
24 and distribution of the Strategic Petroleum Reserve, with-  
25 out regard to the requirements of section 553 of title 5,

1 United States Code, and section 501 of the Department  
2 of Energy Organization Act (42 U.S.C. 7191).”;

3 (11) in section 160 (42 U.S.C. 6240)—

4 (A) in subsection (a), by striking “The  
5 Secretary” and all that follows through “trans-  
6 port, or exchange” and inserting in lieu thereof  
7 “For the purpose of implementing the Strategic  
8 Petroleum Reserve, the Secretary may acquire,  
9 place in storage, transport, or exchange”;

10 (B) in subsection (b)—

11 (i) by striking “, including the Early  
12 Storage Reserve”; and

13 (ii) by striking paragraph (2) and re-  
14 designating paragraphs (3) through (5) as  
15 paragraphs (2) through (4), respectively;  
16 and

17 (C) by striking subsections (c), (d), and (e)  
18 and redesignating subsections (f), (g), and (h)  
19 as subsections (c), (d), and (e), respectively;

20 (12) in section 161 (42 U.S.C. 6241)—

21 (A) by striking subsections (b) and (c) and  
22 redesignating subsections (d) through (i) as  
23 subsections (b) through (g), respectively;

1 (B) by amending subsection (b)(1) (as so  
2 redesignated by subparagraph (A) of this para-  
3 graph) to read as follows:

4 “(b)(1) No drawdown and distribution of the Strate-  
5 gic Petroleum Reserve may be made unless the President  
6 has found drawdown and distribution is required by a se-  
7 vere energy supply interruption or by obligations of the  
8 United States under the international energy program.”;

9 (C) by amending subsection (c) (as so re-  
10 designated by subparagraph (A) of this para-  
11 graph) to read as follows:

12 “(c)(1) The Secretary shall sell any petroleum prod-  
13 uct withdrawn from the Strategic Petroleum Reserve at  
14 public sale to the highest qualified bidder in the amounts  
15 and for the period the Secretary considers appropriate,  
16 and after a notice of sale the Secretary considers appro-  
17 priate.

18 “(2) The Secretary may cancel in whole or in part  
19 any offer to sell petroleum products as part of any  
20 drawdown and distribution under this section.”; and

21 (D) in subsection (e) (as so redesignated  
22 by subparagraph (A) of this paragraph)—

23 (i) in paragraph (1), by striking “Dis-  
24 tribution Plan” and inserting in lieu there-  
25 of “distribution procedures”;

1 (ii) by striking paragraphs (2) and (6)  
2 and redesignating paragraphs (3), (4), (5),  
3 (7), and (8) as paragraphs (2), (3), (4),  
4 (5), and (6), respectively; and

5 (iii) in subsection (f)(1)(A) (as so re-  
6 designated by subparagraph (A) of this  
7 paragraph) by striking “subsection (d)”  
8 and inserting in lieu thereof “subsection  
9 (b)”;

10 (13) by striking section 164 (42 U.S.C. 6244);

11 (14) by amending section 165 (42 U.S.C. 6245)

12 to read as follows:

13 “REPORTS

14 “SEC. 165. The Secretary shall, not later than 6  
15 months after the date of enactment of the Energy Policy  
16 and Conservation Act Amendments of 1994, and every 6  
17 months thereafter, transmit a report to the President and  
18 the Congress on—

19 “(1) the status of the physical capacity of the  
20 Reserve and the type and quantity of petroleum in  
21 the Reserve;

22 “(2) an estimate of the schedule and cost to  
23 complete planned equipment upgrade or capital in-  
24 vestment in the Reserve, including those carried out  
25 as part of operational maintenance or extension of  
26 life activities;

1           “(3) an identification of any life-limiting condi-  
2           tions or operational problems at any Reserve facility,  
3           and proposed remedial actions including an estimate  
4           of the schedule and cost of implementing such reme-  
5           dial actions;

6           “(4) a description of current withdrawal and  
7           distribution rates and capabilities, and an identifica-  
8           tion of any operational or other limitations on such  
9           rates and capabilities;

