

106TH CONGRESS
2D SESSION

H. R. 3807

To amend the Energy Policy and Conservation Act to ensure that petroleum importers, refiners, and wholesalers accumulate minimally adequate supplies of home heating oil to meet reasonably foreseeable needs in the northeastern States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2000

Mr. MOAKLEY (for himself, Mr. TIERNEY, Mr. OLVER, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Mr. MEEHAN, Mr. DELAHUNT, Mr. CAPUANO, Mr. WEYGAND, Mr. BALDACCI, and Mr. GEJDENSON) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Energy Policy and Conservation Act to ensure that petroleum importers, refiners, and wholesalers accumulate minimally adequate supplies of home heating oil to meet reasonably foreseeable needs in the northeastern States.

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 “Stable Oil Supply
5 Home Heating Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) more than 35 percent of families in the
4 northeastern United States depend on oil to heat
5 their homes each winter, and most of those families
6 have no practical alternative to paying the going
7 price for home heating oil or seeking public or pri-
8 vate assistance to pay for home heating oil;

9 (2) consumers experienced sudden and dramatic
10 increases in prices for home heating oil during the
11 winters of 1989, 1996, and 1999, causing hardship
12 to families and other people of the United States, in-
13 cluding people on fixed and low incomes, people liv-
14 ing in rural areas, the elderly, farmers, truckers and
15 the driving public, and governments that pay home
16 heating oil bills;

17 (3) a substantial part of each sudden increase
18 in home heating oil prices has been caused by vastly
19 inadequate supplies of home heating oil accumulated
20 during the summer, fall, and winter months by im-
21 porters, refiners, and wholesalers; and

22 (4) increased stability in home heating oil prices
23 is necessary to maintain the economic vitality of the
24 Northeast.

25 (b) PURPOSE.—The purpose of this Act is to ensure
26 that minimally adequate stocks of home heating oil are

1 accumulated in the Northeast to meet reasonably foresee-
2 able demand during each winter while protecting con-
3 sumers from sudden increases in the price of home heating
4 oil.

5 **SEC. 3. DEFINITIONS.**

6 Section 152 of the Energy Policy and Conservation
7 Act (42 U.S.C. 6232) is amended—

8 (1) by redesignating paragraphs (2), (3), (4),
9 (5), (6), (7), (8), (9), (10), and (11) as paragraphs
10 (3), (4), (5), (8), (9), (10), (11), (12), (13), and
11 (14), respectively;

12 (2) by inserting after paragraph (1) the fol-
13 lowing:

14 “(2) HOME HEATING OIL.—

15 “(A) IN GENERAL.—The term ‘home heat-
16 ing oil’ means distillate fuel oil.

17 “(B) INCLUSIONS.—The term ‘home heat-
18 ing oil’ includes No. 1 and No. 2 diesel and fuel
19 oils.”;

20 (3) by inserting after paragraph (5) (as redesign-
21 ated by paragraph (1) of this section) the fol-
22 lowing:

23 “(6) NORTHEAST.—The term ‘Northeast’
24 means the States of Maine, New Hampshire,

Vermont, Massachusetts, Rhode Island, Connecticut,
New York, Pennsylvania, and New Jersey.

“(7) PRIMARY HEATING OIL INVENTORY.—

“(A) IN GENERAL.—The term ‘primary heating oil inventory’ means a heating oil inventory held by an importer, refiner, or wholesaler.

“(B) EXCLUSION.—The term ‘primary heating oil inventory’ does not include any inventory held by a retailer for the direct sale to an end user of home heating oil.”; and

(4) by adding at the end the following:

“(15) WHOLESALER.—The term ‘wholesaler’ means any person that—

“(A) owns, operates, leases, or otherwise controls a bulk terminal having a total petroleum storage capacity of 50,000 barrels or more;

“(B) stores heating oil; and

“(C)(i) resells petroleum products to retail businesses that market the petroleum products to end users; or

“(ii) receives petroleum products by tanker, barge, or pipeline.

