

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

**(e) Waiver of notice and comment period**

(1) The provisions of subchapter II of chapter 5 of title 5 shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c) of this section, the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this chapter, to any violation of such restrictions.

(Pub. L. 94-163, title I, § 103, Dec. 22, 1975, 89 Stat. 877; Pub. L. 96-72, § 22(b)(1), Sept. 29, 1979, 93 Stat. 535.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (e)(3), 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.

The Export Administration Act of 1979, referred to in subsec. (c), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, Appendix, and Tables.

The Export Administration Act of 1969, referred to in subsec. (e)(3), is Pub. L. 91-184, Dec. 30, 1969, 83 Stat. 841, as amended, which was formerly classified to sections 2401 to 2413 of Title 50, Appendix, and was terminated on Sept. 30, 1979, pursuant to the terms of that Act.

CODIFICATION

Subsec. (f) of this section, which required the President to submit quarterly reports to Congress concerning the administration of this section and any findings made pursuant to subsec. (a) or (b) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 5th item on page 19 of House Document No. 103-7.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-72 substituted "1979" for "1969" and "(C)" for "(A)".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-72 effective upon expiration of Export Administration Act of 1969, which termi-

nated on Sept. 30, 1979, or upon any prior date which Congress by concurrent resolution or President by proclamation designated, see section 2418 of the Appendix to Title 50, War and National Defense.

**§ 6213. Certain lease bidding arrangements prohibited**

**(a) Promulgation of rule by Secretary of the Interior**

The Secretary of the Interior shall, not later than 30 days after December 22, 1975, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

**(b) Definitions**

As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

**(c) Exemptions**

The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

(1) such lands have extremely high cost exploration or development problems; and

(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.

**(d) Unitization of producing fields**

This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

**(e) Report to Congress covering extension of restrictions on joint bidding**

The Secretary shall study and report to the Congress, not later than 6 months after December 22, 1975, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

(Pub. L. 94-163, title I, § 105, Dec. 22, 1975, 89 Stat. 879; Pub. L. 95-372, title II, § 205(c), Sept. 18, 1978, 92 Stat. 646.)

#### AMENDMENTS

1978—Subsec. (c). Pub. L. 95-372 substituted “in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section” for “by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems” in existing provisions and inserted provisions setting out the requisite finding of the Secretary and making arbitrariness and capriciousness of the Secretary’s findings the only bases for invalidation of those findings.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases and to implementation of alternative bidding systems authorized for award of Federal leases transferred to Secretary of Energy by section 7152(b) of this title. Section 7152(b) of this title repealed by Pub. L. 97-100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

#### **§ 6214. Repealed. Pub. L. 106-469, title I, § 103(3), Nov. 9, 2000, 114 Stat. 2029**

Section, Pub. L. 94-163, title I, § 106, Dec. 22, 1975, 89 Stat. 880, related to production of oil or gas at the maximum efficient rate and temporary emergency production rate.

#### **§ 6215. Major fuel burning stationary source**

##### **(a) Restrictions on issuance of orders or rules by Governor pursuant to section 7425 of this title**

No Governor of a State may issue any order or rule pursuant to section 7425 of this title to any major fuel burning stationary source (or class or category thereof)—

(1) prohibiting such source from using fuels other than locally or regionally available coal or coal derivatives, or

(2) requiring such source to enter into a contract (or contracts) for supplies of locally or regionally available coal or coal derivatives.

##### **(b) Petition to President**

(1) The Governor of any State may petition the President to exercise the President’s authorities pursuant to section 7425 of this title with respect to any major fuel burning stationary source located in such State.

(2) Any petition under paragraph (1) shall include documentation which could support a finding that significant local or regional economic disruption or unemployment would result from use by such source of—

(A) coal or coal derivatives other than locally or regionally available coal,

(B) petroleum products,

(C) natural gas, or

(D) any combination of fuels referred to in subparagraphs (A) through (C), to comply with the requirements of a State implementation plan pursuant to section 7410 of this title.

##### **(c) Action to be taken by President**

Within 90 days after the submission of a Governor’s petition under subsection (b) of this section, the President shall either issue an order or rule pursuant to section 7425 of this title or deny such petition, stating in writing his reasons for such denial. In making his determination to issue such an order or rule pursuant to this subsection, the President must find that such order or rule would—

(1) be consistent with section 7425 of this title;

(2) result in no significant increase in the consumption of energy;

(3) not subject the ultimate consumer to significantly higher energy costs; and

(4) not violate any contractual relationship between such source and any supplier or transporter of fuel to such source.

##### **(d) Effect on authority of President to allocate coal or coal derivatives**

Nothing in subsection (a) or (b) of this section shall affect the authority of the President or the Secretary of the Department of Energy to allocate coal or coal derivatives under any provision of law.

##### **(e) Definitions**

The terms “major fuel burning stationary source (or class or category thereof)” and “locally or regionally available coal or coal derivatives” shall have the meanings assigned to them for the purposes of section 7425 of this title.

(Pub. L. 94-163, title I, § 107, as added Pub. L. 95-619, title VI, § 661, Nov. 9, 1978, 92 Stat. 3285; amended Pub. L. 106-469, title VI, § 605(b)(2), Nov. 9, 2000, 114 Stat. 2043.)

#### AMENDMENTS

2000—Pub. L. 106-469 inserted section catchline.

#### **§ 6216. Annual Home Heating Readiness Reports**

##### **(a) In general**

On or before September 1 of each year, the Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

##### **(b) Contents**

The Home Heating Readiness Report shall include—

(1) estimates of the consumption, expenditures, and average price per gallon of heating oil and propane and thousand cubic feet of natural gas for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

(2) an evaluation of—

(A) global and regional crude oil and refined product supplies;