

(f) Presidential authority not to be delegated

Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

(Pub. L. 96-102, title II, §211, Nov. 5, 1979, 93 Stat. 758.)

REFERENCES IN TEXT

Section 753 of title 15, referred to in subsec. (a)(3)(C)(i), was omitted from the Code pursuant to section 760g of Title 15, Commerce and Trade, which provided for the expiration of the President's authority under that section on Sept. 30, 1981.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under subsec. (d)(3)(A) of this section is listed in the 19th item on page 19), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 8512. State emergency conservation plan**(a) State emergency conservation plans**

(1)(A) Not later than 45 days after the date of the publication of an energy conservation target for a State under section 8511(b) of this title, the Governor of that State shall submit to the Secretary a State emergency conservation plan designed to meet or exceed the emergency conservation target in effect for that State under section 8511(a) of this title. Such plan shall contain such information as the Secretary may reasonably require. At any time, the Governor may, with the approval of the Secretary, amend a plan established under this section.

(B) The Secretary may, for good cause shown, extend to a specific date the period for the submission of any State's plan under subparagraph (A) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

(2) Each State is encouraged to submit to the Secretary a State emergency conservation plan as soon as possible after November 5, 1979, and in advance of such publication of any such target. The Secretary may tentatively approve such a plan in accordance with the provisions of this section. For the purposes of this subchapter such tentative approval shall not be construed to result in a delegation of Federal authority to administer or enforce any measure contained in a State plan.

(b) Conservation measures under State plans

(1) Each State emergency conservation plan under this section shall provide for emergency reduction in the public and private use of each energy source for which an emergency conservation target is in effect under section 8511 of this title. Such State plan shall contain adequate assurances that measures contained therein will be effectively implemented in that State. Such plan may provide for reduced use of that energy source through voluntary programs or through the application of one or more of the following measures described in such plan:

(A) measures which are authorized under the laws of that State and which will be adminis-

tered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions); and

(B) measures—

(i) which the Governor requests, and agrees to assume, the responsibility for administration and enforcement in accordance with subsection (d) of this section;

(ii) which the attorney general of that State has found that (I) absent a delegation of authority under Federal law, the Governor lacks the authority under the laws of the State to invoke, (II) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law; and (III) if implemented, would not be contrary to State law; and

(iii) which either the Secretary determines are contained in the standby Federal conservation plan established under section 8513 of this title or are approved by the Secretary, in his discretion.

(2) In the preparation of such plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment.

(3) Any State plan submitted to the Secretary under this section may permit persons affected by any measure in such plan to use alternative means of conserving at least as much energy as would be conserved by such measure. Such plan shall provide an effective procedure, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision of such State.

(c) Approval of State plans

(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

(A) that, taken as a whole, the plan is not likely to achieve the emergency conservation target established for that State under section 8511(a) of this title for each energy source involved,

(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof,

(C) that the requirements of this subchapter regarding the plan have not been met, or

(D) that a measure described in subsection (b)(1) of this section is—

(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(ii) an undue burden on interstate commerce, or

(iii) a tax, tariff, or user fee not authorized by State law.

(2) Any measure contained in a State plan shall become effective in that State on the date

the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

(d) State administration and enforcement

(1) The authority to administer and enforce any measure described in subsection (b)(1)(B) of this section which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e) of this section.

(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(3) If at any time the conditions of subsection (b)(1)(B)(ii) of this section are no longer satisfied in any State with respect to any measure for which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(4) Any revocation under paragraph (2) or (3) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such revocation.

(e) Civil penalty

(1) Whoever violates the requirements of any measure described in subsection (b)(1)(B) of this section which is in a State plan in effect under this section shall be subject to a civil penalty of not to exceed \$1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of measures the authority for which is delegated under subsection (d) of this section.

(Pub. L. 96-102, title II, §212, Nov. 5, 1979, 93 Stat. 759.)

§ 8513. Standby Federal conservation plan

(a) Establishment of standby conservation plan

(1) Within 90 days after November 5, 1979, the Secretary, in accordance with section 7191 of this title, shall establish a standby Federal emergency conservation plan. The Secretary may amend such plan at any time, and shall make such amendments public upon their adoption.

(2) The plan under this section shall be consistent with the attainment of the objectives of section 753(b)(1)¹ of title 15, and shall provide for the emergency reduction in the public and private use of each energy source for which an emergency conservation target is in effect or may be in effect under section 8511 of this title.

(b) Implementation of standby conservation plan

(1) If the President finds—

(A) after a reasonable period of operation, but not less than 90 days, that a State emergency conservation plan approved and implemented under section 8512 of this title is not substantially meeting a conservation target established under section 8511(a) of this title for such State and it is likely that such target will continue to be unmet; and

(B) a shortage exists or is likely to exist in such State for the 60-day period beginning after such finding that is equal to or greater than 8 percent of the projected normal demand, as determined by the President, for an energy source for which such conservation target has been established under section 8511(a) of this title;

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) of this section for such period or periods as the President determines appropriate to achieve the target in that State.

(2) If the President finds after a reasonable period of time, that the conservation target established under section 8511(a) of this title is not being substantially met and it is likely that such target will continue to be unmet in a State which—

(A) has no emergency conservation plan approved under section 8512 of this title; or

(B) the President finds has substantially failed to carry out the assurances regarding implementation set forth in the plan approved under section 8512 of this title,

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) of this section for such period or periods as the President determines appropriate to achieve the target in that State.

(c) Basis for findings

Any finding under subsection (b) of this section shall be accompanied by such information and analysis as is necessary to provide a basis therefor and shall be available to the Congress and the public.

¹ See References in Text note below.