

# TO ADAPT TO CHANGING CRUDE OIL MARKET CONDITIONS

SEPTEMBER 25, 2015.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,  
submitted the following

## R E P O R T

together with

## DISSENTING VIEWS

[To accompany H.R. 702]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred  
the bill (H.R. 702) to adapt to changing crude oil market conditions,  
having considered the same, report favorably thereon with an  
amendment and recommend that the bill as amended do pass.

## CONTENTS

Purpose and Summary .....	Page 2
Background and Need for Legislation .....	2
Hearings .....	9
Committee Consideration .....	10
Committee Votes .....	10
Committee Oversight Findings .....	12
Statement of General Performance Goals and Objectives .....	12
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	12
Earmark, Limited Tax Benefits, and Limited Tariff Benefits .....	12
Committee Cost Estimate .....	12
Congressional Budget Office Estimate .....	12
Federal Mandates Statement .....	12
Duplication of Federal Programs .....	12
Disclosure of Directed Rule Makings .....	12
Advisory Committee Statement .....	13
Applicability to Legislative Branch .....	13
Section-by-Section Analysis of the Legislation .....	13
Changes in Existing Law Made by the Bill, as Reported .....	13

Dissenting Views .....	16
------------------------	----

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. FINDINGS.

The Congress finds that—

- (1) the United States has enjoyed a renaissance in energy production, establishing the United States as the world's leading oil producer;
- (2) the United States upholds a commitment to free trade and open markets and has consistently opposed attempts by other nations to restrict the free flow of energy; and
- (3) the United States should remove all restrictions on the export of crude oil, which will provide domestic economic benefits, enhanced energy security, and flexibility in foreign diplomacy.

#### SEC. 2. REPEAL.

Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) and the item relating thereto in the table of contents of that Act are repealed.

#### SEC. 3. NATIONAL POLICY ON OIL EXPORT RESTRICTION.

Notwithstanding any other provision of law, to promote the efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including fossil fuels, no official of the Federal Government shall impose or enforce any restriction on the export of crude oil.

#### SEC. 4. STUDY AND RECOMMENDATIONS.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall conduct a study and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate recommendations on the appropriate size, composition, and purpose of the Strategic Petroleum Reserve.

#### SEC. 5. SAVINGS CLAUSE.

Nothing in this Act limits the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) to prohibit exports.

### PURPOSE AND SUMMARY

H.R. 702, to adapt to changing crude oil market conditions, was introduced by Representative Joe Barton (R-TX) on February 4, 2015. The legislation would repeal section 103 of the Energy Policy and Conservation Act of 1975 and prohibit any restriction on the export of crude oil, except under emergency authority of the President. The legislation also would require the Secretary of Energy to conduct a study and make recommendations on the appropriate size, composition, and purpose of the Strategic Petroleum Reserve (SPR).

### BACKGROUND AND NEED FOR LEGISLATION

Forty years ago, Congress passed legislation in response to the Arab oil embargo restricting oil exports and establishing the Strategic Petroleum Reserve to release oil in response to energy supply interruptions. Today's energy security situation is much improved from that of the 1970's. Domestic energy production is nearing record levels, while import dependence and consumption are declining. The Committee believes that removing oil export restrictions likely would encourage additional domestic production and contribute to further reducing the nation's import dependence.

The United States is the world's number one producer of petroleum liquids, yet it maintains restrictions on the export of crude oil. Crude oil export restrictions run counter to the national inter-

est and deny substantial benefits to the U.S. and its allies and trading partners. While restrictions on the export of refined petroleum products have been lifted entirely, the export of crude oil remains generally prohibited, though some exceptions have been made through Executive Orders and Acts of Congress. For example, in certain circumstances, a Federal license can be obtained to export crude oil to Canada or to exchange crude oil with another country for an equal amount of petroleum products.

Restrictions on crude oil exports are a vestige of the past, originally intended to compliment a complicated system of oil price controls that were repealed decades ago. History has shown that attempts to control prices through government regulation generally have failed. In 1981, President Reagan eliminated the price controls program through Executive Order 12287, stating:

For more than 9 years, restrictive price controls have held U.S. oil production below its potential, artificially boosted energy consumption, aggravated our balance of payments problems, and stifled technological breakthroughs. Price controls have also made us more energy-dependent on OPEC nations [(Organization of Petroleum Exporting Countries)], a development that has jeopardized our economic security and undermined price stability at home.<sup>1</sup>

The Committee believes that crude oil export restrictions are detrimental to the national interest. Export restrictions impose costs on the economy, discourage additional domestic crude oil production, result in higher gasoline prices for consumers, and reduce competition in world oil markets.

Lifting all restrictions on crude oil exports would benefit the U.S. in many ways. Allowing crude oil exports would encourage continued growth and investment in our nation's oil production capacity, potentially creating thousands of new jobs and new supplies of stable energy, a reassuring symbol to our allies and trading partners. Crude oil exports also would improve the nation's balance of trade and reduce OPEC's monopoly power, significantly improving U.S. energy security and national security.

#### HISTORY OF CRUDE OIL EXPORT RESTRICTIONS

The U.S. has a long history of ill-conceived and abandoned attempts to control energy markets through government regulation. Throughout the last several decades, many of the policies enacted in an attempt to control the price and supply of energy commodities have been repealed. The existing restrictions on U.S. crude oil exports were conceived in the 1970's, an era of energy scarcity when the U.S. was faced with projections of rising fuel demand, falling crude oil production, and increasing reliance on imports. When the Arab members of OPEC imposed an oil embargo from October 1973 to March 1974, it exposed the nation's vulnerability, resulting in fuel shortages and price spikes.

Congress responded to the embargo with new laws attempting to control the price and supply of crude oil. The Emergency Petroleum Allocation Act of 1973, and later the Energy Policy and Conserva-

---

<sup>1</sup> See Weekly Compilation of Presidential Documents, vol. 17, no. 4 (January 28, 1981).

tion Act of 1975 (EPCA), led to price controls on domestic crude oil, tariffs on imported crude oil, and restrictions on petroleum exports.<sup>2</sup> The lessons learned from these failed energy policy initiatives were explored during the Subcommittee on Energy and Power's December 11, 2014 hearing entitled "The Energy Policy and Conservation Act of 1975: Are We Positioning America for Success in an Era of Energy Abundance?" In his testimony, Dr. Charles Ebinger, Senior Fellow at the Brookings Institution, testified that "in reviewing the history of U.S. energy policy since the early 1970's, it is apparent that whenever the U.S. government has tried to favor a particular fuel absent market realities there have been unintended consequences which have been deleterious to the U.S. economy and U.S. energy security."

Mr. Lucian Pugliaresi, President of the Energy Policy Research Foundation, agreed with Dr. Ebinger, explaining that "[o]ften these policies, in an attempt to either promote the development of alternatives to petroleum or to insulate consumers from price volatility, prevented more productive responses from both consumers and producers."

#### CURRENT LAW AFFECTING CRUDE OIL EXPORTS AND LICENSING PROCEDURES

Section 103 of EPCA authorizes the President to restrict exports of coal; petroleum products; natural gas; petrochemical feedstocks; and supplies of material or equipment determined necessary to maintain further exploration, production, refining or transportation of energy supplies, or for the construction or maintenance of energy facilities within the U.S.<sup>3</sup> Through modifications to EPCA, current U.S. policy allows unrestricted exports of coal, petroleum products, petrochemical feedstocks, and related supplies and materials. Exports of natural gas are permitted on a case-by-case basis. Today, only crude oil exports are restricted under the authority provided in section 103 of EPCA.

