

real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term “readily available inventories” means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term “refiner” means any person who owns, operates, or controls the operation of any refinery.

(7) Repealed. Pub. L. 106-469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(8) The term “related facility” means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term “Reserve” means the Strategic Petroleum Reserve.

(10) The term “storage facility” means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term “Strategic Petroleum Reserve” means petroleum products stored in storage facilities pursuant to this part.

(Pub. L. 94-163, title I, §152, Dec. 22, 1975, 89 Stat. 882; Pub. L. 101-383, §6(a)(1), Sept. 15, 1990, 104 Stat. 729; Pub. L. 106-469, title I, §103(5), Nov. 9, 2000, 114 Stat. 2029.)

#### AMENDMENTS

2000—Par. (1). Pub. L. 106-469, §103(5)(A), struck out par. (1) which read as follows: “The term ‘Early Storage Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6235 of this title.”

Par. (3). Pub. L. 106-469, §103(5)(A), struck out par. (3) which read as follows: “The term ‘Industrial Petroleum Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 6236 of this title.”

Par. (7). Pub. L. 106-469, §103(5)(A), struck out par. (7) which read as follows: “The term ‘Regional Petroleum Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6237 of this title.”

Par. (11). Pub. L. 106-469, §103(5)(B), struck out “; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve” before period at end.

1990—Pub. L. 101-383 inserted “and part C of this subchapter” after “this part”.

#### § 6233. Repealed. Pub. L. 106-469, title I, § 103(6), Nov. 9, 2000, 114 Stat. 2030

Section, Pub. L. 94-163, title I, §153, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Strategic Petroleum Reserve Office.

#### § 6234. Strategic Petroleum Reserve

##### (a) Establishment

A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.

##### (b) Authority of Secretary

The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.

#### (c) to (e) Repealed. Pub. L. 106-469, title I, § 103(7)(C), Nov. 9, 2000, 114 Stat. 2030

#### (f) Purpose of drawdown and distribution; requests for funds for storage

(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 6241 of this title, and drawdown and distribution of petroleum products for purposes other than those described in section 6241 of this title shall be prohibited.

(2) In the Secretary’s annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no requests for funds are made, the Secretary shall provide a written explanation of the reason therefore.

(Pub. L. 94-163, title I, §154, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102-486, title XIV, §1402, Oct. 24, 1992, 106 Stat. 2994; Pub. L. 105-177, §1(6), June 1, 1998, 112 Stat. 106; Pub. L. 106-469, title I, §103(7), Nov. 9, 2000, 114 Stat. 2030.)

#### AMENDMENTS

2000—Subsec. (a). Pub. L. 106-469, §103(7)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) provided for the creation of a Strategic Petroleum Reserve of up to 1 billion barrels of petroleum products and required that the Reserve contain not less than 150 million barrels of petroleum products by the end of the 3-year period beginning on Dec. 22, 1975, and that the President take actions to enlarge the Reserve to 1,000,000,000 barrels as rapidly as possible beginning Oct. 24, 1992.

Subsec. (b). Pub. L. 106-469, §103(7)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 6421 of this title, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Secretary’s proposals for designing, constructing, and filling the storage and related facilities of the Reserve.”

Subsecs. (c) to (e). Pub. L. 106-469, §103(7)(C), struck out subsecs. (c) to (e) which related to the levels of crude oil to be stored, plan objectives, and plan provisions.

1998—Subsec. (f). Pub. L. 105-177 added subsec. (f).

1992—Subsec. (a). Pub. L. 102-486 designated existing provisions as par. (1) and added par. (2).

1978—Subsecs. (b), (d). Pub. L. 95-619 substituted “Secretary” and “Secretary’s” for “Administrator” and “Administrator’s”, respectively, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN

Pub. L. 97-229, §4(c), Aug. 3, 1982, 96 Stat. 252, provided that: “On or before December 1, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act [this section]. Such plan shall be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan. Such amendment shall take effect on the date it is transmitted to the Congress and shall not be subject to section 159(e) of such Act [section 6239(e) of this title] relating to Congressional review. Subsequent amendments to such plan shall be in accordance with subsections (d) and (e) of such section 159.”