10          “(5) an identification of purchases of petroleum  
11          made in the preceding 6 months and planned in the  
12          following 6 months, including quantity, price, and  
13          type of petroleum;

14          “(6) a summary of the actions taken to develop,  
15          operate, and maintain the Reserve;

16          “(7) a summary of the financial status and fi-  
17          nancial transactions of the Strategic Petroleum Re-  
18          serve and Strategic Petroleum Reserve Petroleum  
19          Accounts for the preceding 6 months;

20          “(8) a summary of operating and capital ex-  
21          penses for the preceding 6 months, and the number  
22          of Federal and contractor employees;

23          “(9) the status of contracts for development,  
24          operation, maintenance, distribution, and other ac-

1 activities related to the implementation of this part;  
2 and

3 “(10) any recommendations for supplemental  
4 legislation or policy or operational changes the Sec-  
5 retary considers necessary and appropriate to imple-  
6 ment this part.”;

7 (15) by amending section 166 (42 U.S.C. 6246)  
8 to read as follows:

9 “AUTHORIZATION OF APPROPRIATIONS

10 “SEC. 166. There are authorized to be appropriated  
11 such sums as may be necessary to implement this part.”;

12 (16) in section 167 (42 U.S.C. 6247)—

13 (A) in subsection (b)—

14 (i) by inserting “test sales of petro-  
15 leum products from the Reserve,” after  
16 “Strategic Petroleum Reserve.”;

17 (ii) by striking paragraph (1) and re-  
18 designating paragraphs (2) and (3) as  
19 paragraphs (1) and (2), respectively;

20 (iii) in paragraph (1) (as so redesign-  
21 ated by clause (ii) of this subsection) by  
22 striking “after fiscal year 1982”; and

23 (iv) in paragraph (2) (as so redesign-  
24 ated by clause (ii) of this subsection) by  
25 striking “160(f)” and inserting in lieu  
26 thereof “160(c)”;

1 (B) in subsection (d), by striking “160(f)”  
2 and inserting in lieu thereof “160(c)”; and

3 (C) by amending subsection (e) to read as  
4 follows:

5 “(e) The Impoundment Control Act of 1974 (2  
6 U.S.C. 681–688) shall apply to funds made available  
7 under subsection (b).”;

8 (17) in section 171(b)(2)(B) (42 U.S.C.  
9 6249(b)(2)(B)) by inserting “, as such section was  
10 in effect before the date of enactment of the Energy  
11 Policy and Conservation Act Amendments of 1994,”  
12 after “section 154(e)”;

13 (18) in section 172 (42 U.S.C. 6249a) by strik-  
14 ing subsections (a) and (b) and redesignating sub-  
15 sections (c) and (d) as subsections (a) and (b), re-  
16 spectively; and

17 (19) in section 181 (42 U.S.C. 6251) by strik-  
18 ing “1994” both places it appears and inserting in  
19 lieu thereof “1999”.

20 **SEC. 4. TITLE II AMENDMENTS.**

21 Title II of the Energy Policy and Conservation Act  
22 is amended—

23 (1) by striking part A (42 U.S.C. 6261 through  
24 6264);

1 (2) in section 251(e)(1) (42 U.S.C. 6271(e)(1))  
2 by striking “252(l)(1)” and inserting in lieu thereof  
3 “252(k)(1)”;

4 (3) in section 252 (42 U.S.C. 6272)—

5 (A) in subsections (a)(1) and (b), by strik-  
6 ing “allocation and information provisions of  
7 the international energy program” and insert-  
8 ing in lieu thereof “international emergency re-  
9 sponse provisions”;

10 (B) in subsection (d)(3), by striking  
11 “known circumstances” and inserting in lieu  
12 thereof “circumstances known at the time of  
13 approval”;

14 (C) in subsection (f)(2) by inserting “vol-  
15 untary agreement or” after “approved”;

16 (D) in subsection (i) by inserting “annu-  
17 ally, and at least” after “least” and by insert-  
18 ing “during an international energy supply  
19 emergency” after “months”;

20 (E) in subsection (k) by amending para-  
21 graph (2) to read as follows:

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

24 “(A) the provisions of the international en-  
25 ergy program which relate to international allo-