Under section 103 of EPCA, the President is provided with the authority to promulgate rules to prohibit the export of crude oil, with exceptions where the President determines such exports to be "consistent with the national interest."<sup>4</sup> The Department of Commerce implements crude oil export restrictions and requires a license to export crude oil to all destinations, including Canada.<sup>5</sup> The licensing procedures allow for exports of crude oil from Alaska's Cook inlet, exports of oil to Canada for consumption or use therein, exports in connection with refining or exchange of strategic petroleum reserve oil, exports of certain California heavy crude oil, exports consistent with certain international agreements, exports consistent with Presidential findings, and exports of foreign origin crude oil not comingled with domestic crude. While the U.S. is exporting more crude oil than ever before, exports amounted to only about four percent of total U.S. production in 2014.<sup>6</sup>

<sup>2</sup>See P.L. 93-159 and P.L. 94-163.

<sup>3</sup>See 42 U.S.C. § 6212.

<sup>4</sup>See 42 U.S.C. § 6212(b)(1).

<sup>5</sup>See 15 C.F.R. § 754.2.

<sup>6</sup>See U.S. Energy Information Administration, U.S. Exports of Crude Oil. U.S. exports averaged 351,000 bbl/d in 2014. *See also* U.S. Energy Information Administration, U.S. Field Production of Crude Oil. U.S. field production of crude oil averaged 8,719,000 bbl/d in 2014.

## TRENDS IN U.S. CRUDE OIL SUPPLY AND DISPOSITION

Crude oil production in the U.S. has been growing rapidly in recent years. According to the U.S. Energy Information Administration (EIA), crude oil production exceeded 9.6 million barrels per day (bbl/d) in April 2015, nearly doubling the amount produced in 2008 and setting a record dating back to 1971.<sup>7</sup> At the same time, imports have fallen dramatically. Approximately twenty-seven percent of the petroleum consumed in the U.S. was imported, the lowest annual average since 1985. Last year, the U.S. exported about four million barrels per day of crude oil and petroleum products, resulting in net imports of about five million bbl/d.<sup>8</sup>

With no export restrictions in place, the U.S. is the world's leading exporter of refined petroleum products. There are 137 refineries in the U.S. with a total operable capacity of about eighteen million barrels per day of petroleum.<sup>9</sup> Each refinery has its own unique configuration designed to economically optimize the use of certain crude oil blends. Many of the refineries in the U.S. are optimized to process heavier oils than most of the shale oil produced in the U.S., although today, they are running at record level to accommodate the increasing production.<sup>10</sup> However, transportation bottlenecks and limited refinery demand have placed downward pressure on domestic crude oil prices.

## CHANGING DYNAMICS OF WORLD ENERGY MARKETS AND THE DOMESTIC CRUDE OIL PRICE DISCOUNT

Historically, U.S. oil prices have been in line with international prices. However, in recent years, U.S. crude oil has sold at a substantially lower price than international levels, in part because of crude oil export restrictions. The Brent-WTI spread, the difference between the prices of Brent crude from the North Sea (international benchmark) and West Texas Intermediate crude (WTI) (domestic benchmark) is expected to remain around \$6/bbl into the foreseeable future.<sup>11</sup>

These changing market dynamics were addressed in testimony before the Subcommittee on Energy and Power on March 3, 2015. For example, Mr. Scott Sheffield, Chairman and Chief Executive Officer of Pioneer Natural Resources Company remarked:

Prices for U.S. crude oil continue to weaken, compared to international prices. A massive buildup of oil is occurring in the United States, surpassing the volumes that domestic refineries are interested in buying. Storage of domestic crude oil is at an 80-year seasonal high—over 434 million barrels—and storage capacity is running out. This is symptomatic of the combination of the export ban and

<sup>7</sup> See U.S. Energy Information Administration, U.S. Field Production of Crude Oil. U.S. field production of crude oil averaged 9,612,000 bbl/d in April of 2015, an amount not recorded since May of 1971; production averaged 5,001,000 bbl/d in 2008.

<sup>8</sup> See U.S. Energy Information Administration, U.S. Net Imports by Country. U.S. net imports of crude oil and petroleum products averaged 5,065,000 bbl/d in 2014. *See also* U.S. Energy Information Administration, Exports. Total exports of crude oil and petroleum products averaged 4,176,000 bbl/d in 2014; of that, finished petroleum products averaged 2,717,000 bbl/d and crude oil averaged 351,000 bbl/d.

<sup>9</sup> See U.S. Energy Information Administration, Number and Capacity of Petroleum Refineries.

<sup>10</sup> See U.S. Energy Information Administration, Refinery Utilization and Capacity. In 2014, an average of 90.4% of operable capacity at U.S. refineries was utilized; gross inputs to refineries averaged 16,156,000 bbl/d in the same period.

<sup>11</sup> See U.S. Energy Information Administration, Annual Energy Outlook 2015.

the limited appetite for light tight oil among the only customers we can access. Absent the ban, U.S. producers could be selling their crude oil abroad and driving global crude oil prices lower by increasing global supply.

The substantial increase in U.S. crude oil production has spurred questions about how the new supplies will be absorbed. In his testimony on March 3, 2015, Mr. Charles Drevna, President of the American Fuel and Petrochemical Manufacturers observed that “[r]efiners have already started to adapt to increased domestic production by reducing imports, increasing utilization, changing the crude mix, and investing in additional refinery changes. The U.S. has reduced crude oil imports from outside North America from 46 percent in 2007 to 23 percent in 2014.”

Mr. Drevna testified further that “[t]he enormous growth in U.S. crude oil production has naturally led to questions about whether it is time for the U.S. to address the crude oil export ban. AFPM believes that the free market should drive all energy policy and does not oppose lifting the ban.”

The price differential between domestic crude oil and the international crude oil benchmarks also was discussed in the Subcommittee on Energy and Power’s July 9, 2015 hearing. Dr. David Montgomery, an economist testifying on behalf of NERA Economic Consulting, stated:

The clearest evidence that restrictions on exports are still limiting oil production is the price of light oil produced from the Bakken and other tight formations continues to be depressed below comparable crudes on the world market. This type of oil needs to be exported, because refineries in the U.S. were not designed to use the quantities of light crude that we now produce without costly changes in operation or equipment.

Dr. Montgomery testified further:

The “actual prices available at the wellhead” that concern EIA are still being depressed by export restrictions, which as a result continue to hold down U.S. production.

The differential between prices of Bakken oil in North Dakota and prices that are indicative of international oil prices gives an indication of how much oil export restrictions are depressing prices and production. That differential would be reduced if restrictions were lifted, providing the needed incentive for production to increase.

#### BENEFITS OF REMOVING U.S. CRUDE OIL EXPORT RESTRICTIONS

Lifting all restrictions and allowing U.S. exports to reach global oil markets would strengthen the U.S. economy, improve the nation’s energy security, and enhance national security. This consensus is supported by several studies from government, academic, and private sector experts, which were submitted for the record during the Subcommittee on Energy and Power’s July 9, 2015 hearing.<sup>12</sup> The Subcommittee also received testimony with supporting

<sup>12</sup>See, e.g. U.S. Government Accountability Office, “Crude Oil Export Restrictions, Studies Suggest Allowing Exports Could Reduce Consumer Fuel Prices,” July 8, 2015; Energy Information Administration, “What Drives U.S. Gasoline Prices,” October, 30, 2014; The Brookings Insti-

examples where lifting the restrictions on exports was shown to be in the national interest.

*Economic benefits oil exports*

The Committee believes that allowing crude oil produced in the U.S. to reach a global customer base would provide broad economic benefits to the U.S. Unrestricted U.S. exports of crude oil would incentivize domestic production, which would spur economic investment and create jobs, benefitting communities across the country. The increased production likely would lower gasoline prices for consumers while improving our balance of trade and providing steady tax revenue to State and local governments.

