

as amended, are delegated to the Secretary of Energy (42 U.S.C. 6240(c); see Section 801 of the Energy Security Act).

1-102. The functions vested in the President by Section 7430(k) of Title 10 of the United States Code are delegated to the Secretary of Energy (see Section 804(b) of the Energy Security Act).

1-103. The functions vested in the President by Section 805(a) of the Energy Security Act [section 805(a) of Pub. L. 96-294, set out as a note above] are, consistent with Section 2 of Executive Order No. 11790, as amended [set out as a note under section 761 of Title 15, Commerce and Trade], delegated to the Secretary of Energy.

JIMMY CARTER.

§ 6241. Drawdown and sale of petroleum products

(a) Power of Secretary

The Secretary may drawdown and sell petroleum products in the Reserve only in accordance with the provisions of this section.

(b), (c) Repealed. Pub. L. 106-469, title I, § 103(15)(C), Nov. 9, 2000, 114 Stat. 2031

(d) Presidential finding prerequisite to drawdown and sale

(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(2) For purposes of this section, in addition to the circumstances set forth in section 6202(8) of this title, a severe energy supply interruption shall be deemed to exist if the President determines that—

(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

(C) such price increase is likely to cause a major adverse impact on the national economy.

(e) Sales procedures

(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this section.

(f) Repealed. Pub. L. 106-469, title I, § 103(15)(C), Nov. 9, 2000, 114 Stat. 2031

(g) Directive to carry out test drawdown and sale

(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum prod-

ucts from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.

(2) Repealed. Pub. L. 106-469, title I, § 103(15)(F)(ii), Nov. 9, 2000, 114 Stat. 2031.

(3) At least part of the crude oil that is sold or exchanged under this subsection shall be sold or exchanged to or with entities that are not part of the Federal Government.

(4) The Secretary may not sell any crude oil under this subsection at a price less than that which the Secretary determines appropriate and, in no event, at a price less than 95 percent of the sales price, as estimated by the Secretary, of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale in such area under this subsection.

(5) The Secretary may cancel any offer to sell or exchange crude oil as part of any test under this subsection if the Secretary determines that there are insufficient acceptable offers to obtain such crude oil.

(6) In the case of a sale of any petroleum products under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire petroleum products for the Reserve within the 12-month period beginning after completion of the sale.

(7) Rules, regulations, or orders issued in order to carry out this subsection which have the applicability and effect of a rule as defined in section 551(4) of title 5 shall not be subject to the requirements of subchapter II of chapter 5 of such title or to section 6393 of this title.

(8) NOTICE TO CONGRESS.—

(A) PRIOR NOTICE.—Not less than 14 days before the date on which a test is carried out under this subsection, the Secretary shall notify both Houses of Congress of the test.

(B) EMERGENCY.—The prior notice requirement in subparagraph (A) shall not apply if the Secretary determines that an emergency exists which requires a test to be carried out, in which case the Secretary shall notify both Houses of Congress of the test as soon as possible.

(C) DETAILED DESCRIPTION.—

(i) IN GENERAL.—Not later than 180 days after the date on which a test is completed under this subsection, the Secretary shall submit to both Houses of Congress a detailed description of the test.

(ii) REPORT.—A detailed description submitted under clause (i) may be included as part of a report made to the President and Congress under section 6245 of this title.

(h) Prevention or reduction of adverse impact of severe domestic energy supply interruptions

(1) If the President finds that—

(A) a circumstance, other than those described in subsection (d), exists that constitutes, or is likely to become, a domestic or international energy supply shortage of significant scope or duration;

(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such shortage;

(C) the Secretary has found that action taken under this subsection will not impair

the ability of the United States to carry out obligations of the United States under the international energy program; and

(D) the Secretary of Defense has found that action taken under this subsection will not impair national security,

then the Secretary may, subject to the limitations of paragraph (2), draw down and sell petroleum products from the Strategic Petroleum Reserve.

(2) Petroleum products from the Reserve may not be drawn down under this subsection—

(A) in excess of an aggregate of 30,000,000 barrels with respect to each such shortage;

(B) for more than 60 days with respect to each such shortage;

(C) if there are fewer than 340,000,000 barrels of petroleum product stored in the Reserve; or

(D) below the level of an aggregate of 340,000,000 barrels of petroleum product stored in the Reserve.

(3) During any period in which there is a drawdown and sale of the Reserve in effect under this subsection, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and sale of petroleum products under this subsection and an assessment of its effect.

(4) In no case may the drawdown under this subsection be extended beyond 60 days with respect to any domestic energy supply shortage.

(i) Exchange of withdrawn products

Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an arrangement for the delivery of refined petroleum products to the United States.

(j) Purchases from Strategic Petroleum Reserve by entities in insular areas of United States and Freely Associated States

(1) Definitions

In this subsection:

(A) Binding offer

The term “binding offer” means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

(B) Category of petroleum product

The term “category of petroleum product” means a master line item within a notice of sale.

