

(3) for the 5-year period beginning on June 30, 1980, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on June 30, 1980, which do not have the installed capability to burn coal lawfully.

(Pub. L. 96-294, title II, §273, June 30, 1980, 94 Stat. 711.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in par. (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

CODIFICATION

Section was enacted as part of the Biomass Energy and Alcohol Fuels Act of 1980 which is title II of the Energy Security Act, and not as part of the Natural Gas Policy Act of 1978 which comprises this chapter.

**§ 3392. Natural gas for essential industrial process and feedstock uses**

**(a) General rule**

The Secretary of Energy shall prescribe and make effective a rule which provides that, notwithstanding any other provision of law (other than subsection (b)) and to the maximum extent practicable, no interstate pipeline may curtail deliveries of natural gas for any essential industrial process or feedstock use, unless such curtailment—

- (1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c);
- (2) is necessary in order to meet the requirements of high-priority users; or
- (3) is necessary in order to meet the requirements for essential agricultural uses of natural gas for which curtailment priority is established under section 3391 of this title.

**(b) Curtailment priority applicable only if alternative fuel not available**

The provisions of subsection (a) shall apply with respect to any curtailment of deliveries for any essential industrial process or feedstock use only if the Commission determines that use of a fuel (other than natural gas) is not economically practicable and that no fuel is reasonably available as an alternative for such use.

**(c) Determination of essential industrial use requirements**

The Secretary of Energy shall determine and certify to the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential industrial process and feedstock uses (other than those referred to in section 3391(f)(1)(B) of this title).

**(d) Definitions**

For purposes of this section—

**(1) Essential industrial process or feedstock use**

The term “essential industrial process or feedstock use” means any use of natural gas in an industrial process or as a feedstock which the Secretary determines is essential.

**(2) High-priority user**

The term “high-priority user” has the same meaning as given such term in section 3391(f)(2) of this title.

(Pub. L. 95-621, title IV, §402, Nov. 9, 1978, 92 Stat. 3395.)

**§ 3393. Establishment and implementation of priorities**

**(a) Establishment of priorities**

The Secretary of Energy shall prescribe the rules under sections 3391 and 3392 of this title pursuant to his authority under the Department of Energy Organization Act [42 U.S.C. 7101 et seq.] to establish and review priorities for curtailments under the Natural Gas Act [15 U.S.C. 717 et seq.].

**(b) Implementation of priorities**

The Commission shall implement the rules prescribed under sections 3391 and 3392 of this title pursuant to its authority under the Department of Energy Organization Act [42 U.S.C. 7101 et seq.] to establish, review, and enforce curtailments under the Natural Gas Act [15 U.S.C. 717 et seq.].

(Pub. L. 95-621, title IV, §403, Nov. 9, 1978, 92 Stat. 3396.)

REFERENCES IN TEXT

The Department of Energy Organization Act, referred to in subsecs. (a) and (b), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

The Natural Gas Act, referred to in subsecs. (a) and (b), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.

**§ 3394. Limitation on revoking or amending certain pre-1969 certificates of public convenience and necessity**

**(a) General rule**

The Commission may not, during the 10-year period beginning on November 9, 1978, revoke or amend any certificate of public convenience and necessity issued before January 1, 1969, under section 7 of the Natural Gas Act [15 U.S.C. 717f] for the transportation of natural gas owned by any electric utility except upon the application of the person to whom such certificate was issued.

**(b) Commission curtailment authority**

The limitation under subsection (a) shall not affect the authority of the Commission to enforce any curtailment of deliveries of natural gas under the Natural Gas Act [15 U.S.C. 717 et seq.].

(Pub. L. 95-621, title IV, §404, Nov. 9, 1978, 92 Stat. 3396.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (b), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is

classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.

SUBCHAPTER V—ADMINISTRATION,  
ENFORCEMENT, AND REVIEW

**§ 3411. General rulemaking authority**

**(a) In general**

Except where expressly provided otherwise, the Commission shall administer this chapter. The Commission, or any other Federal officer or agency in which any function under this chapter is vested or delegated, is authorized to perform any and all acts (including any appropriate enforcement activity), and to prescribe, issue, amend, and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this chapter.

**(b) Authority to define terms**

Except where otherwise expressly provided, the Commission is authorized to define, by rule, accounting, technical, and trade terms used in this chapter. Any such definition shall be consistent with the definitions set forth in this chapter.

(Pub. L. 95-621, title V, §501, Nov. 9, 1978, 92 Stat. 3396; Pub. L. 101-60, §3(b)(4), July 26, 1989, 103 Stat. 159.)

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-60 struck out subsec. (c) which authorized Commission to delegate to any State agency (with consent of such agency) any of its functions with respect to sections 3315, 3316(b), and 3319(a)(1) and (3) of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-60 effective Jan. 1, 1993, see section 3(b) of Pub. L. 101-60, set out as a note under section 3372 of this title.

**§ 3412. Administrative procedure**

**(a) Administrative Procedure Act**

Subject to subsection (b), the provisions of subchapter II of chapter 5 of title 5 shall apply to any rule or order issued under this chapter having the applicability and effect of a rule as defined in section 551(4) of title 5; except that sections 554, 556, and 557 of such title 5 shall not apply to any order under such section 3361, 3362, or 3363 of this title.

**(b) Opportunity for oral presentations**

To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in subsection (a) (other than an order under section 3361, 3362, or 3363 of this title). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 30 days after such date in the case of a waiver of the entire comment period under section 553(d)(3) of title 5, and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation.

**(c) Adjustments**

The Commission or any other Federal officer or agency authorized to issue rules or orders de-

scribed in subsection (a) (other than an order under section 3361, 3362, or 3363 of this title) shall, by rule, provide for the making of such adjustments, consistent with the other purposes of this chapter, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. Such rule shall establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such applicable rules or orders. If any person is aggrieved or adversely affected by the denial of a request for adjustment under the preceding sentence, such person may request a review of such denial by the officer or agency and may obtain judicial review in accordance with section 3416 of this title when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for adjustment under this subsection.

(Pub. L. 95-621, title V, §502, Nov. 9, 1978, 92 Stat. 3397; Pub. L. 101-60, §3(a)(3), July 26, 1989, 103 Stat. 158.)

AMENDMENTS

1989—Subsec. (d). Pub. L. 101-60 struck out subsec. (d) which directed that any determination made under section 3347(c) of this title be made in accordance with procedures applicable to the granting of any authority under the Natural Gas Act to import natural gas or liquefied natural gas (as the case might be).

**§ 3413. Repealed. Pub. L. 101-60, § 3(b)(5), July 26, 1989, 103 Stat. 159**

Section, Pub. L. 95-621, title V, §503, Nov. 9, 1978, 92 Stat. 3397, related to various determinations to be made by State or Federal agencies for qualifying under certain categories of natural gas.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1993, see section 3(b) of Pub. L. 101-60, set out as an Effective Date of 1989 Amendment note under section 3372 of this title.

**§ 3414. Enforcement**

**(a) General rule**

It shall be unlawful for any person to violate any provision of this chapter or any rule or order under this chapter.

**(b) Civil enforcement**

**(1) In general**

Except as provided in paragraph (2), whenever it appears to the Commission that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this chapter, or of any rule or order thereunder, the Commission may bring an action in the District Court of the United States for the District of Columbia or any other appropriate district court of the United States to enjoin such act or practice and to enforce compliance with this chapter, or any rule or order thereunder.

**(2) Enforcement of emergency orders**

Whenever it appears to the President that any person has engaged, is engaged, or is