Reports by the U.S. Government Accountability Office (GAO) indicate that removing export restrictions would increase domestic production up to 3.3 million barrels per day on average from 2015 through 2035, and lower consumer fuel prices from 1.5–13 cents per gallon. GAO reports also suggest that removing restrictions is expected to increase the size of the economy, with implications for employment, investment, public revenue, and trade.<sup>13</sup>

EIA's examination of the implications of removing restrictions on U.S. crude oil exports supports the findings by GAO and those that emerged in the Subcommittee's hearing record. In a summary report following a series of studies, EIA stated that "petroleum prices in the United States, including gasoline prices, would be either unchanged or slightly reduced by the removal of current restrictions on crude oil exports."<sup>14</sup>

During the Subcommittee on Energy and Power's July 9, 2015 hearing, Dr. David Montgomery, Senior Vice President at NERA Economic Consulting, summarized the effects of U.S. oil export restrictions in terms of the harm it imposes on the U.S. economy. Dr. Montgomery testified that "[t]he NERA study found that across all the scenarios we examined, restrictions on oil exports reduce U.S. GDP, slow down job growth and recovery from the recession, and cause higher gasoline prices."

Dr. Montgomery testified further that "I still conclude that restrictions on U.S. crude oil exports impose those costs on the U.S.

tution, "Changing Markets: Economic Opportunities from Lifting the U.S. Ban on Crude Oil Exports," September 2014; Heritage Foundation, "Time to Lift the Ban on Crude Oil Exports," May 15, 2014; Council on Foreign Relations, "The Case for Allowing U.S. Crude Oil Exports," July 2013; Center for Strategic & International Studies, "Delivering the Goods: Making the Most of North America's Evolving Oil Infrastructure," February 2015; Cato Institute, "License to Drill: The Case for Modernizing America's Crude Oil and Natural Gas Export Licensing Systems," February 21, 2013; Aspen Institute, "Lifting the Crude Oil Export Ban: The Impact on U.S. Manufacturing," October 2014; Center for New American Security, "Energy Rush: Shale Production and U.S. National Security," February 2014; Resources for the Future, "Lifting the Oil Export Ban: What Would it Mean for U.S. Gasoline Prices?" April 11, 2014; Peterson Institute for International Economics, "U.S. Policies toward Liquefied Natural Gas and Oil Exports: An Update," July 2014; ICF International, "The Impacts of U.S. Oil Export on Domestic Crude Production, GDP, Employment, Trade, and Consumer Costs," March 31, 2014; IHS, "U.S. Crude Oil Export Decision," 2014 and "Crude Oil Supply Chain," 2015; NERA Economic Consulting, "Economic Benefits of Lifting the Crude Oil Export Ban," September 2014; Harvard Business School, "America's Unconventional Opportunity," 2015; Rice University Baker Institute for Public Policy, "To Lift or Not to Lift" The U.S. Crude Oil Export Ban: Implication for Price and Energy Security," June 18, 2015; and Columbia University SIPA Center on Global Energy Policy, "Navigating the U.S. Oil Export Debate," January 2015.

<sup>13</sup> See U.S. Government Accountability Office, "Changing Crude Oil Markets: Allowing Exports Could Reduce Consumer Fuel Prices, and the Size of the Strategic Reserves Should Be Reexamined," October 20, 2014. See also U.S. Government Accountability Office, "Crude Oil Export Restrictions: Studies Suggest Allowing Exports Could Reduce Consumer Fuel Prices," July 8, 2015.

<sup>14</sup> See U.S. Energy Information Administration, "Effects of Removing Restrictions on U.S. Crude Oil Exports," September 1, 2015. See also "What Drives Gasoline Prices," October 2014; and "Implications of Increasing Light Oil Production for U.S. Refining," May 2015.

economy, lead to less crude oil production in the U.S. and cause higher gasoline prices for consumers than there would be if these restriction were lifted.”

*Energy security benefits of oil exports*

Lifting restrictions on U.S. crude oil exports has been found by GAO and others to improve the U.S. balance of trade and reduce reliance on imports.<sup>15</sup> Witnesses during the Subcommittee on Energy and Power’s July 7, 2015 hearing agreed. Dr. David Montgomery explained the relationship between crude export restrictions and import dependence:

Removing restrictions on oil exports would improve our balance of trade and reduce import dependence . . . Our balance of trade and import dependence are functions of net imports, that is the difference between the amount exported and the amount imported . . . Thus, unless refined product consumption increases, any increase in crude production reduces net imports.

*National security benefits of oil exports*

The U.S. should lead by example when it comes to energy. Removing restrictions on oil exports likely would result in increased domestic production, which would, in turn, add supply to the market and reduce global price volatility. U.S. oil exports also would allow U.S. allies in Europe and Asia to diversify their crude oil supply away from OPEC and Russia. Allowing U.S. oil exports also would strengthen America’s economic power, furthering our global influence.

The impact of lifting crude oil export restrictions on national security and energy diplomacy were examined in the Subcommittee on Energy and Power’s March 3, 2015 hearing. For example, Ms. Amy Jaffe testified that “[i]n the global context, hoarding energy supplies inside our borders sends the message to other countries that they too should be hoarding their energy. Such attitudes were precisely what worsened the economic damage to the global economy during the 1979 oil crisis.”

During the Subcommittee on Energy and Power hearing on July 9, 2015, Ambassador Petr Gandalovic, Ambassador of the Czech Republic to the United States, gave his nation’s perspective as a U.S. ally:

The larger the number of stable democracies among the world energy exporters, the more robust the energy security of the Czech Republic and the European Union will be.

U.S. energy exports would send a strong signal to the world community that democracies stick together.

EXCEPTIONS WARRANTING EXPORT RESTRICTIONS

The Committee believes that the U.S. should adhere to a general policy allowing for unrestricted crude oil exports in order to promote the efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources. The Committee recognizes that export restrictions may be warranted in special cir-

<sup>15</sup> See U.S. Government Accountability Office, “Changing Crude Oil Markets: Allowing Exports Could Reduce Consumer Fuel Prices, and the Size of the Strategic Reserves Should Be Reexamined,” October 20, 2014.



cumstances for reasons of national security. H.R. 702 is not intended to limit the authority of the President to prohibit exports in such circumstances.

#### STRATEGIC PETROLEUM RESERVE

The Strategic Petroleum Reserve was authorized by EPCA to provide strategic and economic security against a supply interruption and fulfill U.S. obligations under the International Energy Program.<sup>16</sup> The SPR is a network of underground storage caverns at four sites in Louisiana and Texas. The SPR currently holds about 695 million barrels of oil, representing the largest stockpile of petroleum in the world. The SPR holds the equivalent of 137 days of import protection based on 2014 net petroleum imports, while the U.S. commitment to the International Energy Agency is ninety days of import protection.

The infrastructure and equipment to support a drawdown across the SPR is both large and complex. Given the changes in U.S. and international energy markets, and the fact that many of the SPR's facilities are reaching the end of their design life, the comprehensive review directed by H.R. 702 is warranted. The state of the SPR was a focus of the Subcommittee on Energy and Power's April 30, 2015 hearing. Assistant Secretary Christopher Smith, Department of Energy, testified in support of such a study, stating:

The global environment in which [the SPR] operates has changed markedly since its creation in the 1970's. At that time, the mission of the SPR was to avoid "national energy supply shortages" (i.e. a loss of supply to U.S. refineries). Today, the impacts of an overall supply disruption of global oil markets would have the same effect on domestic petroleum prices, regardless of U.S. oil import levels or whether or not U.S. refineries import crude oil from disrupted countries.

In response to these changing dynamics, the Department has initiated work on a comprehensive long-term strategic review of the SPR. The SPR will examine future SPR requirements regarding the size, composition, and geographic location of the Reserve; and determine the impact of these requirements on future SPR surface, below-ground, and distribution infrastructure.