(C) Eligible entity

The term “eligible entity” means an entity that owns or controls a refinery that is located within the State of Hawaii.

(D) Full tanker load

The term “full tanker load” means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

(E) Insular area

The term “insular area” means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(F) Offering

The term “offering” means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

(G) Notice of sale

The term “notice of sale” means the document that announces—

(i) the sale of Strategic Petroleum Reserve products;

(ii) the quantity, characteristics, and location of the petroleum product being sold;

(iii) the delivery period for the sale; and

(iv) the procedures for submitting offers.

(2) In general

In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

(ii) submit one or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

(3) Limitation on quantity

(A) In general

In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

(B) Portion of quantity of previous imports

The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other

period determined by the Secretary to be representative).

(C) Percentage of offering

The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

(4) Adjustments

(A) In general

Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

(B) Upward adjustment

The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

- (i) less than 1 full tanker load; or
- (ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(C) Downward adjustment

The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(5) Delivery to other locations

The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

(6) Standard sales provisions

Except as otherwise provided in this chapter, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum products at competitive sales.

(7) Eligible entities

(A) In general

Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this chapter, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

(B) Limitation

The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

(C) Barred company

If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

(8) Supplies of petroleum products

At the request of the Governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.

(Pub. L. 94-163, title I, §161, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 99-58, title I, §103(a), (b)(2), July 2, 1985, 99 Stat. 103, 104; Pub. L. 101-383, §3(b), 8, 10, Sept. 15, 1990, 104 Stat. 727, 735; Pub. L. 102-486, title XIV, §1401, Oct. 24, 1992, 106 Stat. 2993; Pub. L. 105-388, §9(a), Nov. 13, 1998, 112 Stat. 3482; Pub. L. 106-469, title I, §103(15), Nov. 9, 2000, 114 Stat. 2031; Pub. L. 114-74, title IV, §401(a), Nov. 2, 2015, 129 Stat. 588; Pub. L. 114-255, div. A, title V, §5010(c), Dec. 13, 2016, 130 Stat. 1198; Pub. L. 115-123, div. C, title II, §30204(c), Feb. 9, 2018, 132 Stat. 127; Pub. L. 115-141, div. O, title V, §501(c), Mar. 23, 2018, 132 Stat. 1080.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (j)(6), (7)(A), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2018—Subsec. (h)(1)(C), (D). Pub. L. 115-123, §30204(c)(1), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (h)(2)(C), (D). Pub. L. 115-141 substituted “340,000,000” for “350,000,000”.

Pub. L. 115-123, §30204(c)(2), substituted “350,000,000” for “450,000,000”.

2016—Subsec. (h)(2)(C), (D). Pub. L. 114-255 substituted “450,000,000” for “500,000,000”.

2015—Subsec. (g)(8). Pub. L. 114-74 added par. (8) and struck out former par. (8) which read as follows: “The Secretary shall transmit to both Houses of the Congress a detailed explanation of the test carried out under this subsection. Such explanation may be a part of any report made to the President and the Congress under section 6245 of this title.”

2000—Pub. L. 106-469, §103(15)(A), substituted “sale of petroleum products” for “distribution of the Reserve” in section catchline.

Subsec. (a). Pub. L. 106-469, §103(15)(B), substituted “drawdown and sell petroleum products in” for “drawdown and distribute”.

Subsec. (b). Pub. L. 106-469, §103(15)(C), struck out subsec. (b) which read as follows: “Except as provided in subsections (c), (f), and (g) of this section, no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title.”

Subsec. (c). Pub. L. 106-469, §103(15)(C), struck out subsec. (c) which read as follows: “Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 6239(a) of this title.”

Subsec. (d)(1). Pub. L. 106-469, §103(15)(D), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribu-

tion Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.”

Subsec. (e). Pub. L. 106-469, §103(15)(E), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of title 15.”

Subsec. (f). Pub. L. 106-469, §103(15)(C), struck out subsec. (f) which read as follows: “The Secretary may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 6236 of this title to remove or otherwise dispose of such products upon such terms and conditions as the Secretary may prescribe.”

Subsec. (g)(1). Pub. L. 106-469, §103(15)(F)(i), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary shall conduct a continuing evaluation of the Distribution Plan. In the conduct of such evaluation, the Secretary is authorized to carry out test drawdown and distribution of crude oil from the Reserve. If any such test drawdown includes the sale or exchange of crude oil, then the aggregate quantity of crude oil withdrawn from the Reserve may not exceed 5,000,000 barrels during any such test drawdown or distribution.”

