

(b) Special rule

Amounts described in subsection (a)(2) of this section and held in an escrow account by a court before October 21, 1986, may continue to be held by such court but shall be disbursed, together with any interest thereon, by the Secretary or, as appropriate, by the court only in accordance with the provisions of this chapter.

(c) Exclusions

Subsection (a)(2) of this section does not apply to—

(1) any amount actually disbursed before October 21, 1986, to any person or class of persons pursuant to section 155 of Public Law 97-377 or any final judicial or administrative order or judgment (including any settlement agreement or declaratory judgment);

(2) any amount to which any person or class of persons has an enforceable right, created or vested, or governed by the terms and conditions of the settlement approved on July 7, 1986, in *In Re: the Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, in the United States District Court for the District of Kansas; and

(3) any amount designated by judicial or administrative order or judgment (including any settlement agreement or declaratory judgment) for disbursement at any time to any specific person or class of persons—

(A) identified in such order or judgment as injured by the violation or alleged violation of the Acts described in subsection (a)(1) of this section (including the regulations thereunder); or

(B) identified in such order or judgment issued before October 21, 1986, for indirect restitution.

(d) Escrow accounts

Subject to subsections (b) and (c) of this section, the amounts covered by subsection (a) of this section shall be held in appropriate escrow accounts administered for the Secretary by the Secretary of the Treasury.

(e) Interest

Consistent with the disbursement requirements of this chapter, the Secretary of the Treasury shall provide that amounts described in subsection (a) of this section shall earn interest at the maximum rate earned on investments of Federal trust funds by the Secretary of the Treasury in short-term and long-term securities issued by the Federal Government (including minority bank investments).

(Pub. L. 99-509, title III, §3002, Oct. 21, 1986, 100 Stat. 1881.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§751 et seq.) of this title, was omitted from the Code pursuant to section 760g of this title, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Economic Stabilization Act of 1970, referred to in subsec. (a)(1), is title II of Pub. L. 91-379, Aug. 15, 1970, 84 Stat. 799, as amended, formerly set out as an Economic Stabilization Provisions note under section 1904 of Title 12, Banks and Banking.

Section 155 of Public Law 97-377, referred to in subsec. (c)(1), is section 155 of Pub. L. 97-377, title I, Dec. 21, 1982, 96 Stat. 1919, which is not classified to the Code.

SHORT TITLE

Section 3001 of Pub. L. 99-509 provided that: "This subtitle [subtitle A (§§3001-3008) of title III of Pub. L. 99-509, enacting this chapter] may be cited as the 'Petroleum Overcharge Distribution and Restitution Act of 1986'."

§ 4502. Identification and disbursement of restitutionary amounts**(a) In general**

(1) Subject to paragraph (2)—

(A) all rulings, policies, or other statements (including any administrative order or settlement agreement) issued after October 21, 1986, by any office, official, or employee of the Department of Energy; and

(B) all orders, including declaratory judgments, issued by any court after October 21, 1986,

shall be consistent with the provisions of this chapter.

(2) Nothing in this section shall affect the settlement approved on July 7, 1986, in *In Re: the Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, in the United States District Court for the District of Kansas.

(b) to (d) Repealed. Pub. L. 99-509, title III, § 3003(e), as added Pub. L. 105-277, div. A, § 101(e) [title III, § 337], Oct. 21, 1998, 112 Stat. 2681-231, 2681-295

(e) Repeal of subsections (b) to (d); equitable distribution of escrow remainder to claimants

Subsections (b), (c), and (d) of this section are repealed, and any rights that may have arisen are extinguished, on the date of the enactment of the Department of the Interior and Related Agencies Appropriations Act, 1999. After that date, the amount available for direct restitution to current and future refined petroleum product claimants under this chapter is reduced by the amounts specified in title II of that Act as being derived from amounts held in escrow under section 4501(d) of this title. The Secretary shall assure that the amount remaining in escrow to satisfy refined petroleum product claims for direct restitution is allocated equitably among the claimants.

(Pub. L. 99-509, title III, §3003, Oct. 21, 1986, 100 Stat. 1882; Pub. L. 105-277, div. A, §101(e) [title III, §337], Oct. 21, 1998, 112 Stat. 2681-231, 2681-295.)