#### HEARINGS

The Subcommittee on Energy and Power held a legislative hearing on H.R. 702 on July 9, 2015, and prior hearings examining crude oil export restrictions and the Strategic Petroleum Reserve. The hearings and witnesses included the following:

On July 9, 2015, the Subcommittee held a hearing entitled "H.R. 702, Legislation to Prohibit Restrictions on the Export of Crude Oil" and received testimony from:

- Peter Gandalogic, Ambassador to the United States, Czech Republic;
- Mark Kreinbuhl, Group President, The Gorman-Rupp Company;

---

<sup>16</sup> See 42 U.S.C. § 6234

- Kirk Lippold, Commander, USN (Ret.), President, Lippold Strategies; and
- David Montgomery, Ph.D., Senior Vice President, NERA Economic Consulting.

On April 30, 2015, the Subcommittee on Energy and Power held a hearing entitled “Strategic Petroleum Reserve Discussion Draft and Title IV Energy Efficiency” and received testimony from:

- The Honorable Christopher A. Smith, Assistant Secretary for Fossil Energy, U.S. Department of Energy.

On March 3, 2015, the Subcommittee held a hearing entitled “21st Century Energy Markets: How the Changing Dynamics of World Energy Markets Impact our Economy and Energy Security” and received testimony from:

- The Honorable Adam Sieminski, Administrator, U.S. Energy Information Administration;
- John Kingston, President, McGraw Hill Financial Global Institute;
- Amy Jaffe, Executive Director, Energy and Sustainability, University of California, Davis;
- Scott Sheffield, Chairman and Chief Executive Officer, Pioneer Natural Resources;
- Charles Drevna, President, American Fuel & Petrochemical Manufacturers; and
- Graeme Burnett, Senior Vice President for Fuel Optimization, Delta Airlines.

On December 11, 2014, the Subcommittee on Energy and Power held a hearing entitled “The Energy Policy and Conservation Act of 1975: Are We Positioning America for Success in an Era of Energy Abundance?” and received testimony from:

- The Honorable Adam Sieminski, Administrator, U.S. Energy Information Administration;
- Lucian Pugliaresi, President, Energy Policy Research Foundation, Inc.;
- Charles Ebinger, Ph.D., Senior Fellow, Energy Security Initiative, The Brookings Institution; and
- Deborah Gordon, Director, Energy and Climate Program, Carnegie Endowment for International Peace.

#### COMMITTEE CONSIDERATION

On September 10, 2015, the Subcommittee on Energy and Power met in open markup session to consider H.R. 702, and forwarded the bill to the full Committee, without amendment, by a voice vote. On September 17, 2015, Committee on Energy and Commerce met in open markup session and ordered H.R. 702 reported to the House, as amended, by a record vote of 31 yeas and 19 nays.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE -- 114TH CONGRESS  
ROLL CALL VOTE # 22**

**BILL: H.R. 702.** to adapt to changing crude oil market conditions

**AMENDMENT:** A motion by Mr. Upton to order H.R.702 favorably reported to the House, as amended  
(Final Passage)

**DISPOSITION: AGREED TO,** by a roll call vote of 31 yeas and 19 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton	X			Mr. Pallone		X	
Mr. Barton	X			Mr. Rush		X	
Mr. Whitfield	X			Ms. Eshoo		X	
Mr. Shimkus	X			Mr. Engel		X	
Mr. Pitts	X			Mr. Green	X		
Mr. Walden	X			Ms. DeGette		X	
Mr. Murphy	X			Ms. Capps		X	
Mr. Burgess	X			Mr. Doyle		X	
Mrs. Blackburn				Ms. Schakowsky		X	
Mr. Scalise				Mr. Butterfield			
Mr. Latta	X			Ms. Matsui		X	
Mrs. McMorris Rodgers				Ms. Castor		X	
Mr. Harper	X			Mr. Sarbanes		X	
Mr. Lance	X			Mr. McNerney		X	
Mr. Guthrie	X			Mr. Welch		X	
Mr. Olson	X			Mr. Lujan		X	
Mr. McKinley	X			Mr. Tonko		X	
Mr. Pompeo	X			Mr. Yarmuth		X	
Mr. Kinzinger	X			Ms. Clarke		X	
Mr. Griffith	X			Mr. Loeb sack		X	
Mr. Bilirakis	X			Mr. Schrader	X		
Mr. Johnson	X			Mr. Kennedy		X	
Mr. Long	X			Mr. Cardenas	X		
Mrs. Ellmers	X						
Mr. Bueshon	X						
Mr. Flores	X						
Mrs. Brooks	X						
Mr. Mullin	X						
Mr. Hudson	X						
Mr. Collins	X						
Mr. Cramer	X						

09-17-2015

### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held hearings and made findings that are reflected in this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 702 is to amend the Energy and Policy Conservation Act to prohibit the Federal Government from imposing or enforcing any restriction on the export of crude oil.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 702, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 702 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

At the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 702 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 702 specifically directs to be completed no rule makings within the meaning of 5 U.S.C. 551.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Findings*

Section 1 would include findings that the United States:

- Has enjoyed a renaissance in energy production, establishing the United States as the world's leading oil producer;
- Upholds a commitment to free trade and open markets and has consistently opposed attempts by other nations to restrict the free flow of energy; and
- Should remove all restrictions on the export of crude oil, which will provide domestic economic benefits, enhanced energy security, and flexibility in foreign diplomacy.

*Section 2. Repeal*

Section 2 would repeal section 103 of the Energy Policy and Conservation Act of 1975, relating to the authority of the President to restrict the export of coal, petroleum products, natural gas, or petrochemical feedstocks.

*Section 3. National policy on oil export restriction*

Section 3 would provide that, notwithstanding any other provision of law, to promote the efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including fossil fuels, no official of the Federal Government shall impose or enforce any restriction on the export of crude oil.

*Section 4. Study and recommendations*

Section 4 would direct the Secretary of Energy to conduct a study on the appropriate size, composition, and purpose of the Strategic Petroleum Reserve.

*Section 5. Savings clause*

Section 5 states that nothing in this Act limits the authority of the President under the Constitution, the International Emergency Economic Powers Act, the National Emergencies Act, or Part B of title II of the Energy Policy and Conservation Act to prohibit exports.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

## ENERGY POLICY AND CONSERVATION ACT

\* \* \* \* \*

### TABLE OF CONTENTS

\* \* \* \* \*

#### TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

##### PART A—DOMESTIC SUPPLY

Sec. 101. Coal conversion.

【Sec. 103. Domestic use of energy supplies and related materials and equipment.】

\* \* \* \* \*

#### TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

##### PART A—DOMESTIC SUPPLY

\* \* \* \* \*

#### 【DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

【SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

【(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

【(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

【(b)(1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

【(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

【(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1979 (but without regard to the phrase “and to reduce the serious inflationary impact of foreign demand” in section 3(2)(C) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

[(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

[(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

[(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

[(3) the historical trading relations of the United States with Canada and Mexico.

[(e)(1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rule-making or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

[(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

[(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

[(f) The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b).]

\* \* \* \* \*

## DISSENTING VIEWS

H.R. 702, a bill “to adapt to changing crude oil market conditions” was introduced in light of the growing interest in lifting the long-standing prohibition on the export of crude oil from the U.S., due to growing domestic supply and declining prices for producers. The extreme approach taken by this bill not only repeals current crude export restrictions, but also ensures that no export restrictions—for any reason—could be implemented or enforced in the future. Beyond incentivizing a major increase in domestic oil production, the vaguely drafted provisions of the bill could have potentially vast consequences for consumers, the environment and climate change, and national security.