Subsec. (g)(2). Pub. L. 106-469, §103(15)(F)(ii), struck out par. (2) which read as follows: “The Secretary shall carry out such drawdown and distribution in accordance with the Distribution Plan and implementing regulations and contract provisions, modified as the Secretary considers appropriate taking into consideration the artificialities of a test and the absence of a severe energy supply interruption. To meet the requirements of subsections (d) and (e) of section 6239 of this title, the Secretary shall transmit any such modification of the Plan, along with explanatory and supporting material, to both Houses of the Congress no later than 15 calendar days prior to the offering of any crude oil for sale under this subsection.”

Subsec. (g)(4). Pub. L. 106-469, §103(15)(F)(iii), substituted “95 percent” for “90 percent”.

Subsec. (g)(5). Pub. L. 106-469, §103(15)(F)(iv), substituted “test” for “drawdown and distribution”.

Subsec. (g)(6). Pub. L. 106-469, §103(15)(F)(v), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

“(6)(A) The minimum required fill rate in effect for any fiscal year shall be reduced by the amount of any crude oil drawdown from the Reserve under this subsection during such fiscal year.

“(B) In the case of a sale of any crude oil under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire crude oil for the Reserve within the 12-month period beginning after the completion of the sale. Such acquisition shall be in addition to any acquisition of crude oil for the Reserve required as part of a fill rate established by any other provision of law.”

Subsec. (g)(8). Pub. L. 106-469, §103(15)(F)(vi), substituted “test” for “drawdown and distribution”.

Subsec. (h)(1). Pub. L. 106-469, §103(15)(G)(i), substituted “sell petroleum products from” for “distribute” in concluding provisions.

Subsec. (h)(1)(C). Pub. L. 106-469, §103(15)(G)(ii), added subpar. (C).

Subsec. (h)(2). Pub. L. 106-469, §103(15)(G)(iii), substituted “Petroleum products from the Reserve may not” for “In no case may the Reserve” in introductory provisions.

Subsec. (h)(3). Pub. L. 106-469, §103(15)(G)(iv), substituted “sale” for “distribution” in two places.

1998—Subsec. (j). Pub. L. 105-388 added subsec. (j).

1992—Subsec. (d). Pub. L. 102-486, §1401(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (h)(1)(A). Pub. L. 102-486, §1401(2), inserted “or international” after “domestic”.

1990—Subsec. (g)(1). Pub. L. 101-383, §8, amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In order to evaluate the implementation of the Distribution Plan, the Secretary shall, commencing within 180 days after July 2, 1985, carry out a test drawdown and distribution under this subsection through the sale or exchange of approximately 1,100,000 barrels of crude oil from the Reserve. The requirement of this paragraph shall not apply if the President determines, within the 180-day period described in the preceding sentence, that implementation of the Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.”

Subsec. (h). Pub. L. 101-383, §3(b), added subsec. (h).

Subsec. (i). Pub. L. 101-383, §10, added subsec. (i).

1985—Subsec. (b). Pub. L. 99-58, §103(b)(2), inserted reference to subsec. (g) of this section.

Subsec. (g). Pub. L. 99-58, §103(a), added subsec. (g).

1978—Subsecs. (a), (e), (f). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-388, §9(c), Nov. 13, 1998, 112 Stat. 3484, provided that: “The amendment made by subsection (a) [amending this section] takes effect on the earlier of—

“(1) the date that is 180 days after the date of enactment of this Act [Nov. 13, 1998]; or

“(2) the date that final regulations are issued under subsection (b) [set out as a note below].”

REGULATIONS

Pub. L. 105-388, §9(b), Nov. 13, 1998, 112 Stat. 3484, provided that:

“(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a) [amending this section].

“(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

“(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

“(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).”

STRATEGIC PETROLEUM RESERVE DRAWDOWN AND SALE

Provisions related to drawdown and sale from the Strategic Petroleum Reserve were contained in the following acts:

Pub. L. 115-270, title III, §3009, Oct. 23, 2018, 132 Stat. 3870.

Pub. L. 115-244, div. A, title III, Sept. 21, 2018, 132 Stat. 2908.

Pub. L. 115-141, div. D, title III, Mar. 23, 2018, 132 Stat. 520.

Pub. L. 115-141, div. O, title V, §501(a), (b), Mar. 23, 2018, 132 Stat. 1079, 1080.

Pub. L. 115-123, div. C, title II, §30204(a), (b), Feb. 9, 2018, 132 Stat. 126, 127.

Pub. L. 115-97, title II, §20003, Dec. 22, 2017, 131 Stat. 2237.

Pub. L. 115-56, div. D, §158, as added by Pub. L. 115-123, div. B, §20101(2), Feb. 9, 2018, 132 Stat. 120.

Pub. L. 114-255, div. A, title V, §5010(a), (b), Dec. 13, 2016, 130 Stat. 1197, 1198.

Pub. L. 114-94, div. C, title XXXII, §32204, Dec. 4, 2015, 129 Stat. 1740.

Pub. L. 114-74, title IV, §403, Nov. 2, 2015, 129 Stat. 589.

§ 6242. Coordination with import quota system

No quantitative restriction on the importation of any petroleum product into the United