

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 Repealed.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##### (a) to (e) Repealed.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 Com-