### BACKGROUND

The Energy Policy and Conservation Act of 1975 (EPCA) is the primary statute restricting the export of domestically produced crude oil. EPCA was enacted in the wake of the 1973 embargo of crude oil deliveries to the U.S. by the Organization of Arab Petroleum Exporting Countries (OPEC). The embargo resulted in rapid increases in the price of imported crude oil, raising concerns about the scarcity of domestic oil resources and the U.S. reliance on foreign oil.<sup>1</sup>

EPCA includes several provisions intended to mitigate the impact of disruptions in the supply of petroleum products on the U.S. The law directs the President to prohibit the export of crude oil and natural gas produced in the United States, unless doing so is determined to be in the national interest and consistent with the purposes of EPCA. The law also authorizes the Strategic Petroleum Reserve (SPR) for the storage of up to 1 billion barrels of petroleum products.<sup>2</sup>

The Department of Commerce’s Bureau of Industry and Security (BIS) is responsible for regulating crude oil exports by issuing licenses to interested companies.<sup>3</sup> In accordance with EPCA’s general prohibition on crude oil exports and regulations issued pursuant to the 1979 Export Administration Act, BIS will only approve export licenses for the following transactions:

- Exports from Alaska’s Cook Inlet;
- Exports to Canada for consumption or use therein;
- Exports in connection with refining or exchange of SPR oil;

<sup>1</sup> Congressional Research Service, *The Strategic Petroleum Reserve: Authorization, Operation, and Drawdown Policy* (Aug. 27, 2013) (R42460) (online at [www.crs.gov/pdfloader/R42460](http://www.crs.gov/pdfloader/R42460)). The price of imported crude oil rose from roughly \$4 per barrel in the last quarter of 1973 to an average price of \$12.50 per barrel in 1974.

<sup>2</sup> Congressional Research Service, *The Strategic Petroleum Reserve: Authorization, Operation, and Drawdown Policy* (Aug. 27, 2013) (R42460) (online at [www.crs.gov/pdfloader/R42460](http://www.crs.gov/pdfloader/R42460)).

<sup>3</sup> Congressional Research Service, *U.S. Oil Imports and Exports* (Apr. 4, 2012) (R42465) (online at [www.crs.gov/pdfloader/R42465](http://www.crs.gov/pdfloader/R42465)).



- Exports of heavy California crude oil up to an average of 25,000 barrels per day (b/d);
- Exports that are consistent with international agreements;
- Exports that are consistent with findings made by the President; and
- Exports of foreign-origin crude that has not been commingled with U.S. crude oil.<sup>4</sup>

BIS also considers export license applications for exchanges involving crude oil on a case-by-case basis. BIS typically approves these export licenses only if the exchange is temporary, or under specific exceptional circumstances.<sup>5</sup>

Over the past several years, the number of approved applications and the level of crude oil exports have steadily increased. The number of approved crude oil license applications grew from 31 approved applications in FY 2008 to 189 approved applications in FY 2014.<sup>6</sup> In the first five months of 2015 crude exports have averaged 491,000 b/d, going primarily to Canada.<sup>7</sup>

#### A. Crude oil production

Domestic crude oil production has increased significantly over the past few years, reversing a decline that began in 1986. According to the U.S. Energy Information Administration (EIA) U.S. crude oil production increased from 5.1 million b/d in 2007 to an estimated 9.4 million b/d in the first half of 2015.<sup>8</sup> EIA currently projects crude oil production to average 9.2 million b/d in 2015, and then drop to 8.8 million b/d in 2016.<sup>9</sup> EIA also notes that tight oil development is still at an early stage, and that changes in U.S. crude oil production can be affected by technological advances which allow production to occur in potentially high-yielding tight formations.

However, EIA projections suggest that the recent gains in tight oil production may be temporary. EIA projects that domestic production slows after 2015, and expects that “after 2020, tight oil production declines, as drilling moves into less productive areas.”<sup>10</sup>

In its 2015 Annual Energy Outlook Reference Case, EIA projects all domestic crude production to peak at 10.6 million b/d in 2020.<sup>11</sup> If the price of oil remains well below \$100 per barrel, EIA projects domestic production to only reach 10 million b/d in the same year.<sup>12</sup> Should domestic production significantly expand like in the

<sup>4</sup> 15 CFR § 754.2(b)(1).

<sup>5</sup> *Id.* at (b)(2).

<sup>6</sup> Congressional Research Service, *U.S. Crude Oil Export Policy: Background and Considerations*, at 10 (Dec. 31, 2014) (R43442) (online at [www.crs.gov/pdfloader/R43442](http://www.crs.gov/pdfloader/R43442)).

<sup>7</sup> U.S. Energy Information Administration, *Effects of Removing Restrictions on U.S. Crude Oil Exports* (Sept. 2, 2015) (online at [www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf](http://www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf)); U.S. Energy Information Administration, *Exports by Destination* (online at [www.eia.gov/dnav/pet/PET\\_MOVE\\_EXPC\\_A\\_EPCO\\_EEX\\_MBBLPD\\_M.htm](http://www.eia.gov/dnav/pet/PET_MOVE_EXPC_A_EPCO_EEX_MBBLPD_M.htm)).

<sup>8</sup> U.S. Energy Information Administration, *Short-Term Energy Outlook September 2015*, at 7 (Sept. 9, 2015) (online at [www.eia.gov/forecasts/steo/pdf/steo\\_full.pdf](http://www.eia.gov/forecasts/steo/pdf/steo_full.pdf)).

<sup>9</sup> *Id.* at 6.

<sup>10</sup> U.S. Energy Information Administration, *U.S. Crude Oil Production to 2025: Updated Projection of Crude Types*, at 1 (May 29, 2015) (online at [www.eia.gov/analysis/petroleum/crudetypes/pdf/crudetypes.pdf](http://www.eia.gov/analysis/petroleum/crudetypes/pdf/crudetypes.pdf)).

<sup>11</sup> U.S. Energy Information Administration, *Annual Energy Outlook 2015*, at 18 (Apr. 2015) (online at [www.eia.gov/forecasts/aeo/pdf/0383\(2015\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2015).pdf)).

<sup>12</sup> *Id.*

“High Oil and Gas Resource” case, production could continue to climb to a high of 16.6 million b/d in 2040.<sup>13</sup>

### *B. U.S. refining capacity*

As of January 1, 2015, the United States had 140 operating refineries with a total crude oil processing capacity of roughly 18 million b/d.<sup>14</sup> Each refinery has its own unique configuration that is generally designed to economically optimize the use of a certain crude oil blend and the production of oil products that will maximize profit margins.<sup>15</sup> More than 50% of the refining capacity in the U.S. is located in the Gulf Coast region, where the refineries are configured to process heavy crude. Refining of light sweet crude is concentrated primarily on the east coast.<sup>16</sup>

### *C. Imports of crude oil*

Despite increased production, the U.S. remains heavily dependent on imports of crude oil. In June 2015, the U.S. imported an average of 6.9 million b/d of crude oil.<sup>17</sup> In 2014, U.S. imports declined to an estimated 26% of the petroleum it consumed.<sup>18</sup> This is the result of a variety of factors, including a rise in domestic oil production and a decreased demand for petroleum products—due to increased alternative fuel use, higher fuel efficiency standards and the overall economic downturn. EIA projects that net U.S. petroleum imports will fall to 21% of consumption in 2016, which would be the lowest level since 1969.<sup>19</sup>

Nearly the entire recent decline in crude oil imports has occurred in light sweet crude which fell roughly 85% between 2010 and June 2015.<sup>20</sup> Imports of light sweet crude to the U.S. Gulf Coast have been virtually eliminated.<sup>21</sup>

### *D. Volatility in global oil market*

Starting in the second half of 2014 the price of a barrel of oil fell rapidly. The price of futures contracts for West Texas Intermediate crude oil (WTI), the main U.S. benchmark oil price, fell from approximately \$100 per barrel in July 2014, to the current price of around \$46 per barrel.<sup>22</sup>

<sup>13</sup>*Id.* at ES-4.

<sup>14</sup>U.S. Energy Information Administration, *Refinery Capacity Report* (Jun. 18, 2015) (online at [www.eia.gov/petroleum/refinerycapacity/refcap15.pdf](http://www.eia.gov/petroleum/refinerycapacity/refcap15.pdf)).

