

conserved by such Federal measure which would have otherwise been in effect in such State or political subdivision;

(B) such measures otherwise meet the requirements of this paragraph; and

(C) such measures would be approved under section 8512(c)(1)(B), (C), and (D) of this title.

(3) If the Secretary approves measures under this subsection such Federal measure shall cease to be effective in that State or political subdivision. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on the date the Federal measure ceases to be effective in that State or political subdivision, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(4) If the Secretary finds after a reasonable period of time that the requirements of this subsection are not being met under the measures in effect under this subsection he may reimpose the Federal measure referred to in paragraph (1).

**(f) State authority to administer plan**

At the request of the Governor of any State, the President may provide that the administration and enforcement of all or a portion of the standby Federal conservation plan made effective in that State under subsection (b) of this section be in accordance with section 8512(d)(1), (2), and (4) of this title.

**(g) Presidential authority not to be delegated**

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

**(h) Requirements of plan**

The plan established under subsection (a) of this section shall—

(1) taken as a whole, be designed so that the plan, if implemented, would be likely to achieve the emergency conservation target under section 8511 of this title for which it would be implemented,

(2) taken as a whole, be designed so as not to impose an unreasonably disproportionate share of the burden of restrictions on energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof, and

(3) not contain any measure which the Secretary finds—

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

(B) is an undue burden on interstate commerce,

(C) is a tax, tariff, or user fee, or

(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 6263(a)(1)(A) and (B)<sup>3</sup> of this title.

**(i) Plan may not authorize weekend closings of retail gasoline stations**

(1) Except as provided in paragraph (2), the plan established under subsection (a) of this sec-

tion may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Sunday midnight.

(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

**(j) Civil penalties**

(1) Whoever violates the requirements of such a plan implemented under subsection (b) of this section shall be subject to a civil penalty 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 under 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 that portion of the standby Federal conservation plan for which authority is delegated to that State under subsection (f) of this section.

(Pub. L. 96-102, title II, § 213, Nov. 5, 1979, 93 Stat. 762.)

REFERENCES IN TEXT

Section 753 of title 15, referred to in subsec. (a)(2), 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.

Section 6263 of this title, referred to in subsec. (h)(3)(D), was repealed by Pub. L. 106-469, title I, § 104(1), Nov. 9, 2000, 114 Stat. 2033.

**§ 8514. Judicial review**

**(a) State actions**

(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any target established by the President under section 8511(a) of this title;

(B) any finding by the President under section 8513(b)(1)(A) of this title, relating to the achievement of the emergency energy conservation target of such State, or 8513(b)(2) of this title, relating to the achievement of the emergency energy conservation target of such State or the failure to carry out the assurances regarding implementation contained in an approved plan of such State; or

(C) any determination by the Secretary disapproving a State plan under section 8512(c) of this title, including any determination by the Secretary under section 8512(c)(1)(B) of this title that 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.

<sup>3</sup> See References in Text note below.

Such action shall be barred unless it is instituted within 30 calendar days after the date of publication of the establishment of a target referred to in subparagraph (A), the finding by the President referred to in subparagraph (B), or the determination by the Secretary referred to in subparagraph (C), as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than 20 days after the decision of the court of appeals.

**(b) Repealed. Pub. L. 98-620, title IV, § 402(42), Nov. 8, 1984, 98 Stat. 3360**

**(c) Injunctive relief**

With respect to judicial review under subsection (a)(1)(A) of this section, the court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in the case.

(Pub. L. 96-102, title II, § 214, Nov. 5, 1979, 93 Stat. 764; Pub. L. 98-620, title IV, § 402(42), Nov. 8, 1984, 98 Stat. 3360.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-620 struck out subsec. (b) which required the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsec. (a)(2).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

**§ 8515. Reports**

**(a) Monitoring**

The Secretary shall monitor the implementation of State emergency conservation plans and of the standby Federal conservation plan and make such recommendations to the Governor of each affected State as he deems appropriate for modification to such plans.

**(b) Omitted**

(Pub. L. 96-102, title II, § 215, Nov. 5, 1979, 93 Stat. 765.)

CODIFICATION

Subsec. (b) of this section, which required the President to report annually to Congress on any activities undertaken pursuant to this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 20th item on page 19 of House Document No. 103-7.

SUBCHAPTER II—OTHER AUTOMOBILE FUEL PURCHASE MEASURES

**§ 8521. Minimum automobile fuel purchase measures**

**(a) General rule**

If the provisions of this subsection are made applicable under subsection (c) of this section,

no person shall purchase motor fuel from a motor fuel retailer in any transaction for use in any automobile or other vehicle unless—

(1) the price for the quantity purchased and placed into the fuel tank of that vehicle equals or exceeds \$5.00; or

(2) in any case in which the amount paid for the quantity of motor fuel necessary to fill the fuel tank of that vehicle to capacity is less than \$5.00, such person pays to the retailer an additional amount so that the total amount paid in that transaction equals \$5.00.

Any person selling motor fuel in transactions to which the provisions of this subsection apply shall display at the point of sale notice of such provisions in accordance with regulations prescribed by the Secretary.

**(b) \$7.00 to be applicable in case of 8-cylinder vehicles**

In applying subsection (a) of this section in the case of any vehicle with an engine having 8 cylinders (or more), “\$7.00” shall be substituted for “\$5.00”.

**(c) Applicability**

(1) Unless applicable pursuant to paragraph (2), the requirements of subsection (a) of this section shall apply in any State and shall be administered and enforced as provided in subsection (g) of this section only if—

(A) the Governor of that State submits a request to the Secretary to have such requirements applicable in that State; and

(B) the attorney general of that State has found that (i) absent a delegation of authority under a Federal law, the Governor lacks the authority under the laws of the State to invoke comparable requirements, (ii) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing such requirements under a delegation of authority pursuant to Federal law, and (iii) if implemented such requirements would not be contrary to State law.

Subject to paragraph (2), such provisions shall cease to apply in any State if the Governor of the State withdraws any request under subparagraph (A).

(2) The requirements of subsection (a) of this section shall apply in every State if there is in effect a finding by the President that nationwide implementation of such requirements would be appropriate and consistent with the purposes of this chapter.

(3) Such requirements shall take effect in any State beginning on the 5th day after the Secretary or the President (as the case may be) publishes notice in the Federal Register of the applicability of the requirements to the State pursuant to paragraph (1) or (2).

(4) Notwithstanding any other provision of law, the authority vested in the President under paragraph (2) may not be delegated.

**(d) Exemptions**

The requirements of subsection (a) of this section shall not apply to any motorcycle or motorpowered bicycle, or to any comparable vehicle as may be determined by the Secretary by regulation.