



Consumer Federation of America

October 6, 2005

**Re: *Urge Opposition to H.R. 3893
Support for Stupak-Boucher Substitute, Boehlert-Markey CAFÉ Amendment***

Dear Representative:

In the wake of sharply increasing gasoline prices, as well as supply disruptions triggered by Hurricanes Katrina and Rita, Congress will soon be voting on H.R. 3893, the “Gasoline for America’s Security Act.” **The Consumer Federation of America (CFA) and Consumers Union strongly urge you to oppose this legislation because it fails to take the necessary steps to increase oil refining capacity and fuel conservation.** The bill also proposes broad changes to the Clean Air Act that would undermine air quality and public health.

Instead, we urge you to support the Stupak-Boucher substitute and the bipartisan amendment that will be offered by Representatives Boehlert and Markey to improve the fuel efficiency of American automobiles and light trucks. Together, these two proposals will begin to ease the energy price shock that is now placing a heavy financial burden on low and moderate income consumers -- without harming the environment.

H.R. 3893 completely fails to include the most important “demand side” conservation measure to promote American energy security – improving the fuel efficiency of American automobiles and light trucks. It also falls short in addressing the major “supply side” cause of spiraling gasoline prices -- the lack of oil refining capacity -- by failing to set requirements that will guarantee an increase in refining capacity in the next few years. Instead, the legislation offers a range of unnecessary incentives and subsidies to refiners that are already reaping extremely high profits. This approach effectively leaves the decision to increase refining capacity in the hands of an industry that has deliberately reduced capacity in recent years and has a strong financial incentive to keep this capacity extremely tight.

The legislation also offers an ineffectual approach to combat energy price gouging. It does not provide the Federal Trade Commission (FTC) and state Attorneys General with specific legal authority under the FTC Act to deter price gouging and punish unconscionable attempts to take advantage of gas shortages or natural disasters to sharply increase prices. Instead, H.R. 3893 asks the FTC to conduct a limited study of gasoline price gouging. Additionally, the legislation would dramatically weaken New Source Review requirements in the Clean Air Act, allowing more than 20,000 industrial facilities – not just a handful of refineries – to emit more pollutants.

In the aftermath of Hurricanes Katrina and Rita, it has become painfully clear that while public policy cannot prevent accidents or catastrophic acts of nature, it must build systems that are more resilient, robust and flexible to minimize the impact of inevitable accidents on our society. Before Katrina, we were living on the razor’s edge, with rising demand, little excess capacity and small stockpiles. The hurricanes pushed us off the edge. The business practices of the oil industry

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and public policy have conspired to allow a gasoline industry that cannot respond to even minor incidents, failing the consumer not just in the wake of the hurricanes, but also repeatedly over the past five years.

A survey of public opinion conducted by CFA just before Hurricane Katrina struck indicates that nearly three quarters of all Americans are now highly concerned about future gasoline prices, up from two-thirds earlier this year. Lower-income and rural households are most concerned and are especially hard hit by soaring prices: CFA estimates that households with incomes under \$15,000 – about one-fifth of all households – will spend, on average, more than one-tenth of their income just on gasoline this year, and rural Americans are paying substantially more for gasoline than their urban counterparts.

Increased refinery capacity is necessary to guard against future supply disruptions and discipline skyrocketing prices that disproportionately burden lower-income and rural households. The Stupak-Boucher bill directs the Secretary of Energy to establish and operate a Strategic Refinery Reserve (SRR), which would build on the successful Strategic Petroleum Reserve to allow for the release of refined product during energy emergencies. **This reserve will be required to maintain a capacity of 5 percent of the total United States daily demand for gasoline, which would double the amount of spare capacity that now exists.** In determining sites for potential SRR refineries, the Secretary is required to consider several factors including impacts on local communities to help insure that facilities will be used in a socially responsible manner.

The Stupak-Boucher substitute would also empower the FTC and the states to deter and punish the sale of crude oil, gasoline, natural gas or petroleum distillates at a price that is “unconscionably excessive” or indicates that the seller is “taking unfair advantage of the circumstances to increase prices unreasonably” during energy emergencies. If this significant new authority is employed, it would represent a meaningful improvement in efforts to deter price gouging.

The Boehlert-Markey amendment that will be offered to H.R. 3893 takes a crucial step in promoting conservation and energy security by mandating an 8-mile per gallon increase in the corporate average fuel efficiency (CAFÉ). Reducing Americans’ consumption of gasoline is the single best way to reduce pressures on the refinery market.

We strongly urge you to vote in support of the Boehlert-Markey amendment and the Stupak-Boucher substitute. They represent crucial initial measures in a consumer and environmentally friendly policy that addresses systemic problems in the gasoline market.

Sincerely,

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