

or other unit permitted to use natural gas or petroleum under an exemption under this paragraph shall establish and carry out effective fuel conservation measures, as determined by the Secretary.”

Subsec. (a)(3). Pub. L. 100-42, §1(c)(14)(D), struck out par. (3) which read as follows: “Any powerplant, installation, or unit owned or operated by any such Federal agency shall be entitled to any exemption by the Secretary to the same extent, in the same manner, and under the same terms and conditions as would apply if it were owned or operated by a nongovernmental person.”

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 the report under the last sentence of subsec. (a)(2) of this section is listed as the 16th 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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EX. ORD. NO. 12185. EFFECTUATION OF CONSERVATION OF PETROLEUM AND NATURAL GAS BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

Ex. Ord. No. 12185, Dec. 17, 1979, 44 F.R. 75093, provided:

By the authority vested in me as President of the United States of America by Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3318; Public Law 95-620) [42 U.S.C. 8373(b)] and Section 301 of Title 3 of the United States Code, in order to encourage additional conservation of petroleum and natural gas by recipients of Federal financial assistance, it is hereby ordered as follows:

1-101. Each Federal agency, as that term is defined in Section 103(a)(25) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3297) [42 U.S.C. 8302(a)(25)], shall effectuate through its financial assistance programs the purposes of that Act relating to the conservation of petroleum and natural gas.

1-102. Each Federal agency which extends financial assistance shall review those programs of financial assistance and identify those which are most likely to offer opportunities for significant conservation of petroleum and natural gas.

1-103. Within two months, and annually thereafter, each agency shall publish for comment a list of those programs which it has identified as likely to offer significant opportunity for conservation. The public shall be given 60 days to submit comments, including suggestions for rules which would effectuate the conservation purposes of the Act [see Short Title note set out under 42 U.S.C. 8301].

1-104. After receiving public comment and suggestions, and after consulting with the Director of the Office of Management and Budget, each agency shall publish proposed rules designed to achieve conservation of petroleum and natural gas in connection with the receipt of financial assistance.

Proposed rules should be published within 30 days of the close of the comment period under Section 1-103.

1-105. Final rules shall be adopted by each agency in accordance with the provisions of Sections 102(b) [42 U.S.C. 8301(b)], 403(b) [42 U.S.C. 8373(b)] and 701(a) [42 U.S.C. 8411(a)] of the Powerplant and Industrial Fuel Use Act of 1978, and the provisions of this Order, not later than 180 days from the date of this Order.

1-106. No one shall be awarded any financial assistance unless that award complies with the provisions of the conservation rules adopted by the agency pursuant to this Order.

1-107. To the extent permitted by law and where not inconsistent with the financial assistance program, final rules may provide for the reduction or suspension of financial assistance under any award. Such reduction or suspension shall not be ordered until there has been an opportunity for a hearing on the record, and shall last for such time as the recipient fails to comply with the terms of the conservation rule.

1-108. No conservation rule shall be adopted which is inconsistent with the statutory provisions establishing the financial assistance program.

1-109. No conservation rule shall be used to enforce compliance with any prohibition under the Act [see Short Title note set out under 42 U.S.C. 8301] against any person or facility which has been specifically determined by the Secretary of Energy as subject to or exempt from a prohibition under the Act. The conservation rules shall be used to enforce other new ways of achieving the purposes of the Act related to the conservation of petroleum and natural gas.

1-110. In order to assess the effectiveness of this program, each agency shall annually prepare a report on its activities in accord with Section 403(b)(1)(B) of the Act [42 U.S.C. 8373(b)]. These reports shall be submitted to the President through the Secretary of Energy.

1-111. The Secretary of Energy shall prepare for the President's consideration and transmittal to the Congress the report required by Section 403(c) of the Act [42 U.S.C. 8373(c)].