1 “(16) WINTER SEASON.—The term ‘winter sea-
2 son’ means the months of November through
3 March.”.

4 **SEC. 4. HOME HEATING OIL RESERVE FOR THE NORTH-**
5 **EAST.**

6 (a) AMENDMENT.—Part B of title I of the Energy
7 Policy and Conservation Act (15 U.S.C. 6231 et seq.) is
8 amended by inserting after section 157 the following:

9 **“SEC. 157A. VOLUNTARY PLANS FOR HOME HEATING OIL**
10 **RESERVE.**

11 “(a) DEVELOPMENT AND SUBMISSION OF VOL-
12 UNTARY PLANS.—Importers, refiners, and wholesalers
13 that hold primary heating oil inventories for sale to mar-
14 kets in the Northeast, acting individually or in 1 or more
15 groups, shall, for the purposes of ensuring stability in en-
16 ergy fuel markets and protecting consumers from dra-
17 matic swings in price—

18 “(1) develop voluntary plans, in consultation
19 with interested individuals from nonprofit organiza-
20 tions and the public and private sectors, to maintain
21 readily available minimum product inventories of
22 home heating oil for sale in the Northeast, possibly
23 in combination with the hedging of future inven-
24 tories, to mitigate the risk of severe price increases

1 to consumers and to reduce adverse impacts on the
2 regional and national economies; and

3 “(2) submit the voluntary plans to the Sec-
4 retary not later than 180 days after the date of en-
5 actment of this section.

6 “(b) CERTIFICATION AND REPORT.—

7 “(1) IN GENERAL.—If the Secretary determines
8 that a plan submitted under subsection (a)—

9 “(A) is likely to achieve the purposes of
10 the Stable Oil Supply Home Heating Act, the
11 Secretary shall so certify, and the importer, re-
12 finer, or wholesaler shall implement the plan; or

13 “(B) is not likely to achieve the purposes
14 of the Stable Oil Supply Home Heating Act,
15 the Secretary shall issue a statement explaining
16 why the plan does not appear likely to achieve
17 those purposes.

18 “(2) REPORT.—Not later than 240 days after
19 the date of enactment of this section, the Secretary
20 shall submit to Congress a report describing the
21 findings and reasons for a certification or failure to
22 certify each plan submitted under subsection (a).

23 “(c) DEFENSE TO ANTITRUST ACTIONS.—

24 “(1) IN GENERAL.—There shall be available as
25 a defense to a civil or criminal action brought under

1 the antitrust laws (or any similar State law) with re-
2 spect to an action taken by an importer, refiner, or
3 wholesaler the fact that—

4 “(A) the action is taken—

5 “(i) in the course of developing a vol-
6 untary plan for submittal under subsection
7 (a); or

8 “(ii) in the course of carrying out the
9 voluntary plan, if the voluntary plan is cer-
10 tified by the Secretary under subsection
11 (b)(1)(A), but only to the extent specified
12 in or within the reasonable contemplation
13 of the voluntary plan;

14 “(B) the action is not taken for the pur-
15 pose of injuring competition; and

16 “(C) the importer, refiner, or wholesaler is
17 in compliance with this section and section
18 157B.

19 “(2) BURDEN OF PROOF.—A person asserting
20 the defense under paragraph (1) shall have the bur-
21 den of proof, except that the burden shall be on the
22 person against which the defense is asserted with re-
23 spect to whether an action is taken for the purpose
24 of injuring competition.

1 “(d) APPLICABILITY.—The requirements of this sec-
2 tion and section 157B shall not apply to an importer or
3 refiner whose total petroleum storage capacity is less than
4 50,000 barrels.

5 “(e) REPORT.—Not later than 1 year after the date
6 of enactment of this section, and annually thereafter, the
7 Secretary shall submit to Congress a report describing the
8 results of the implementation of all voluntary plans cer-
9 tified under this section, including specific compliance by
10 importers, refiners, and wholesalers that serve the North-
11 east market with respect to the adequacy of the home
12 heating oil supply.

