

“within ninety days after the approval of this Act [Sept. 8, 1950], and” after “President” and substituted “studies of voluntary agreements and programs authorized by this section” for “such surveys and including such recommendations as he may deem desirable”.

1955—Subsec. (b). Act Aug. 9, 1955, §6(1), inserted proviso.

Subsec. (d). Act Aug. 9, 1955, §6(2), exempted subsequent acts or omissions to act upon withdrawal by Attorney General of his approval of voluntary agreement or program.

Subsec. (e). Act Aug. 9, 1955, §6(3), (4), included studies of voluntary agreements and programs in surveys and reports, and required Attorney General to report to Congress at least once every three months.

1952—Subsec. (f). Act June 30, 1952, added subsec. (f).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-99 effective Oct. 20, 1990, see section 7 of Pub. L. 102-99, set out as a note under section 2071 of this Appendix.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 9 of Pub. L. 94-152, as amended by Pub. L. 94-153, Dec. 16, 1975, 89 Stat. 822; Pub. L. 94-220, Feb. 27, 1976, 90 Stat. 195, provided that: “This Act and the amendments made by it [enacting section 2158a of this Appendix, amending sections 2160, 2162, 2166, 2168, and 2169 of this Appendix, and enacting provisions set out as notes under this section and section 2061 of this Appendix] shall take effect at the close of November 30, 1975, except that the amendment made by section 3 [amending this section] shall take effect upon the one hundred and twentieth day beginning after the date of its enactment [Dec. 16, 1975].”

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of the close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Provision for termination of section on June 30, 1972, eliminated in amendment by Pub. L. 92-15, §2, May 18, 1971, 85 Stat. 38, of section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section necessary to effect changes in composition of, or to take other action respecting voluntary agreements and programs relating to, small business production pools approved prior to July 31, 1953, delegated to Administrator of Small Business Administration by Ex. Ord. No. 10493, Oct. 14, 1953, 18 F.R. 6583, set out as a note under section 640 of Title 15, Commerce and Trade.

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15.

For delegation of authority of President under subsecs. (c) and (d) of this section to heads of each Federal department or agency, see sections 501 and 502 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, set out as a note under section 2153 of this Appendix.

CONTINUATION IN EFFECT OF EXISTING VOLUNTARY AGREEMENTS

Section 4 of Pub. L. 94-152 provided that:

“(a) Any voluntary agreement—

“(1) entered into under section 708 of the Defense Production Act of 1950 [this section] prior to the effective date of this Act [see Effective Date of 1975 Amendment note below], and

“(2) in effect immediately prior to such date may continue in effect (except as otherwise provided in section 708A(o) of the Defense Production Act of 1950,

as amended by this Act) [former section 2158a(o) of this Appendix] and shall be carried out in accordance with such section 708, as amended by this Act, and such section 708A.

“(b) No provision of the Defense Production Act of 1950, as amended by this Act [see Short Title of 1975 Amendment note set out under section 2061 of this Appendix] shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the date of enactment of this Act [Dec. 16, 1975], (2) outside the scope and purpose or not in compliance with the terms and conditions of the Defense Production Act of 1950 [see section 2061 of this Appendix], or (3) subsequent to the expiration or repeal of the Defense Production Act of 1950.

“(c) Effective on the date of enactment of this Act [Dec. 16, 1975], the immunity conferred by section 708 or 708A of the Defense Production Act of 1950, as amended by this Act [this section and section 2158a of this Appendix], shall not apply to any action taken or authorized to be taken by or under the Emergency Petroleum Allocation Act of 1973 [section 751 et seq. of Title 15, Commerce and Trade].”

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2166 of this Appendix; title 42 section 6272.

§ 2158a. Repealed. Pub. L. 102-99, § 4, Aug. 17, 1991, 105 Stat. 487

Section, act Sept. 8, 1950, ch. 932, title VII, §708A, as added Dec. 16, 1975, Pub. L. 94-152, §3, 89 Stat. 815, related to voluntary agreements and plans of action for international agreements for international allocation of petroleum products and related information systems.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 20, 1990, see section 7 of Pub. L. 102-99, set out as an Effective Date of 1991 Amendment note under section 2071 of this Appendix.

§ 2159. Public participation in rulemaking

(a) Exemption from Administrative Procedure Act

Any regulation issued under this Act [sections 2061 to 2171 of this Appendix] shall not be subject to sections 551 through 559 of title 5, United States Code.

(b) Opportunity for notice and comment

(1) In general

Except as provided in subsection (c), any regulation issued under this Act [sections 2061

to 2171 of this Appendix] shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

(2) Waiver for temporary provisions

The requirements of paragraph (1) may be waived, if—

(A) the officer authorized to issue the regulation finds that urgent and compelling circumstances make compliance with such requirements impracticable;

(B) the regulation is issued on a temporary basis; and

(C) the publication of such temporary regulation is accompanied by the finding made under subparagraph (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days before any regulation becomes final.

(3) Consideration of public comments

All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation shall contain written responses to such comments.

(c) Public comment on procurement regulations

Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act [sections 2061 to 2171 of this Appendix] shall be subject to section 22 of the Office of Federal Procurement Policy Act [41 U.S.C. 418b].

(Sept. 8, 1950, ch. 932, title VII, § 709, 64 Stat. 819; Pub. L. 102-558, title I, § 136(a), Oct. 28, 1992, 106 Stat. 4216.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsection (a), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof principally in subchapter II (§ 551 et seq.) of chapter 5, and chapter 7 (§ 701 et seq.), of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Pub. L. 102-558 amended section generally. Prior to amendment, section read as follows: “The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate.”

EFFECTIVE DATE OF 1992 AMENDMENT

Section 136(b) of Pub. L. 102-558 provided that: “Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation issued in proposed or final form on or before the date of enactment of this Act [Oct. 28, 1992].”

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2154 of this Appendix.

§ 2160. Employment of personnel; appointment policies; nucleus executive reserve; use of confidential information by employees; printing and distribution of reports

(a) Repealed. June 28, 1955, ch. 189, § 12(c)(1), 69 Stat. 180.

(b)(1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061 to 2171 of this Appendix] and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act [said sections] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Appointees under this subsection shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection is exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914¹ of title 18, United States Code, and section 190¹ of the Revised Statutes (5 U.S.C. 99), except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, part-

¹ See References in Text note below.