

placing rated orders, locating suppliers, resolving production or delivery conflicts between various rated orders, addressing problems that arise in the fulfillment of a rated order or other action authorized by a delegated agency, and determining the validity of rated orders.

(m) “Strategic and critical materials” means materials (including energy) that (1) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (2) are not found or produced in the United States in sufficient quantities to meet such need and are vulnerable to the termination or reduction of the availability of the material.

(n) “Water resources” means all usable water, from all sources, within the jurisdiction of the United States, that can be managed, controlled, and allocated to meet emergency requirements, except “water resources” does not include usable water that qualifies as “food resources.”

SEC. 802. *General.* (a) Except as otherwise provided in section 802(c) of this order, the authorities vested in the President by title VII of the Act, 50 U.S.C. App. 2151 et seq., are delegated to the head of each agency in carrying out the delegated authorities under the Act and this order, by the Secretary of Labor in carrying out part VI of this order, and by the Secretary of the Treasury in exercising the functions assigned in Executive Order 11858, as amended.

(b) The authorities that may be exercised and performed pursuant to section 802(a) of this order shall include:

(1) the power to redelegate authorities, and to authorize the successive redelegation of authorities to agencies, officers, and employees of the Government; and

(2) the power of subpoena under section 705 of the Act, 50 U.S.C. App. 2155, with respect to (i) authorities delegated in parts II, III, and section 702 of this order, and (ii) the functions assigned to the Secretary of the Treasury in Executive Order 11858, as amended, provided that the subpoena power referenced in subsections (i) and (ii) shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been defined either by the appropriate officer identified in section 802(a) of this order or by such other person or persons as the officer shall designate.

(c) Excluded from the authorities delegated by section 802(a) of this order are authorities delegated by parts IV and V of this order, authorities in section[s] 721 and 722 of the Act, 50 U.S.C. App. 2170–2171, and the authority with respect to fixing compensation under section 703 of the Act, 50 U.S.C. App. 2153.

SEC. 803. *Authority.* (a) Executive Order 12919 of June 3, 1994, [formerly set out above] and sections 401(3)–(4) of Executive Order 12656 of November 18, 1988, [42 U.S.C. 5195 note] are revoked. All other previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or other assignment of authority under the Act.

(b) Nothing in this order shall affect the authorities assigned under Executive Order 11858 of May 7, 1975, as amended, except as provided in section 802 of this order.

(c) Nothing in this order shall affect the authorities assigned under Executive Order 12472 of April 3, 1984, as amended.

SEC. 804. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforce-

able at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## § 2154. Regulations and orders

### (a) In general

Subject to section 709 [section 2159 of this Appendix] and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix].

### (b) Procurement regulations

Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act [now 41 U.S.C. 1302, 1303], and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act [see 41 U.S.C. 1121 et seq., 1302, 1303].

(Sept. 8, 1950, ch. 932, title VII, § 704, 64 Stat. 816; July 31, 1951, ch. 275, title I, § 109(c), 65 Stat. 139; Pub. L. 102–558, title I, § 134, Oct. 28, 1992, 106 Stat. 4212.)

#### REFERENCES IN TEXT

Sections 6 and 25 of the Office of Federal Procurement Policy Act, referred to in subsec. (b), were sections 6 and 25 of Pub. L. 93–400, which were classified to sections 405 and 421, respectively, of former Title 41, Public Contracts, and were repealed and largely restated in subchapter II (§ 1121 et seq.) of chapter 11 and as sections 1302 and 1303 of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

#### AMENDMENTS

1992—Pub. L. 102–558 amended section generally, substituting present provisions for provisions authorizing promulgation of rules, regulations, and orders by the President in order to carry out sections 2061 to 2170 of this Appendix.

