

America, including section 301 of title 3 and sections 7427 and 7428 [now 8727 and 8728] of title 10, United States Code, and in order to meet the goals and requirements of the Naval Petroleum and Oil Shale Reserves, it is hereby ordered as follows:

The functions vested in the President by sections 7427 and 7428 [now 8727 and 8728] of title 10 of the United States Code are delegated to the Secretary of Energy.

WILLIAM J. CLINTON.

Temporary delegations of functions of President under this section were contained in the following prior Executive Orders:

Ex. Ord. No. 12784, Dec. 19, 1991, 56 F.R. 66339.

Ex. Ord. No. 12659, Dec. 15, 1988, 53 F.R. 50911.

#### § 8728. Agreements and leases: provision for change

Every unit or cooperative plan of development and operation and every lease affecting lands owned by the United States within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary, subject to approval by the President and to any limitation in the plan or lease, to change from time to time the rate of prospecting and development on, and the quantity and rate of production from, lands of the United States under the plan or lease, notwithstanding any other provision of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, § 7428; Pub. L. 87-796, § 1(5), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94-258, title II, § 201(9), Apr. 5, 1976, 90 Stat. 309; Pub. L. 106-398, § 1 [div. C, title XXXIV, § 3402(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-484; renumbered § 8728, Pub. L. 115-232, div. A, title VIII, § 807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7428 .....	34 U.S.C. 524 (proviso of 6th par.).	June 4, 1920, ch. 228 (6th par., proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282.

The words “entered into after July 1, 1937” and “entered into subsequent to July 1, 1937” are omitted as surplusage. The words “in his discretion” are omitted as surplusage.

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7428 of this title as this section.

2000—Pub. L. 106-398 struck out “, except a plan authorized by section 7426 of this title.” after “development and operation”.

1976—Pub. L. 94-258 substituted “within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary” for “within the naval petroleum and oil shale reserves shall contain a provision authorizing the Secretary of the Navy”.

1962—Pub. L. 87-796 included leases affecting lands within oil shale reserves.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and

special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

#### Executive Documents

##### DELEGATION OF FUNCTIONS

Functions of the President under this section were delegated to the Secretary of Energy by Ex. Ord. No. 12929, Sept. 29, 1994, 59 F.R. 50473, set out as a note under section 7427 of this title.

#### § 8729. Re-lease of certain lands: lessee's preferential right

The Secretary, on terms prescribed by him, may re-lease lands in the naval petroleum reserves that were covered by leases made before July 1, 1936, and terminated by law at the expiration of their initial twenty-year periods. If any such land is to be re-leased, the Secretary shall give to the former lessee preferential rights to the new lease.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, § 7429; Pub. L. 94-258, title II, § 201(10), Apr. 5, 1976, 90 Stat. 309; renumbered § 8729, Pub. L. 115-232, div. A, title VIII, § 807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7429 .....	34 U.S.C. 524 (6th par., less proviso).	June 4, 1920, ch. 228 (6th par., less proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1253; June 17, 1944, ch. 262, 58 Stat. 282.

The source law provided that leases of lands of the United States within the naval petroleum reserves in existence before July 1, 1936, except leases that had become part of an approved unit or cooperative plan and agreement, should terminate at the end of their initial 20-year period, and that the lands covered by these leases could then be re-leased by the Secretary of the Navy. All of the leases covered by this provision have terminated as provided therein. Thus the provision for the termination of the leases is executed and the only remaining effect of the source is to authorize the re-lease of the lands formerly covered by the terminated leases. This section is worded accordingly. Reference to the classes of leases that were excepted from the termination is omitted as unnecessary because these leases were, of course, not terminated. They are not affected, since this section refers only to leases that were “terminated by law”. The word “conditions” is omitted as included in the word “terms”.

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7429 of this title as this section.

1976—Pub. L. 94-258 struck out “of the Navy” after “Secretary”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

**§ 8730. Disposition of products**

(a) In administering the naval petroleum reserves under this chapter, the Secretary shall use, store, or sell the petroleum produced from the naval petroleum reserves and lands covered by joint, unit, or other cooperative plans.

(b)(1) Subject to paragraph (2) and notwithstanding any other provision of law, each sale of the United States share of petroleum shall be made by the Secretary at public sale to the highest qualified bidder, at such time, in such amounts, and after such advertising as the Secretary considers proper and without regard to Federal, State, or local regulations controlling sales or allocation of petroleum products. Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.

(2) The Secretary may not sell any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 2 and 3 at a price less than the current sales price, as estimated by the Secretary, of comparable petroleum in the same area.

(3) For purposes of paragraph (2), the term "petroleum" does not include natural gas liquids.

(c) In no event shall the Secretary permit the award of any contract which would result in any person obtaining control, directly or indirectly, over more than 20 percent of the estimated annual United States share of petroleum produced from Naval Petroleum Reserve Numbered 1.

(d) Each proposal for sale under this title shall provide that the terms of every sale of the United States share of petroleum from the naval petroleum reserves shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike. When the Secretary, in consultation with the Secretary of the Interior, determines that the public interests will be served by the sale of petroleum to small refiners not having their own adequate sources of supply of petroleum, the Secretary is authorized and directed to set aside a portion of the United States share of petroleum produced for sale to such refiners under the provisions of this section for processing or use in such refineries, except that—

(1) none of the production sold to small refiners may be resold in kind;

(2) production must be sold at a cost of not less than the prevailing local market price of comparable petroleum;

(3) the set-aside portion may not exceed 25 percent of the estimated annual United States share of the total production from all producing naval petroleum reserves; and

(4) notwithstanding the provisions of subsection (b), the Secretary may, at his discretion if he deems it to be in the public interest, prorate such petroleum among such refiners for sale, without competition, at not less than the prevailing local market price of comparable petroleum.

(e) Any petroleum produced from the naval petroleum reserves, except such petroleum which

is either exchanged in similar quantities for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Export Administration Act of 1979, the President must make and publish an express finding that such exports will not diminish the total quality or quantity of petroleum available to the United States and that such exports are in the national interest and are in accord with the Export Administration Act of 1979.

(f) During the period of production or any extension thereof authorized by section 8722(c) of this title, the consultation and approval requirements of section 8731(a)(3) of this title are waived.

(g)(1) Prior to the promulgation of any rules and regulations, plans of development and amendments thereto, and in the entering and making of contracts and operating agreements relating to the development, production, or sale of petroleum in or from the reserves, the Secretary shall consult with and give due consideration to the views of the Attorney General of the United States with respect to matters which may affect competition.

(2) No contract or operating agreement may be made, issued, or executed under this chapter until at least 15 days after the Secretary notifies the Attorney General of the proposed contract or operating agreement. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary as to whether such contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws. If, within such 15-day period, the Attorney General advises the Secretary that a contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws, then the Secretary may not make, issue, or execute that contract or operating agreement.

(h) Nothing in this chapter shall be deemed to confer on any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(i) In this section, the term "antitrust laws" means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the "Robinson-Patman Act") (15 U.S.C. 13a, 13b, and 21a).

(j) Any pipeline which accepts, conveys, or transports any petroleum produced from Naval Petroleum Reserves Numbered 1 or Numbered 3 shall accept, convey, and transport without dis-