<sup>15</sup>Congressional Research Service, *U.S. Crude Oil Export Policy: Background and Considerations* (Dec. 31, 2014) (R43442) (online at [www.crs.gov/pdf/loader/R43442](http://www.crs.gov/pdf/loader/R43442)).

<sup>16</sup>U.S. Energy Information Administration, *This Week in Petroleum: Regional refinery trends continue to evolve* (Jan. 7, 2015) (online at [www.eia.gov/petroleum/weekly/archive/2015/150107/includes/analysis\\_print.cfm](http://www.eia.gov/petroleum/weekly/archive/2015/150107/includes/analysis_print.cfm)).

<sup>17</sup>U.S. Energy Information Administration, *U.S. Net Imports of Crude Oil* (Aug. 31, 2015) (online at [www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRNTUS2&f=M](http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRNTUS2&f=M)).

<sup>18</sup>U.S. Energy Information Administration, *Monthly Energy Review August 2015* (Aug. 26, 2015) (online at [www.eia.gov/totalenergy/data/monthly/](http://www.eia.gov/totalenergy/data/monthly/)). In 2005, U.S. imports made up 60% of consumption.

<sup>19</sup>U.S. Energy Information Administration, *Short Term Energy Outlook June 2015* (June 9, 2015) (online at [www.eia.gov/forecasts/steo/archives/Jun15.pdf](http://www.eia.gov/forecasts/steo/archives/Jun15.pdf)).

<sup>20</sup>U.S. Energy Information Administration, *Crude Imports, Imports of light sweet from World to Total U.S.* (accessed Sept. 8, 2015) (online at [www.eia.gov/beta/petroleum/imports/browser/#/?chartindexed=1&e=201504&f=m&g=g&s=201001&v=l&vs=PET\\_IMPORTSWORLD-US-G.M](http://www.eia.gov/beta/petroleum/imports/browser/#/?chartindexed=1&e=201504&f=m&g=g&s=201001&v=l&vs=PET_IMPORTSWORLD-US-G.M)).

<sup>21</sup>U.S. Energy Information Administration, *EIA tracking tool shows light-sweet crude oil imports to Gulf Coast virtually eliminated* (Feb. 10, 2015) (online at [www.eia.gov/todayinenergy/detail.cfm?id=19931](http://www.eia.gov/todayinenergy/detail.cfm?id=19931)).

<sup>22</sup>U.S. Energy Information Administration, *Cushing, OK Crude Oil Future Contract 1* (Sept. 24, 2015) (online at [www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=rclcl&f=d](http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=rclcl&f=d)).

Analysts have identified several factors contributing to the recent fall in global oil prices, including: decreased demand in Europe and Asia; significantly increased production by the world's major oil producers; and OPEC's decision to maintain current production levels in order to secure their share of the global market.<sup>23</sup> In fact, a recent analysis estimates that oil prices could fall as low as \$20 per barrel due to oversupply, and that U.S. production is "the likely near-term source of supply adjustment" since OPEC has maintained its market share by producing "above its 30-million-barrel-a-day quota for the past 15 months."<sup>24</sup>

ANALYSIS OF H.R. 702, A BILL "TO ADAPT TO CHANGING CRUDE OIL MARKET CONDITIONS"

The following is a brief summary and analysis of the legislation.

*A. Summary of H.R. 702*

H.R. 702 lifts the ban on crude exports by repealing the Presidential authority to restrict exports of coal, petroleum products, natural gas, or petrochemical feedstocks under section 103 of Energy Policy and Conservation Act of 1975 (EPCA).<sup>25</sup> Section 3 of the bill also establishes a national policy on oil export restriction, preventing any official of the federal government from imposing or enforcing any restriction on the export of crude oil.<sup>26</sup>

Section 4 requires the Secretary of Energy to conduct a study and develop recommendations on the "appropriate size, composition, and purpose of the Strategic Petroleum Reserve." The study and its accompanying recommendations would be due to the House Committee on Energy and Commerce and Senate Committee on Energy and Natural Resources within 120 days of enactment.<sup>27</sup>

Section 5 is a savings clause which aims to preserve some of the President's authority to restrict exports for reasons of national security. This section was added during the Full Committee markup by an amendment offered by Rep. Green.

*B. Issues raised by the Bill*

The boom in domestic crude oil production and anticipation of continued growth has led to increased calls to lift the limitations on crude oil exports. As described in a recent analysis by the Center for American Progress, "the economic, national security, and environmental impacts of changing long-standing U.S. crude oil policy are neither well-documented nor well-understood."<sup>28</sup>

<sup>23</sup> Congressional Research Service, *Lower Oil Prices 2015* (Jan. 6, 2015); *A Simple Guide to the Sudden Collapse in Oil Prices*, Washington Post (Dec. 1, 2014) (online at [www.washingtonpost.com/blogs/wonkblog/wp/2014/11/28/a-simple-guide-to-the-sudden-collapse-in-oil-prices/](http://www.washingtonpost.com/blogs/wonkblog/wp/2014/11/28/a-simple-guide-to-the-sudden-collapse-in-oil-prices/)).

<sup>24</sup> *How Low Can Oil Go? Goldman Says \$20 a Barrel Is a Possibility*, Bloomberg Business (Sept. 11, 2015) (online at [www.bloomberg.com/news/articles/2015-09-11/-20-oil-possible-for-goldman-as-forecasts-cut-on-growing-glut](http://www.bloomberg.com/news/articles/2015-09-11/-20-oil-possible-for-goldman-as-forecasts-cut-on-growing-glut)).

<sup>25</sup> H.R. 702, a bill to adapt to changing crude oil market conditions § 2; Pub. L. No. 94-163 (1975).

<sup>26</sup> H.R. 702 § 3.

<sup>27</sup> *Id.* at § 4.

<sup>28</sup> Center for American Progress, *The Environmental Impacts of Exporting More American Crude Oil* (Aug. 21, 2015) (online at [www.americanprogress.org/issues/green/news/2015/08/21/119756/the-environmental-impacts-of-exporting-more-american-crude-oil/](http://www.americanprogress.org/issues/green/news/2015/08/21/119756/the-environmental-impacts-of-exporting-more-american-crude-oil/)).

### 1. Economic Impacts

The economic impact of lifting the crude export ban is an area of considerable uncertainty and disagreement.<sup>29</sup> Proponents of lifting the current export restrictions, including major oil producers, have argued that significant increases in production for purposes of export would result in lower oil and gasoline prices.<sup>30</sup> But according to a recent study by EIA, the anticipated price of oil and gasoline would be virtually unchanged by an easing of export restrictions: “[w]hile removing restrictions on U.S. crude oil exports either leaves global prices unchanged or lowers them modestly, global price drivers unrelated to U.S. crude oil export policy will affect growth in U.S. crude oil production and exports of crude oil and products whether or not current export restrictions are removed.”<sup>31</sup>

Further, U.S. consumers have actually enjoyed significant discounts on gasoline thanks to the combination of increased domestic production, decreased fuel demand, and export restrictions. A recent study found that annually, consumers in the Midwest, Gulf Coast and East Coast have saved approximately \$6.1 billion, \$6.7 billion, and \$2.9 billion respectively.<sup>32</sup> And Barclays estimates that “the annual economic benefit of crude discounts to U.S. consumers is potentially greater than \$10.2 billion.”<sup>33</sup>

Another argument commonly used in favor of lifting export restrictions is that an oversupply of light crude in the U.S. has emerged due to a mismatch between the light sweet oil being produced and configurations of the U.S. refining capacity, much of which is optimized to run heavy sour crude. Opponents of lifting crude export restrictions, including many independent refiners, have challenged this premise of U.S. market and refining system oversaturation. During a March 3, 2015 hearing, a representative of the domestic refining industry noted that “U.S. refiners have plenty of room to accommodate new, domestic supplies of light crude oil, with additional capacity to further grow U.S. production. The refining industry is constantly shifting crude slates to maximize efficiency and to meet consumer demand.”<sup>34</sup>

The primary beneficiary of a shift in crude export policy would likely be domestic oil producers. EIA notes that the easing of crude export restrictions would likely result in a \$29.7 billion increase in

<sup>29</sup> U.S. Energy Information Administration, *What Drives U.S. Gasoline Prices?* (Oct. 30, 2014) (online at [www.eia.gov/analysis/studies/gasoline/pdf/gasolinepricestudy.pdf](http://www.eia.gov/analysis/studies/gasoline/pdf/gasolinepricestudy.pdf)).

