

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

(Pub. L. 94-163, title V, §503, Dec. 22, 1975, 89 Stat. 958; Pub. L. 95-91, title III, §301, title IV, §402, title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 583, 606, 607; Pub. L. 105-388, §5(a)(15), Nov. 13, 1998, 112 Stat. 3479; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

#### AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1998—Subsec. (b). Pub. L. 105-388, §5(a)(15)(A), substituted “with respect to” for “with respect to” in concluding provisions.

Subsec. (c)(1). Pub. L. 105-388, §5(a)(15)(B), substituted “, controlling,” for “controlling” in concluding provisions.

#### TRANSFER OF FUNCTIONS

“Secretary” and “Federal Energy Regulatory Commission” substituted for “Federal Energy Administration” and “Federal Power Commission”, respectively, in subsec. (b)(1) pursuant to sections 301, 402, 703, and 707 of Pub. L. 95-91, which are classified to sections 7151, 7172, 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions (with certain exceptions) to Secretary of Energy and terminated Federal Power Commission and transferred its functions to Federal Energy Regulatory Commission and Secretary of Energy.

### § 6384. Enforcement

#### (a) Civil penalties

Any person who violates any general or special order of the Comptroller General issued under section 6382(a)(1)(B) of this title may be assessed a civil penalty not to exceed \$10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the Government Accountability Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

#### (b) Jurisdiction; process

Any action to enjoin or set aside an order issued under section 6382(a)(1)(B) of this title may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) of this section to collect a civil penalty, process may be served in any judicial district of the United States.

#### (c) Securing compliance with subpoena

Upon petition by the Comptroller General through any attorney employed by the Government Accountability Office or designated by the Comptroller General, or, upon request of the

Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpoena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

(Pub. L. 94-163, title V, §504, Dec. 22, 1975, 89 Stat. 959; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

#### AMENDMENTS

2004—Subsecs. (a), (c). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

### § 6385. Petroleum product information

The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products by product category at the wholesale and retail levels, on a State-by-State basis, which was collected as of September 1, 1981, by the Energy Information Administration.

(Pub. L. 94-163, title V, §507, as added Pub. L. 97-229, §5(a), Aug. 3, 1982, 96 Stat. 252.)

#### PART B—GENERAL PROVISIONS

### § 6391. Prohibited actions

#### (a) Unreasonable classifications and differentiations

Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

#### (b) Unreasonably disproportionate share of burdens between segments of business community

To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature dur-

ing times of day other than conventional day-time working hours.

**(c) Authorities to which section applies**

This section applies to actions under any of the following authorities:

- (1) titles I and II of this Act (other than any provision of such titles which amends another law).
- (2) this title.<sup>1</sup>
- (3) the Emergency Petroleum Allocation Act of 1973.<sup>1</sup>

(Pub. L. 94-163, title V, §521, Dec. 22, 1975, 89 Stat. 960.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (c)(1), is title I of Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 875, which is classified principally to subchapter I (§6211 et seq.) of this chapter. For complete classification of title I to the Code, see Tables.

Title II of this Act, referred to in subsec. (c)(1), is title II of Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 890, which is classified generally to subchapter II (§6271 et seq.) of this chapter. For complete classification of title II to the Code, see Tables.

This title, referred to in subsec. (c)(2), is title V of Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 956, which is classified principally to this subchapter. For complete classification of title V to the Code, see Tables.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (c)(3), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, which was classified generally to chapter 16A (§751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

**§ 6392. Repealed. Pub. L. 104-106, div. D, title XLIII, § 4304(b)(8), Feb. 10, 1996, 110 Stat. 664**

Section, Pub. L. 94-163, title V, §522, Dec. 22, 1975, 89 Stat. 961; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to conflicts of interest.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104-106, set out as an Effective Date of 1996 Amendment note under section 2302 of Title 10, Armed Forces.

**§ 6393. Administrative procedure and judicial review**

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5 shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5 issued under title I (other than section 103<sup>1</sup> thereof) and title II of this Act, or this title<sup>1</sup> (other than any provision of such titles which amends another law).

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date

of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title)<sup>2</sup> which amend<sup>3</sup> another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2) (ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) of this section or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) of this section applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The closing parenthesis probably should follow "another law".

<sup>3</sup> So in original. Probably should be "amends".