1-112. The Director of the Office of Management and Budget may issue any rules, regulations, or orders he deems necessary to ensure the implementation of this Order. The Director may exercise any of the authority vested in the President by Section 403(b) of the Act [42 U.S.C. 8373(b)], and may redelegate such of that authority as he deems appropriate to the head of any other agency.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12217

Ex. Ord. No. 12217, June 18, 1980, 45 F.R. 41623, which established the responsibilities and duties of Executive agencies for compliance with this chapter, was revoked by Ex. Ord. No. 12437, Aug. 11, 1983, 48 F.R. 36801.

§ 8374. Emergency authorities

(a) Coal allocation authority

(1) If the President—

(A) declares a severe energy supply interruption, as defined in section 6202(8) of this title, or

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal (and require the transportation thereof) for the use of any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

(2) For purposes of this subsection, the term “coal” means anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof).

(b) Emergency prohibition on use of natural gas or petroleum

If the President declares a severe energy supply interruption, as defined in section 6202(8) of this title, the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Notwithstanding any other provision of this section, any suspension of emission limitations or other requirements of applicable implementation plans, as defined in section 7410(d)¹ of this title, required by such prohibition shall be issued only in accordance with section 7410(f) of this title.

(c) Emergency stays

The President may, by order, stay the application of any provision of this chapter, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) Duration of emergency orders

(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 6421 of this title. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 6421 of this title.

(4) For purposes of this subsection, the provisions of this subsection supersede the provisions of subchapter II of chapter 34 of title 50.

(e) Delegation of authority prohibited

The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations or take such other action, consistent with this section, in the implementation of such order.

(f) Publication and reports to Congress of orders

Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to the Congress of his intention to issue such order and state his reasons therefor.

¹ See References in Text note below.

(Pub. L. 95-620, title IV, §404, Nov. 9, 1978, 92 Stat. 3319; Pub. L. 100-42, §1(c)(15), May 21, 1987, 101 Stat. 313.)

REFERENCES IN TEXT

Section 7410(d) of this title, referred to in subsec. (b), was repealed by Pub. L. 101-549, title I, §101(d)(4), Nov. 15, 1990, 104 Stat. 2409.

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3289, known as the Powerplant and Industrial Fuel Use Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

Subchapter II (§1621 et seq.) of chapter 34 of title 50, referred to in subsec. (d)(4), was in the original “title II of the Act of September 14, 1976 (Public Law 94-412)”, which is known as the National Emergencies Act.

AMENDMENTS

1987—Subsec. (g). Pub. L. 100-42 struck out subsec. (g) which permitted use of natural gas or petroleum as primary energy source in peakload powerplant or major fuel-burning installation during temporary emergency condition (other than emergency conditions provided for under section 8302(a)(15) of this title).

§ 8375. Repealed. Pub. L. 100-42, § 1(a)(5), May 21, 1987, 101 Stat. 310

Section, Pub. L. 95-620, title IV, §405, Nov. 9, 1978, 92 Stat. 3320, prohibited increased use of petroleum as primary energy source in existing electric powerplants which, during calendar year 1977, used coal or another alternate fuel as primary energy source, unless permit authorizing such increased use had been issued by Secretary.

SUBCHAPTER V—SYSTEM COMPLIANCE OPTION

§ 8391. Repealed. Pub. L. 100-42, § 1(a)(6), May 21, 1987, 101 Stat. 310

Section, Pub. L. 95-620, title V, §501, Nov. 9, 1978, 92 Stat. 3321, mandated that existing electric powerplants owned or operated by an electric utility be considered in compliance with prohibitions under subchapter III of this chapter relating to use of natural gas if there is in effect an approved plan of system compliance for such utility, and set forth requirements for approval of such plan.

SUBCHAPTER VI—FINANCIAL ASSISTANCE

§ 8401. Assistance to areas impacted by increased coal or uranium production

(a) Designation of impacted areas

(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State may designate any area within such State for the purposes of this section, if he finds that—

(A) either (i) employment in coal or uranium production development activities in such area has increased for the most recent calendar year by 8 percent or more from the immediately preceding year or (ii) employment in such activities will increase 8 percent or more per year during each of the 3 calendar years beginning after the date of such finding;

(B) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and