

(b) Consultation with Secretary, Government Accountability Office and Federal Energy Regulatory Commission; rules; reliance on practices developed by Financial Accounting Standards Board; opportunity to submit written comment

In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall—

(1) consult with the Secretary, the Government Accountability Office, and the Federal Energy Regulatory Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comments with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) Requirements for accounting practices

The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

- (A) prospecting,
- (B) acquisition,
- (C) exploration,
- (D) development, and
- (E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by, controlling, or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(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) 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 during times of day other than conventional daytime 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.¹

(3) the Emergency Petroleum Allocation Act of 1973.¹

(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 103¹ thereof) and title II of this Act, or this

¹ See References in Text note below.

¹ See References in Text note below.