13 **“SEC. 157B. HOME HEATING OIL RESERVE FOR THE NORTH-**
14 **EAST.**

15 “(a) ESTABLISHMENT OF PRIVATE HOME HEATING
16 OIL RESERVES.—If, after the expiration of 240 days after
17 the date of enactment of this section, a certified plan de-
18 scribed in section 157A has not been implemented in ac-
19 cordance with that section for an importer, refiner, or
20 wholesaler that stores heating oil for sale in the Northeast,
21 not later than 300 days after the date of enactment of
22 this section, the Secretary shall issue an order requiring
23 the establishment of a private home heating oil reserve for
24 the Northeast in accordance with this section.

25 “(b) INVENTORY.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the Secretary shall periodically monitor
3 supply levels as necessary to ensure that each im-
4 porter, refiner, and wholesaler of heating oil for sale
5 in the Northeast shall have in inventory and readily
6 available to retailers or consumers in the Northeast
7 a quantity of home heating oil that the Secretary de-
8 termines is equal to the quantity that each importer,
9 refiner, or wholesaler may reasonably be expected to
10 require to supply the needs of its customers during
11 the present or following winter season without sub-
12 jecting consumers to sudden price increases that are
13 due in part to inadequate buildup of heating oil in-
14 ventories.

15 “(2) INCREASED INVENTORY.—If the Secretary
16 determines under paragraph (1) that an inventory of
17 home heating oil is insufficient, the Secretary shall
18 direct an importer, refiner, or wholesaler to acquire,
19 store, and maintain in readily available inventories
20 any quantity of home heating oil that the Secretary
21 determines to be necessary to supply home heating
22 oil needs in the Northeast without subjecting con-
23 sumers to sudden price increases that are due in
24 part to inadequate buildup of heating oil inventories.

1 “(3) LIMITATION.—The Secretary shall not re-
2 quire any importer, refiner, or wholesaler to store
3 any product under this subsection in a quantity
4 greater than 95 percent of the average storage ca-
5 pacity for heating oil reasonably available to the im-
6 porter, refiner, or wholesaler during the preceding 2
7 years.

8 “(4) REGULATIONS.—As soon as practicable
9 after the date of enactment of this section, the Sec-
10 retary shall promulgate regulations necessary to
11 carry out this section, including regulations that—

12 “(A) establish civil penalties to enforce this
13 section; and

14 “(B) provide that the Secretary shall co-
15 operate with State energy authorities in car-
16 rying out this section.

17 “(c) EXCESS INVENTORY.—At the end of each winter
18 season, the Administrator of the Environmental Protec-
19 tion Agency shall take appropriate and reasonable action
20 to enable importers, refiners, and wholesalers of home
21 heating oil to sell any remaining excess inventories of
22 home heating oil that the importers, refiners, and whole-
23 salers may have.

24 “(d) IMPLEMENTATION.—In implementing this sec-
25 tion, the Secretary shall ensure, to the maximum extent

1 practicable, that the manner of implementation supports
2 the maintenance of an economically sound and competitive
3 petroleum industry.

4 “(e) REPORT.—Not later than 22 months after the
5 date of enactment of this section, the Secretary shall sub-
6 mit to Congress a report describing the results of the im-
7 plementation of this section and section 157A, including
8 specific compliance by importers, refiners, and wholesalers
9 subject to the requirements of this section and section
10 157A with respect to home heating oil supply buildup.”.

11 (b) TABLE OF CONTENTS AMENDMENT.—The table
12 of contents of the Energy Policy and Conservation Act is
13 amended by inserting after the item relating to section
14 157 the following items:

“Sec. 157A. Voluntary plans for home heating oil reserve.
“Sec. 157B. Home heating oil reserve for the Northeast.”.

