

§§ 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 Repealed.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(a) to (e) Repealed.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

storage facilities and environmental considerations for existing facilities, and report to Congress on results of negotiations for enlargement of Strategic Petroleum Reserve to one billion barrels.

Subsec. (j). Pub. L. 106-469, §103(13)(E), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "No later than 24 months after September 15, 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum product in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 6421 of this title. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities."

Subsec. (l). Pub. L. 106-469, §103(13)(F), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: "Notwithstanding subsection (d) of this section, during any period in which the Distribution Plan is being implemented, the Secretary may amend the plan and promulgate rules, regulations, or orders to implement such amendments in accordance with section 6393 of this title, without regard to the requirements of section 553 of title 5 and section 7191 of this title. Such amendments shall be transmitted to the Congress together with a statement explaining the need for such amendments."

1990—Subsecs. (i), (j). Pub. L. 101-383, §4(a), added subsecs. (i) and (j).

Subsec. (k). Pub. L. 101-383, §9, added subsec. (k).

Subsec. (l). Pub. L. 101-383, §11, added subsec. (l).

1985—Subsec. (e). Pub. L. 99-58 amended subsec. (e) generally, substituting provisions directing that amendments transmitted pursuant to subsec. (d) of this section not become effective until 60 days after transmittal except in the case of enumerated presidential determinations for provisions which had formerly empowered Congress to disapprove of transmitted proposals and amendments in accordance with the procedures specified in section 6421 of this title.

1982—Subsec. (f)(5). Pub. L. 97-229, §4(b)(1), added par. (5).

Subsec. (h). Pub. L. 97-229, §4(b)(2)(B), added subsec. (h).

1978—Subsecs. (a)(1), (c), (d), (e)(1), (f), (f)(I), (g). Pub. L. 95-619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

§ 6240. Petroleum products for storage, transport, or exchange

(a) Eligibility of petroleum products

The Secretary may acquire, place in storage, transport, or exchange petroleum products acquired by purchase or exchange.

(b) Objectives in determining manner of acquisition

The Secretary shall, to the greatest extent practicable, acquire petroleum products for the Reserve in a manner consonant with the following objectives:

- (1) minimization of the cost of the Reserve;
- (2) Repealed. Pub. L. 106-469, title I, §103(14)(C), Nov. 9, 2000, 114 Stat. 2031;
- (3) minimization of the Nation's vulnerability to a severe energy supply interruption;
- (4) minimization of the impact of such acquisition upon supply levels and market forces; and
- (5) encouragement of competition in the petroleum industry.

(c) Procedures

The Secretary shall develop, with public notice and opportunity for comment, procedures consistent with the objectives of this section to acquire petroleum for the Reserve. Such procedures shall take into account the need to—

(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);

(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;

(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenues to the Treasury when petroleum products for the Reserve are obtained through the royalty-in-kind program);

(4) protect national security;

(5) avoid adversely affecting current and future prices, supplies, and inventories of oil; and

(6) address other factors that the Secretary determines to be appropriate.

(d), (e) Repealed. Pub. L. 106-469, title I, § 103(14)(D), Nov. 9, 2000, 114 Stat. 2031

(f) Predrawdown diversion

If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.

(g) Repealed. Pub. L. 106-469, title I, § 103(14)(D), Nov. 9, 2000, 114 Stat. 2031

(h) Purchase from stripper well properties

(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.

(Pub. L. 94-163, title I, §160, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96-294, title VIII, §§801(a), 802(a), 803, June 30, 1980, 94 Stat. 775, 776; Pub. L. 97-35, title X, §1033, Aug. 13, 1981, 95 Stat. 618; Pub. L. 97-229, §4(a)(1), (b)(2)(C), Aug. 3, 1982, 96 Stat. 250, 252; Pub. L. 99-58, title I, §§102(b), 103(b)(1), July 2, 1985, 99 Stat. 103, 104; Pub. L. 99-88, title I, §100, Aug. 15, 1985, 99 Stat.