

Emergency Powers Reform Project: Preventing Abuse of the Strategic Petroleum Reserve



Congress created the Strategic Petroleum Reserve (SPR) in 1975 to mitigate emergency-level disruptions of the petroleum supply after the 1973-1974 Arab Oil Embargo, but the Biden Administration abused the SPR to combat high prices for political, non-emergency purposes.

The Problem of Unlimited Executive Power Over Emergency Sales

SPR oil sales are meant for emergencies declared by a presidential finding of a “severe energy supply interruption” or an obligation under the International Energy Program (IEP). However, there is no mechanism in the statute by which Congress can challenge the president’s declaration, nor is there any statutory limit on the amount of oil that can be sold from the SPR under an emergency declaration. Before 2022, the SPR conducted three emergency sales, all of which paled in comparison to the Biden Administration’s largest emergency release in history.

EVENT	YEAR	SALE
Russia/Ukraine Conflict	2022	180 million barrels (30 from IEP agreement)
Libya Conflict	2011	30.6 million barrels (IEP agreement)
Hurricane Katrina	2005	11 million barrels
Operation Desert Storm	1990/1991	21 million barrels (IEP agreement)

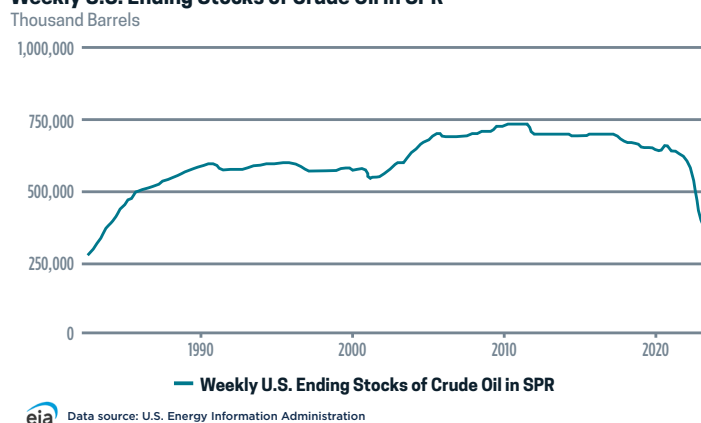
There is little historical or statutory basis for using the SPR to combat high oil prices for political, non-emergency purposes over a sustained period, but that is what the Biden Administration did in 2022. While the Biden Administration drained the SPR, they also canceled oil and gas leases in Alaska’s Cook Inlet and the Gulf of Mexico¹ and failed to finalize a legally-required five-year plan for new federal offshore drilling.² The administration’s actions show that they did not believe there was an energy emergency.

The Biden Administration’s Abuse of the SPR

President Biden authorized an unprecedented release of 180 million barrels of oil from the SPR in 2022, including an announcement of the final release of 15 million barrels just three weeks before the midterm election. Another 38.8 million barrels were sold due to a congressionally mandated sale in 2022. The result? The SPR is currently at a 40-year low.

In April 2023, former Obama Energy Secretary Ernest Moniz told Bloomberg, “[r]ight now, it’s been depleted... If we had another major issue to deal with, we would be severely compromised with the current size of the petroleum reserve.”

Weekly U.S. Ending Stocks of Crude Oil in SPR



The average closing price for crude oil was \$94 in 2022, lower or equal to prices in 2011–2014, but the Obama Administration conducted only one emergency sale of SPR oil as part of an IEP agreement in 2011. Obama’s chief of staff told Meet the Press in 2011 that tapping the SPR is “something that only is done — and has been done — in very rare occasions. There’s a bunch of factors that have to be looked at. And it is just not the price.”

The impetus for creating the SPR was a true emergency in 1973-1974 with widespread harm to the national economy and disruptions to the daily life of all Americans:

¹ The Inflation Reduction Act required BOEM to re-open these lease sales in 2023.

² The previous five-year plan expired in June 2022. As of March 2023, the new five-year plan is expected to be released in December 2023.

[T]he supply reduction had catastrophic short-term economic and social impacts. Crude oil prices increased fourfold; job losses mushroomed as factories closed; gasoline was rationed; fights broke out in long gasoline lines; airlines curtailed flights; electricity generation from residual oil was reduced; and fuel allocations for the Defense Department were restricted. These were the impacts Congress and President Ford created the reserve to prevent—not a simple doubling of gasoline prices over a period of several months, as happened [in 2022].

–John A. Hill, deputy administrator of the Federal Energy Administration 1974-76 in the Wall Street Journal

In 2009, Congress considered and failed to enact a bill to allow the SPR to be drawn down in response to “a severe increase” in prices. The Congressional Research Service at the time called the proposed change “a significant departure from existing authorities which predicate drawdown disruptions in supply, and discourages use of the SPR to address high prices, per se.”

Failing to Refill the SPR

In October 2022, the White House announced it intended to “repurchase crude oil for the SPR when prices are at or below about \$67-\$72 per barrel, adding to global demand when prices are around that range.” It added that this price floor “will encourage firms to invest in production right now, helping to improve U.S. energy security and bring down energy prices.” But in March 2023, Energy Secretary Granholm told Congress that replenishing the reserve will take years and the department was unable to purchase oil for the SPR when the price per barrel slid to \$66.74 on March 17, even though it was below its price target.

SPR Sales for Unrelated Legislative Priorities

Starting in 2015, Congress began to leverage SPR sales to fund legislative priorities unrelated to energy policy or national security. In total, Congress mandated the sale of 260 million barrels of oil by FY2027 in seven different pieces of legislation from 2015 to 2018.

Reform Principles

- Require a request from a governor or chief executive of an Indian tribe for a finding of a “severe energy supply interruption.”
- Require congressional approval for emergency sales greater than 10% of the SPR within 10 days of a presidential finding of a “severe energy supply interruption.”³
- A “severe energy supply interruption” triggers other emergency measures in the supply chain such as Jones Act waivers and other regulatory relief.
- Open more federal land to oil and gas leasing to offset nonemergency SPR usage (sales, exchanges, or loans).
- Congressionally mandated sales should only be used to modernize or maintain the SPR, rather than as a budgetary gimmick and revenue-raiser for unrelated policies.

Resources

Congressional Research Service: Strategic Petroleum Reserve Oil Releases: October 2021 through October 2022 (Apr. 22, 2022)

National Taxpayers Union Foundation: The Strategic Petroleum Reserve Should Be Treated Strategically, Not as a Piggy Bank to Pay for Pork (Sept. 27, 2021)

Americans for Prosperity Foundation (AFPF) Investigation

In January 2023, AFPF filed a Freedom of Information Act (FOIA) lawsuit against the Department of Energy and the Department of State for failing to produce records regarding the Biden Administration’s abuse of the Strategic Petroleum Reserve and other energy issues.

³ According to the SPR, DOE can conduct a sale after receiving a presidential order within 13 days, so ten days for a vote wouldn’t create unnecessary delay.