

Public Law 105–388
105th Congress

An Act

To extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes.

Nov. 13, 1998
[S. 417]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Energy Conservation Reauthorization Act of 1998”.

Energy
Conservation
Reauthorization
Act of 1998.
42 USC 6201
note.

SEC. 2. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

(a) STATE ENERGY CONSERVATION PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

“(f) For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

(b) SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

SEC. 3. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

SEC. 4. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) SUNSET.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking “five years after” and all that follows through “subsection (b)” and inserting “on October 1, 2003”.

(b) DEFINITION.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

“(1) The term ‘Federal agency’ means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.”.

SEC. 5. TECHNICAL AMENDMENTS.

(a) ENERGY POLICY AND CONSERVATION ACT.—The Energy Policy and Conservation Act is amended—

87 Stat. 871.

(1) in the table of contents—

(A) by striking “Sec. 301.” and all that follows through “Reports to Congress.”;

(B) by striking “efficiency” and inserting “conservation” in the item relating to section 325;

(C) by striking “and private labelers” in the item relating to section 326;

(D) by striking the items relating to part E of title III;

(E) by inserting after the items relating to part I of title III the following:

“PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

“Sec. 400AA. Alternative fuel use by light duty Federal vehicles.

“Sec. 400BB. Alternative fuels truck commercial application program.

“Sec. 400CC. Alternative fuels bus program.

“Sec. 400DD. Interagency Commission on Alternative Motor Fuels.

“Sec. 400EE. Studies and reports.”;

(F) by inserting “Environmental” after “Energy Supply and” in the item relating to section 505; and

(G) by striking the item relating to section 527;

(2) in section 321(1) (42 U.S.C. 6291(1))—

(A) by striking “section 501(1) of the Motor Vehicle Information and Cost Savings Act” and inserting “section 32901(a)(3) of title 49, United States Code”; and

(B) by striking the second period at the end thereof;

(3) in section 322(b)(2)(A) (42 U.S.C. 6292(b)(2)(A)) by inserting close quotation marks after “type of product”;

(4) in section 324(a)(2)(C)(ii) (42 U.S.C. 6294(a)(2)(C)(ii)) by striking “section 325(j)” and inserting “section 325(i)”;

(5) in section 325 (42 U.S.C. 6295)—

(A) by striking “paragraphs” in subsection (e)(4)(A) and inserting “paragraph”; and

(B) by striking “BALLASTS;” in the heading of subsection

(g) and inserting “BALLASTS”;

(6) in section 336(c)(2) (42 U.S.C. 6306(c)(2)) by striking “section 325(k)” and inserting “section 325(n)”;

(7) in section 345(c) (42 U.S.C. 6316(c)) by inserting “standard” after “meets the applicable”;

(8) in section 362 (42 U.S.C. 6322)—

(A) by inserting “of” after “of the implementation” in subsection (a)(1); and

(B) by striking “subsection (g)” and inserting “subsection (f)(2)” in subsection (d)(12);

(9) in section 391(2)(B) (42 U.S.C. 6371(2)(B)) by striking the period at the end and inserting a semicolon;

(10) in section 394(a) (42 U.S.C. 6371c(a))—

(A) by striking the commas at the end of paragraphs (1), (3), and (5) and inserting semicolons;

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

- (C) by striking the colon at the end of paragraph (6) and inserting a semicolon;
- (11) in section 400 (42 U.S.C. 6371i) by striking “(a)”;
- (12) in section 400D(a) (42 U.S.C. 6372c(a)) by striking the commas at the end of paragraphs (1), (2), and (3) and inserting semicolons;
- (13) in section 400I(b) (42 U.S.C. 6372h(b)) by striking “Secretary shall,” and inserting “Secretary shall”;
- (14) in section 400AA (42 U.S.C. 6374) by redesignating subsection (i) as subsection (h);
- (15) in section 503 (42 U.S.C. 6383)—
 - (A) by striking “with respect to” and inserting “with respect to” in subsection (b); and
 - (B) by striking “controlling” and inserting “, controlling,” in subsection (c)(1); and
- (16) in section 552(d)(5)(A) (42 U.S.C. 6422(d)(5)(A)) by striking “notion” and inserting “motion”.

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—The Energy Conservation and Production Act is amended—

(1) in the table of contents—

90 Stat. 1125.

(A) by striking “rules and regulations” and inserting “regulations and rulings” in the item relating to section 106; and

(B) by striking the item relating to section 207 and inserting the following:

“Sec. 207. State utility regulatory assistance.

“Sec. 208. Authorization of appropriations.”;

and

(2) in section 202 (42 U.S.C. 6802) by striking “(b) DEFINITIONS.—”.

(c) NATIONAL ENERGY CONSERVATION POLICY ACT.—The National Energy Conservation Policy Act is amended—

(1) in the table of contents—

90 Stat. 3206.

(A) by striking “, installation, and financing” and inserting “and installation” in the item relating to section 216;

(B) by striking “Ratings” and inserting “Rating Guidelines” in the item relating to part 6 of title II;

(C) by striking the item relating to section 304; and

(D) by striking “goals” and inserting “requirements” in the item relating to section 543;

(2) in section 216(d)(1)(C) (42 U.S.C. 8217(d)(1)(C)) by striking “explicitly” and inserting “explicitly”;

(3) in section 251(b)(1) (42 U.S.C. 8231(b)(1))—

(A) by striking “National Housing Act to projects” and inserting “National Housing Act) to projects”; and

(B) by striking “accure” and inserting “accrue”;

(4) in section 266 (42 U.S.C. 8235e) by striking “(17 U.S.C.” and inserting “(15 U.S.C.”; and

(5) in section 551(8) (42 U.S.C. 8259(8)) by striking “goothermal” and inserting “geothermal”.