1951—Act July 31, 1951, limited authority to regulate natural gas where a State agency is handling the matter.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

#### TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

#### DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

## § 2155. Investigations; records; reports; subpoenas; right to counsel

(a) The President shall be entitled, while this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] is in effect and for a period of two

years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act and the regulations or orders issued thereunder. The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(c) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$10,000 or imprisoned for not more than one year or both.

(d) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

(e) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

(Sept. 8, 1950, ch. 932, title VII, §705, 64 Stat. 816; July 31, 1951, ch. 275, title I, §109(d), 65 Stat. 139; June 30, 1952, ch. 530, title I, §117, 66 Stat. 306; June 30, 1953, ch. 171, §9, 67 Stat. 131; Pub. L. 91-452, title II, §251, Oct. 15, 1970, 84 Stat. 931; Pub. L. 102-558, title I, §142, Oct. 28, 1992, 106 Stat. 4217; Pub. L. 108-195, §4, Dec. 19, 2003, 117 Stat. 2893.)

#### AMENDMENTS

2003—Subsec. (a). Pub. L. 108-195 inserted after first sentence "The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense."

1992—Subsec. (a). Pub. L. 102-558, §142(1), substituted "subpoena" for "subpena" in two places.

Subsec. (b). Pub. L. 102-558, §142(1), (2), redesignated subsec. (c) as (b) and substituted "subpoena" for "subpena".

Subsec. (c). Pub. L. 102-558, §142(2), (3), redesignated subsec. (d) as (c) and substituted "\$10,000" for "\$1,000". Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102-558, §142(2), (4), redesignated subsec. (e) as (d) and struck out second undesignated par. which read as follows: "All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both." Former subsec. (d) redesignated (c).

Subsecs. (e), (f). Pub. L. 102-558, §142(2), (5), redesignated subsec. (f) as (e) and substituted "subpoenaed" for "subpenaed". Former subsec. (e) redesignated (d).

1970—Subsec. (b). Pub. L. 91-452 struck out subsec. (b) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination, and that any such immunity granted would not be construed to vest in any individual any right to priorities assistance, to the allocation of materials, or to any other benefit within the power of the President to grant under sections 2061 to 2166 of this Appendix.

1953—Subsec. (e). Act June 30, 1953, added second par.

1952—Subsec. (f). Act June 30, 1952, added subsec. (f).

1951—Subsec. (a). Act July 31, 1951, made it clear that President has authority to administer oaths and affirmations.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 2062 of this Appendix.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

#### TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

## DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

**§ 2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of provisions**

(a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix], he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act to enforce any liability or duty created by, or to enjoin any violation of, this Act or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act, or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act. All litigation arising under this Act or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General.

(Sept. 8, 1950, ch. 932, title VII, § 706, 64 Stat. 817; July 31, 1951, ch. 275, title I, § 109(e), 65 Stat. 139.)

## AMENDMENTS

1951—Subsec. (a). Act July 31, 1951, broadened relief a court may grant when Government seeks to enjoin violations.

## TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

## DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

**§ 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations**

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix], notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act [sections 2071 to 2078 of this Appendix] or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner.

(Sept. 8, 1950, ch. 932, title VII, § 707, 64 Stat. 818; June 30, 1952, ch. 530, title I, § 118, 66 Stat. 306.)

## AMENDMENTS

1952—Act June 30, 1952, in first sentence struck out “his” before “compliance with”.

**§ 2158. Voluntary agreements and plans of action for preparedness programs and expansion of production capacity and supply**

**(a) Immunity from civil and criminal liability or defense to action under antitrust laws; exceptions**

Except as specifically provided in subsection (j) of this section, no provision of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

**(b) Definitions**

For purposes of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix]—

**(1) Antitrust laws**

The term “antitrust laws” has the meaning given to such term in subsection (a) of the first section of the Clayton Act [15 U.S.C. 12(a)], except that such term includes section 5 of the Federal Trade Commission Act [15 U.S.C. 45] to the extent that such section 5 applies to unfair methods of competition.

**(2) Plan of action**

The term “plan of action” means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.