

Michaud and Colleagues Introduce Bill to Ensure Fair Energy Prices

Thursday, June 19 2008

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Legislation stops energy speculators from exploiting loopholes

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"Without effective oversight, there is no way to know whether energy speculators are basing trades on market realities, or are instead gaming the system to make money at the expense of consumers," said Michaud. "While the provision included in the recently passed Farm Bill is a good first step, more must be done to close all of the existing loopholes to prevent manipulation on these markets."

The 2008 PUMP Act would close several of the loopholes that will remain even after the Farm Bill becomes law:

- **Bilateral**

Trades: These trades are made between two individuals and are not negotiated on a trading market. Because the Farm Bill only closed the Enron Loophole for electronic exchanges, these bilateral trades remain in the dark.

- **Foreign Boards of Trade:** Petroleum contracts offered on the InterContinental Exchange (ICE), the largest dark market, are cleared on a foreign board of trade in London. Because the Farm Bill did not address foreign boards of trade, these trades will remain in the dark.

- **Swaps Loophole:** By closing the swaps loophole, this would eliminate another major avenue energy speculators use to avoid CFTC oversight.

- **Bona Fide Hedging Exemption:** A

growing number of speculators have taken advantage of an exemption that allows businesses "to hedge their legitimate anticipated business needs." The bill would clarify that "legitimate anticipated business needs" does not mean energy speculators.

"By closing all of these loopholes, the CFTC would be better able to monitor trades to prevent market manipulation and help eliminate the unreasonable inflation of energy prices," said Michaud. "We need to be doing everything that we can to help protect American consumers and ensure that they are not paying inflated prices."

At an Oversight and Investigations Subcommittee hearing held late last year on the effect speculators have on energy prices, Michael Greenberger, a former CFTC Commissioner and professor at the University of Maryland School of Law, testified that better federal oversight of these dark markets could reduce the price of crude oil by as much as \$20 to \$30 a barrel and reduce the price of natural gas by one-third.

The bill would also strengthen the authority given to FERC in the 2005 Energy Policy Act to prosecute manipulation in natural gas and electricity markets.