<sup>30</sup> According to two commonly cited studies by IHS and ICF International, reductions in oil prices would be anywhere from \$0.25 to \$5 per barrel (Brent prices), and lower gasoline prices would range from \$0.014 to \$0.12 per gallon. See IHS, *U.S. Crude Oil Export Decision: Assessing the Impact of the Export Ban and Free Trade on the U.S. Economy* (May 29, 2014); ICF International, for the American Petroleum Institute, *The Impacts of U.S. Crude Oil Exports on Domestic Crude Production, GDP, Employment, Trade, and Consumer Costs* (Mar. 31, 2014).

<sup>31</sup> U.S. Energy Information Administration, *Effects of Removing Restrictions on U.S. Crude Oil Exports*, at x (Sept. 2, 2015) (online at [www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf](http://www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf)).

<sup>32</sup> Baker & O'Brien Inc., *An Analysis of the Relationship Between U.S. Gasoline Prices and Crude Oil Prices* (Sept. 2, 2015) (online at [crudecoalition.org/app/uploads/2015/09/Baker-O'Brien-report-09-01-2015.pdf](http://crudecoalition.org/app/uploads/2015/09/Baker-O'Brien-report-09-01-2015.pdf)).

<sup>33</sup> Barclays Equity Research, *Crude Export Ban: Impact on Gasoline Prices, 2015 Edition* (May 13, 2015) (online at [crudecoalition.org/app/uploads/2015/02/EN-ERGY-CRUDE-EXPORT-BAN-1035047681.pdf](http://crudecoalition.org/app/uploads/2015/02/EN-ERGY-CRUDE-EXPORT-BAN-1035047681.pdf)).

<sup>34</sup> House Committee on Energy and commerce, Subcommittee on Energy and Power, Testimony of Charles Drevna, President of the American Fuel & Petrochemical Manufacturers, *Hearing on 21st Century Energy Markets: How the Changing Dynamics of World Energy Markets Impact our Economy and Energy Security*, 114th Cong. (Mar. 3, 2015).

gross revenue for oil producers in 2025.<sup>35</sup> Further, “allowing more crude oil exports could result in \$8.7 billion less investment in U.S. refining capacity over the next 10 years.”<sup>36</sup> CBO estimates that if the restrictions on crude oil exports are lifted, “the prices of domestic light crude oils seen by some U.S. crude oil producers and petroleum refiners would rise.”<sup>37</sup> These price increases would be seen primarily by refineries already configured for processing light sweet crude, like those on the east coast.<sup>38</sup>

## 2. Climate and environmental impacts

Maximizing U.S. oil production would exacerbate climate change and increase the risks to the land, water and air. According to a recent study, approximately one third of the world’s remaining oil reserves and half of the remaining gas reserves should remain untouched over the next 40 years in order to prevent the global average temperature from rising more than 2° C.<sup>39</sup> An increase in oil production, consistent with unrestricted crude exports, would run counter to U.S. and global efforts to limit greenhouse gas emissions and prevent catastrophic climate change.

Further, the drilling boom has outpaced the building of infrastructure necessary to control methane leaks from oil and gas wells leading to increased emissions of this potent greenhouse gas. The energy sector—including sources like natural gas and petroleum systems—is the largest source of U.S. methane emissions, accounting for 263.5 million metric tons of CO<sub>2</sub> equivalent in 2013.<sup>40</sup> The lack of infrastructure to capture the co-produced methane, combined with low natural gas prices, often makes it cheaper for industry to burn the gas rather than capture and process it.<sup>41</sup> So an increase in oil production—for purposes of exportation—would likely result in significant increases in uncontrolled greenhouse gas emissions.

## 3. National security impacts

Lifting the ban on crude exports would dramatically alter decades of U.S. policies put in place to encourage energy independence and security. This is particularly concerning in light of section 3 of the bill, which prevents any future restriction on the export of crude oil. As noted above, imports of crude oil still represent over

<sup>35</sup> U.S. Energy Information Administration, *Effects of Removing Restrictions on U.S. Crude Oil Exports*, at 23 (Sept. 2, 2015) (online at [www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf](http://www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf)).

<sup>36</sup> Center for American Progress, *The Environmental Impacts of Exporting More American Crude Oil* (Aug. 21, 2015) (online at [www.americanprogress.org/issues/green/news/2015/08/21/119756/the-environmental-impacts-of-exporting-more-american-crude-oil/](http://www.americanprogress.org/issues/green/news/2015/08/21/119756/the-environmental-impacts-of-exporting-more-american-crude-oil/)).

<sup>37</sup> Congressional Budget Office, *The Economic and Budgetary Effects of Producing Oil and Natural Gas From Shale* (Dec. 7, 2014) (online at [www.cbo.gov/sites/default/files/cbofiles/attachments/49815-Effects\\_of\\_Shale\\_Production.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/49815-Effects_of_Shale_Production.pdf)).

<sup>38</sup> U.S. Energy Information Administration, *This Week in Petroleum: Regional refinery trends continue to evolve* (Jan. 7, 2015) (online at [www.eia.gov/petroleum/weekly/archive/2015/150107/includes/analysis\\_print.cfm](http://www.eia.gov/petroleum/weekly/archive/2015/150107/includes/analysis_print.cfm)).

<sup>39</sup> *The geographical distribution of fossil fuels unused when limiting global warming to 2° C*, Nature (Jan. 7, 2015) (online at [www.nature.com/nature/journal/v517/n7533/full/nature14016.html](http://www.nature.com/nature/journal/v517/n7533/full/nature14016.html)).

<sup>40</sup> U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013* (April 2015) (online at <http://epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2015-Chapter-3-Energy.pdf>).

<sup>41</sup> *Gas flaring permits surge in Texas*, Fuelfix.com (Apr. 9, 2012) (online at [fuelfix.com/blog/2012/04/09/gas-flaring-permits-surge-in-texas/](http://fuelfix.com/blog/2012/04/09/gas-flaring-permits-surge-in-texas/)).

a quarter of the nation's annual oil consumption.<sup>42</sup> Even with continued production and decreased demand, EIA estimates that total imports will only drop to 17% in 2040 with current regulations in place.<sup>43</sup> Lifting the ban on crude exports would hinder the predicted decline in imports and leave the U.S. dependent on foreign countries for more than a quarter of its oil for decades.

Critics of the ban on crude oil exports contend that access to U.S. crude would decrease Europe's reliance on Russian oil and free them from "coercive energy supply policies".<sup>44</sup> This scenario is far from guaranteed. According to CRS, "the decision to export crude oil will be based on commercial and economic considerations, not directed and controlled by the federal government," therefore, "predicting and quantifying physical crude oil flows to a particular region in the world under a non-restricted export scenario is difficult and is subject to several assumptions that may or may not be realized."<sup>45</sup> European refineries are currently configured to process Russia's medium sour crude and would need significant time and capital to handle American light sweet crude.<sup>46</sup> East Asian markets are the most likely beneficiaries of American crude oil exports, with China set up to be the top purchaser.<sup>47</sup>

### *C. H.R. 702 Is not necessary*

As noted above, the President currently has the authority to permit crude oil exports under certain circumstances and where appropriate. In fact, the Administration has already taken a number of steps to do so on a gradual basis.