SEC. 6. MATERIALS ALLOCATION AUTHORITY EXTENSION.

Section 104(b) of the Energy Policy and Conservation Act is amended by striking “(1) The authority” and all that follows through “(2)”.

50 USC app.
2071 note.

SEC. 7. BIODIESEL FUEL USE CREDITS.

(a) AMENDMENT.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211–13219) is amended by adding at the end the following new section:

42 USC 13220.

“SEC. 312. BIODIESEL FUEL USE CREDITS.

“(a) ALLOCATION OF CREDITS.—

“(1) IN GENERAL.—The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

“(2) EXCEPTIONS.—No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

“(A) for use in alternative fueled vehicles; or

“(B) that is required by Federal or State law.

“(3) AUTHORITY TO MODIFY PERCENTAGE.—The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

“(4) DOCUMENTATION.—A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

“(b) USE OF CREDITS.—

“(1) IN GENERAL.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

“(2) LIMITATION.—Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).

“(c) CREDIT NOT A SECTION 508 CREDIT.—A credit under this section shall not be considered a credit under section 508.

“(d) ISSUANCE OF RULE.—The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

“(e) COLLECTION OF DATA.—The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘biodiesel’ means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

“(2) the term ‘qualifying volume’ means—

“(A) 450 gallons; or

“(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.”.

(b) **TABLE OF CONTENTS AMENDMENT.**—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

106 Stat. 2776.

“Sec. 312. Biodiesel fuel use credits.”.

SEC. 8. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUEL VEHICLE PURCHASING REQUIREMENTS.

(a) **IN GENERAL.**—Section 310 of the Energy Policy Act of 1992 (42 U.S.C. 13218) is amended—

(1) by striking the heading and inserting the following:

“SEC. 310. REPORTS.”;

(2) by inserting “(a) **GENERAL SERVICE ADMINISTRATION PROGRAM REPORT.**—” before “Not later than”; and

(3) by adding at the end the following:

“(b) **COMPLIANCE REPORT.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, and annually thereafter for the next 14 years, the head of each Federal agency which is subject to this Act and Executive Order No. 13031 shall prepare, and submit to Congress, a report that—

Deadline.

“(A) summarizes the compliance by such Federal agency with the alternative fuel purchasing requirements for Federal fleets under this Act and Executive Order No. 13031; and

“(B) includes a plan of compliance that contains specific dates for achieving compliance using reasonable means.

“(2) **CONTENTS.**—

“(A) **IN GENERAL.**—Each report submitted under paragraph (1) shall include—

“(i) any information on any failure to meet statutory requirements or requirements under Executive Order No. 13031;

“(ii) (I) any plan of compliance that the agency head is required to submit under Executive Order No. 13031; or

“(II) if a plan of compliance referred to in subclause (I) does not contain specific dates by which the Federal agency is to achieve compliance, a revised plan of compliance that contains specific dates for achieving compliance; and

“(iii) any related information the agency head is required to submit to the Director of the Office of Management and Budget under Executive Order No. 13031.

“(B) **PENULTIMATE REPORT.**—The penultimate report submitted under paragraph (1) shall include an announcement that the report for the next year shall be the final report submitted under paragraph (1).

“(3) **PUBLIC DISSEMINATION OF REPORT.**—Each report submitted under paragraph (1) shall be made public, including—

Internet.

“(A) placing such report on a publicly available website on the Internet; and

Federal Register,
publication.

“(B) publishing the availability of the report, including such website address, in the Federal Register.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Energy Policy Act of 1992 contained in section 1(b) of that Act (106 Stat. 2776 et. seq.) is amended by striking the item relating to section 310 and inserting the following:

“Sec. 310. Reports.”.

Hawaii.

SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

“(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

“(1) DEFINITIONS.—In this subsection:

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

“(B) CATEGORY OF PETROLEUM PRODUCT.—The term ‘category of petroleum product’ means a master line item within a notice of sale.

“(C) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity that owns or controls a refinery that is located within the State of Hawaii.

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

“(E) INSULAR AREA.—The term ‘insular area’ means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(F) OFFERING.—The term ‘offering’ means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

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

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

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

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

“(iv) the procedures for submitting offers.

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

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

“(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

“(ii) submit one or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

“(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

“(3) LIMITATION ON QUANTITY.—

“(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

“(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

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

“(4) ADJUSTMENTS.—

“(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

“(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

“(i) less than 1 full tanker load; or

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

“(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that

requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

“(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum products at competitive sales.

“(7) ELIGIBLE ENTITIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

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

“(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

“(8) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the Governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.”.

42 USC 6241
note.

(b) REGULATIONS.—

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

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

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

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

42 USC 6241
note.

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

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

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

SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking “and 1997” each place it appears and inserting “1999, 2000, 2001, 2002 and 2003” in lieu thereof.

SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking “\$65,000,000” and inserting “\$140,000,000”.

(b) Section 1003(a) of such Act (42 U.S.C. 2296a-2) is amended by striking “\$415,000,000” and inserting “\$490,000,000”.

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g-1) is amended by striking “\$480,000,000” and inserting “\$488,333,333”.

Approved November 13, 1998.

LEGISLATIVE HISTORY—S. 417 (H.R. 4017):

HOUSE REPORTS: No. 105-727 accompanying H.R. 4017 (Comm. on Commerce).

SENATE REPORTS: No. 105-25 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): June 27, considered and passed Senate.

Vol. 144 (1998): Sept. 28, considered and passed House, amended, in lieu of H.R. 4017.

Oct. 8, Senate concurred in House amendments with an amendment.

Oct. 15, House concurred in Senate amendment.