REFERENCES IN TEXT

The Department of the Interior and Related Agencies Appropriations Act, 1999, referred to in subsec. (e), is section 101(e) of div. A of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-231. Provisions of title II of the Act relating to amounts held in escrow under section 4501(d) of this title (112 Stat. 2681-276) are not classified to the Code. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (e), was in the original "this Act", which was translated as meaning this subtitle, which enacted this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsecs. (b) to (e). Pub. L. 105-277 added subsec. (e) which struck out subsec. (b) relating to disbursement of restitutionary amounts as direct restitution to injured persons, subsec. (c) relating to determination of excess amount to be used for indirect restitution, and subsec. (d) relating to disbursement of excess amount as indirect restitution for energy conservation programs.

§ 4503. Deposit of remainder of excess amount into Treasury as indirect restitution

The amount that remains from the excess amount described in section 4502(c)¹ of this title after all disbursements have been made for a fiscal year under section 4502(d)¹ of this title shall be deposited by the Secretary of the Treasury into the general fund of the Treasury.

(Pub. L. 99-509, title III, §3004, Oct. 21, 1986, 100 Stat. 1884.)

REFERENCES IN TEXT

Section 4502(c) and (d) of this title, referred to in text, was repealed by section 4502(e) of this title.

§ 4504. Statute of limitation

(a) In general

(1) Except as provided in subsection (b) of this section, the commencement of a civil enforcement action shall be barred unless such action is commenced before the later of—

(A) September 30, 1988; or

(B) six years after the date of the violation upon which the action is based.

(2) For purposes of paragraph (1), the term “commencement of a civil enforcement action” means—

(A) the signing and issuance of a proposed remedial order against any person for filing with the Office of Hearings and Appeals of the Department of Energy; or

(B) the filing of a complaint with the appropriate district court of the United States.

(3) For purposes of this section, the term “civil enforcement action” means an administrative or judicial civil action by the Secretary under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] or the Economic Stabilization Act of 1970 (or the regulations issued thereunder) for the enforcement of any violation of such Acts or regulations.

(b) Exceptions

(1) In computing the periods established in subparagraphs (A) and (B) of subsection (a)(1) of this section, there shall be excluded any period—

(A) during which any person who is or may become the subject of a civil enforcement action is outside the United States, has absconded or concealed himself, or is not subject to legal process;

(B) during which facts material to the establishment and maintenance of a civil enforcement action could not be known;

(C) occurring before full compliance with any subpoena or special report order issued to any person under section 772 of this title, and

such additional period (not to exceed 12 calendar months) after such compliance by the Secretary to consider the results thereof and commence a civil enforcement action;

(D) during the pendency of any relevant criminal action under the Acts or regulations described in subsection (a)(1) of this section during which a civil enforcement action is held in abeyance as a result of prosecutorial discretion and with or without a stay, and such additional period (not to exceed 12 calendar months) after a final judicial order or dismissal of such criminal action to commence a civil enforcement action;

(E) before the issuance of an order that constitutes final agency action on a request for adjustment from any rule, regulation, or order under section 7194 of title 42, and such additional period (not to exceed 12 calendar months) to commence a civil enforcement action; or

(F) of extension, to which the Secretary and the defendant have consented in writing, before the expiration of the time periods prescribed in subsection (a)(1) of this section.

(2) The provisions of subsection (a) of this section shall not affect or apply to any civil enforcement action commenced before, on, or after October 21, 1986, and remanded by the Office of Hearings and Appeals, the Federal Energy Regulatory Commission, or the court for further action of any kind.

(3) The provisions of subsection (a) of this section shall not apply to any agency orders issued under the Acts or regulations described in subsection (a)(1) of this section or to regulations issued under this chapter, other than a proposed remedial order subject to this section.

(c) Expression of intent

(1) It is the intent of the Congress that—

(A) the Secretary and the Administrator of the Economic Regulatory Administration shall, to the greatest extent possible and within the time frames specified on September 12, 1986, by such Administrator to the Committee on Energy and Commerce of the House of Representatives, commence civil enforcement actions with respect to all cases known by such Administrator as of October 21, 1986, and designated by such Administrator as “pre-litigation cases”, unless such an action is found not to be warranted;

(B) the Secretary and such Administrator not delay civil enforcement actions so as to cause the limitation in subsection (a)(1) of this section to apply to any such case;

(C) any negotiations for the purpose of settlement of alleged violations not delay the commencement of a civil enforcement action; and

(D) the Department of Justice cooperate in ensuring that activities necessary, including the enforcement of subpoenas, to commence civil enforcement actions are carried out in a timely manner.

(2) Any failure to comply with the time frames described in paragraph (1)(A) shall not be considered for any purpose in any administrative or judicial proceeding subsequently commenced.

¹ See References in Text note below.