**§§ 6235 to 6238. Repealed. Pub. L. 106-469, title I, § 103(8)-(11), Nov. 9, 2000, 114 Stat. 2030**

Section 6235, Pub. L. 94-163, title I, § 155, Dec. 22, 1975, 89 Stat. 884; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Early Storage Reserve.

Section 6236, Pub. L. 94-163, title I, § 156, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Industrial Petroleum Reserve.

Section 6237, Pub. L. 94-163, title I, § 157, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102-486, title XIV, § 1405, Oct. 24, 1992, 106 Stat. 2995, related to the Regional Petroleum Reserve.

Section 6238, Pub. L. 94-163, title I, § 158, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to a report on the establishment of Utility Reserves, Coal Reserves, Remote Crude Oil and Natural Gas Reserves.

**§ 6239. Development, operation, and maintenance of the Reserve**

**(a) to (e) Repealed. Pub. L. 106-469, title I, § 103(13)(A), Nov. 9, 2000, 114 Stat. 2030**

**(f) Powers of Secretary to develop and operate the Strategic Petroleum Reserve**

In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may—

- (1) issue rules, regulations, or orders;
- (2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;
- (3) construct, purchase, lease, or otherwise acquire storage and related facilities;
- (4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;
- (5) acquire, subject to the provisions of section 6240 of this title, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;
- (6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;
- (7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;
- (8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.

**(g) Acquisition of property by negotiation as prerequisite to condemnation**

Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgement of the Secretary be futile or so time-consuming as to unreasonably delay the development of the Strategic Petroleum Reserve, because of (1) reasonable doubt as

to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

**(h), (i) Repealed. Pub. L. 106-469, title I, § 103(13)(D), Nov. 9, 2000, 114 Stat. 2031**

**(j) Expansion beyond 700,000,000 barrels**

If the Secretary determines expansion beyond 700,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress.

**(k) Exemption from subtitle IV of title 49**

A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.

**(l) Rulemaking during drawdown and sale**

During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, without regard to rulemaking requirements in section 6393 of this title, and section 7191 of this title.

(Pub. L. 94-163, title I, § 159, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 97-229, § 4(b)(1), (2)(B), Aug. 3, 1982, 96 Stat. 251, 252; Pub. L. 99-58, title I, § 102(a), July 2, 1985, 99 Stat. 102; Pub. L. 101-383, §§ 4(a), 9, 11, Sept. 15, 1990, 104 Stat. 728, 735; Pub. L. 106-469, title I, § 103(12), (13), Nov. 9, 2000, 114 Stat. 2030.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (k), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified generally to chapters 1, 8, 12, 13, and 19 (§§ 1 et seq., 301 et seq., 901 et seq., 1001 et seq., and 1231 et seq., respectively) of former Title 49, Transportation. The Act was repealed (subject to an exception) by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Section 4(c) of Pub. L. 95-473 excepted from repeal those provisions of the Interstate Commerce Act that vested functions in the Interstate Commerce Commission, or the chairman or members of the Commission, related to transportation of oil by pipeline and that were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission by sections 7155 and 7172(b) of this title.

AMENDMENTS

2000—Pub. L. 106-469, § 103(12), amended section catchline generally.

Subsecs. (a) to (e). Pub. L. 106-469, § 103(13)(A), struck out subsecs. (a) to (e) which related to congressional review and effective date of the Strategic Petroleum Reserve Plan, preparation and transmittal to Congress of proposals for designing, constructing, and filling facilities and of Plan amendments, and 60-day waiting period for effectiveness of amendments.

Subsec. (f). Pub. L. 106-469, § 103(13)(B), amended subsec. (f) generally. Prior to amendment, subsec. (f) set out powers of the Secretary to implement the Strategic Petroleum Reserve Plan, the Early Storage Reserve Plan, proposals for designing, constructing, and filling facilities, amendments to the Plans, and the storage of petroleum products in interim storage facilities.

Subsec. (g). Pub. L. 106-469, § 103(13)(C), substituted “development” for “implementation” and struck out “Plan” after “Strategic Petroleum Reserve”.

Subsecs. (h), (i). Pub. L. 106-469, § 103(13)(D), struck out subsecs. (h) and (i) which related to use of interim