In 2014, BIS issued two private rulings to allow, without license, the export of condensate.<sup>48</sup> Until recently, condensate was treated exclusively as a crude oil and subject to export restrictions. When asked to clarify its decisions, BIS stated, "lease condensate that has been processed through a crude oil distillation tower is not crude oil but a petroleum product."<sup>49</sup> Some have questioned the Commerce Department's process and legal rationale behind these private rulings, highlighting the potential easing of restrictions on crude exports.<sup>50</sup> Despite the uncertainty surrounding the com-

<sup>42</sup> U.S. Energy Information Administration, *Monthly Energy Review August 2015* (Aug. 25, 2015) (online at [www.eia.gov/totalenergy/data/monthly/pdf/mer.pdf](http://www.eia.gov/totalenergy/data/monthly/pdf/mer.pdf)).

<sup>43</sup> U.S. Energy Information Administration, *Annual Energy Outlook 2015*, at ES-4 (Apr. 2015) (online at [www.eia.gov/forecasts/aeo/pdf/0383\(2015\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2015).pdf)).

<sup>44</sup> *Senate Oil Export Hearing Panelists Debate National Security and Limited Refinery Capacity*, Breaking Energy (Mar. 30, 2015) (online at [breakingenergy.com/2015/03/30/senate-oil-export-hearing-panelists-debate-national-security-and-limited-refinery-capacity/](http://breakingenergy.com/2015/03/30/senate-oil-export-hearing-panelists-debate-national-security-and-limited-refinery-capacity/)).

<sup>45</sup> Congressional Research Service, *Potential Market Effects of Removing Crude Oil Export Restrictions: Eastern Europe* (May 29, 2015).

<sup>46</sup> Senate Committee on Foreign Relations, *Hearing on American Energy Exports: Opportunities For U.S. Allies and U.S. National Security*, 114th Cong. (Jun. 23, 2015).

<sup>47</sup> *Id.*

<sup>48</sup> Condensate is the lightest form of hydrocarbons classified as crude oil, and refers to very light hydrocarbons that exist as a gas underground but condense to a liquid after reaching the pressure and temperature at the earth's surface. Some tight oil deposits have very high condensate content, for instance as much as half of all oil production in the Eagle Ford Shale is believed to fall into the condensate category. See e.g. Oil Change International, *Should It Stay or Should It Go? The Case Against U.S. Crude Oil Exports* (Oct. 11, 2013) (online at [priceofoil.org/content/uploads/2013/10/OCI\\_Stay\\_or\\_Go\\_FINAL.pdf](http://priceofoil.org/content/uploads/2013/10/OCI_Stay_or_Go_FINAL.pdf)); *What is Condensate? Introducing America's New Oil Export*, Wall Street Journal (June 25, 2014) (online at [blogs.wsj.com/corporate-intelligence/2014/06/25/what-is-condensate-introducing-americas-new-oil-export/](http://blogs.wsj.com/corporate-intelligence/2014/06/25/what-is-condensate-introducing-americas-new-oil-export/)).

<sup>49</sup> U.S. Department of Commerce, Bureau of Industry and Security, *FAQs—Crude Oil and Petroleum Products* (Dec. 30, 2014) (online at [www.bis.doc.gov/index.php/licensing/embassy-faq](http://www.bis.doc.gov/index.php/licensing/embassy-faq)).

<sup>50</sup> Letter to Secretary Penny Pritzker, from Senators Edward J. Markey and Robert Menendez (July 2, 2014) (online at [www.markey.senate.gov/imo/media/doc/2014-06-25\\_Commerce\\_Condensate.pdf](http://www.markey.senate.gov/imo/media/doc/2014-06-25_Commerce_Condensate.pdf)).

modity classification of condensate, refiners have already started making significant investments in condensate splitters (distillation towers) in order to extract and export the resulting components without restriction.<sup>51</sup> According to EIA, an average of 84,000 b/d of condensate was exported during the first five months of 2015.<sup>52</sup>

On August 14, 2015, the Obama Administration approved several applications for the exchange of U.S. crude oil for similar quantities of oil from Mexico. The approval of these crude oil “swaps” was widely interpreted to signal another step by the Administration toward liberalizing restrictive U.S. policy toward exports of domestic crude oil.<sup>53</sup>

When asked about the Administration’s receptivity to H.R. 702, the White House Press Secretary replied: “this is a policy decision made over at the Commerce Department, and for that reason we wouldn’t support legislation like the one that has been put forward by Republicans.”<sup>54</sup>

#### *D. H.R. 702 Is an extreme approach*

H.R. 702 is a blunt instrument that not only does away with the President’s authority to restrict exports of crude oil, but also prevents the federal government from imposing or enforcing *any* restriction on the export of crude oil under any other authority.

Section 2 of the bill repeals the President’s ability to restrict the export of domestic crude under section 103 of EPCA. But section 103 authorizes restrictions not only on crude oil exports, but all on exports of coal, natural gas, petroleum products, and petrochemical feedstocks. Repealing this section, as the underlying bill proposes to do, would eliminate the authority to restrict any of these exports even for national security reasons—such as an embargo.

Further, EPCA section 103 is the central authority for the current *exemptions* to the crude oil ban. Its repeal could undermine the criteria for export under statutes like the Mineral Leasing Act, the Outer Continental Shelf Lands Act, and the Trans-Alaska Pipeline Authorization Act.

Section 3 of the bill prohibits *any* federal official from imposing or enforcing *any* restriction on the export of crude oil. That would include BIS, which is tasked with issuing export licenses for crude under certain circumstances. Under section 3 of the bill, BIS could be prevented from ever denying an export license.

Such heavy handed drafting also appears to impact far more than just the export of crude. Since the term “restriction” is undefined, any federal action that could potentially impede the “efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including fossil fuels” could be con-

<sup>51</sup> U.S. Energy Information Administration, *Presentation by Adam Sieminski on the Effects of Low Oil Prices* (Feb. 12, 2015) (online at [www.eia.gov/pressroom/presentations/sieminski\\_02122015.pdf](http://www.eia.gov/pressroom/presentations/sieminski_02122015.pdf)); Congressional Research Service, *U.S. Crude Oil Export Policy: Background and Considerations* (Dec. 31, 2014) (R43442) (online at [www.crs.gov/pdf/loader/R43442](http://www.crs.gov/pdf/loader/R43442)).

<sup>52</sup> U.S. Energy Information Administration, *Effects of Removing Restrictions on U.S. Crude Oil Exports*, at vii (Sept. 2, 2015) (online at [www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf](http://www.eia.gov/analysis/requests/crude-exports/pdf/fullreport.pdf)).

<sup>53</sup> See, e.g., *U.S. approves landmark crude oil export swaps with Mexico*, Reuters (Aug. 14, 2015) (online at [www.reuters.com/article/2015/08/14/us-usa-oil-exports-exclusive-idUSKCN0QJ1RI20150814](http://www.reuters.com/article/2015/08/14/us-usa-oil-exports-exclusive-idUSKCN0QJ1RI20150814)).

<sup>54</sup> *Vote Near to Repeal Ban on Oil Exports, House Leader Says*, New York Times (Sept. 15, 2015).

sidered a restriction. For example, EPA's proposed measures to cut methane and volatile organic chemical emissions from the oil and gas sector could be considered a restriction. So could an order to shut down a pipeline that the Secretary of Transportation has determined to be a hazard to public safety and the environment under the Pipeline Safety Act.

For the reasons stated above, specifically the potentially vast adverse consequences this flawed legislation holds for consumers, the environment and climate change, and national security, I dissent from the views contained in the Committee's report.

FRANK PALLONE, Jr.