1 cation of petroleum products and to the infor-  
2 mation system provided in the program; and

3 “(B) the emergency response measures  
4 adopted by the Governing Board of the Inter-  
5 national Energy Agency (including the July 11,  
6 1984, decision by the Governing Board on  
7 ‘Stocks and Supply Disruptions’) for—

8 “(i) the coordinated drawdown of  
9 stocks of petroleum products held or con-  
10 trolled by governments; and

11 “(ii) complementary actions taken by  
12 governments,

13 during an existing or impending international  
14 oil supply disruption.”; and

15 (F) by amending subsection (l) to read as  
16 follows:

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

22 (4) by adding at the end of section 256(h) (42  
23 U.S.C. 6276(h)) “There are authorized to be appro-  
24 priated for fiscal years 1996 through 1999 such  
25 sums as may be necessary to carry out this part.”;

1 (5) by striking part C (42 U.S.C. 6281 through  
2 6282); and

3 (6) in section 281 (42 U.S.C. 6285), by striking  
4 “1994” each place it appears and inserting in lieu  
5 thereof “1999”.

6 **SEC. 5. MISCELLANEOUS ADDITIONAL AMENDMENTS.**

7 (a) Title III of the Energy Policy and Conservation  
8 Act is amended—

9 (1) in section 365(f) (42 U.S.C. 6325(f)) by  
10 amending paragraph (1) to read as follows:

11 “(1) Except as provided in paragraph (2), for the  
12 purpose of carrying out this part, there are authorized to  
13 be appropriated for fiscal years 1995 through 1999 such  
14 sums as may be necessary.”; and

15 (2) by amending section 397 (42 U.S.C. 6371f)  
16 to read as follows:

17 “AUTHORIZATION OF APPROPRIATIONS

18 “SEC. 397. For the purpose of carrying out this part,  
19 there are authorized to be appropriated for fiscal years  
20 1995 through 1999 such sums as may be necessary.”.

21 (b) Section 507 of the Energy Policy and Conserva-  
22 tion Act (42 U.S.C. 6385) is amended by striking “, which  
23 was collected” and all that follows through “Information  
24 Administration”.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 6(d) of the Renewable Energy and Energy  
3 Efficiency Technology Competitiveness Act of 1989 (42  
4 U.S.C. 12005(d)) is amended by striking “fiscal year  
5 1994” and inserting in lieu thereof “the period encom-  
6 passing fiscal years 1996, 1997, and 1998”.

7 **SEC. 7. ELWHA RIVER ECOSYSTEM AND FISHERIES RES-**  
8 **TORATION EXPENDITURES.**

9 Section 9 of the Elwha River Ecosystem and Fish-  
10 eries Restoration Act (Public Law 102–495; 106 Stat.  
11 3178) is amended by striking “for expenditure through  
12 the Assistant Secretary for Fish, Wildlife, and Parks”.

13 **SEC. 8. SIZE LIMITATIONS OF ELIGIBLE FACILITIES UNDER**  
14 **PURPA.**

15 (a) EXTENSION.—Section 3(17)(E) of the Federal  
16 Power Act (16 U.S.C. 791a and following) is amended as  
17 follows:

18 (1) By striking “1994” and inserting “1996”.

19 (2) By striking “1999” and inserting “2001”.

20 (b) STUDY.—Before January 1, 1996, the Secretary  
21 of Energy, in consultation with the Federal Energy Regu-  
22 latory Commission, shall conduct a study to review the  
23 current implementation of the Public Utility Regulatory  
24 Policies Act of 1978 and submit a report to Congress con-  
25 taining the results of such study. Such report shall include  
26 an examination of the mandatory purchase requirements

1 under such Act, the implementation of avoided cost re-  
2 quirements by various State public service commissions  
3 and ownership restrictions imposed under such Act. In  
4 conducting the study, the Secretary shall consult with  
5 State public service commissions and other State regu-  
6 latory authorities with jurisdiction over electric power  
7 sales.

Passed the House of Representatives August 8,  
1994.

Attest: DONNALD K. ANDERSON,  
*Clerk.*