

“(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

“(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.”

1975—Subsec. (c). Pub. L. 94-163 added subsec. (c).

1953—Subsec. (a). Act June 30, 1953, struck out provisions which related to slaughtering of livestock and allocation of meat and meat products.

Subsec. (b). Act June 30, 1953, retained priorities and allocation authority for defense production but generally to discontinue such authority with respect to the civilian market except in the special cases where, because of shortages and demands of the defense effort, there otherwise would be a significant dislocation in the civilian market resulting in appreciable hardship.

1952—Act June 30, 1952, redesignated existing provisions as subsec. (a), inserted provisions relating to meat and meat products, and added subsec. (b).

1951—Act July 31, 1951, inserted provision relating to slaughtering of livestock.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Section 7 of Pub. L. 102-99 provided that: “This Act [amending this section and sections 2158, 2161, and 2166 of this Appendix, repealing section 2158a of this Appendix, and enacting provisions set out as a note under section 2061 of this Appendix] shall take effect on October 20, 1990.”

#### TERMINATION DATE

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

#### DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. 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, Commerce and Trade.

For delegation of certain authority of President under this section, see sections 201 to 203 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29526, 29527, set out as a note under section 2153 of this Appendix.

#### REPORT ON INDUSTRY PREPAREDNESS

Pub. L. 110-53, title X, §1002(b), Aug. 3, 2007, 121 Stat. 375, provided that: “Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.”

#### PRESIDENTIAL AUTHORITY TO ISSUE ORDERS RELATING TO DOMESTIC ENERGY SUPPLIES

Pub. L. 94-163, title I, §104(b), Dec. 22, 1975, 89 Stat. 879, as amended by Pub. L. 99-58, title I, §101(b), July 2, 1985, 99 Stat. 102; Pub. L. 101-46, §1(2), June 30, 1989, 103

Stat. 132; Pub. L. 101-262, §2(a), Mar. 31, 1990, 104 Stat. 124; Pub. L. 101-360, §2(a), Aug. 10, 1990, 104 Stat. 421; Pub. L. 101-383, §2(1), Sept. 15, 1990, 104 Stat. 727; Pub. L. 105-388, §6, Nov. 13, 1998, 112 Stat. 3479; Pub. L. 106-469, title I, §103(2), Nov. 9, 2000, 114 Stat. 2029, provided that: “The expiration of the Defense Production Act of 1950 [section 2061 et seq. of this Appendix] or any amendment of such Act after the date of enactment of this Act [Dec. 22, 1975] shall not affect the authority of the President under section 101(c) of such Act [subsec. (c) of this section], as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.”

#### EXECUTIVE ORDER NO. 10161

Ex. Ord. No. 10161, Sept. 9, 1950, 15 F.R. 6105, as amended by Ex. Ord. No. 10200, Jan. 3, 1951, 16 F.R. 61; Ex. Ord. No. 10233, Apr. 23, 1951, 16 F.R. 3503; Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789; Ex. Ord. No. 10301, Nov. 5, 1951, 16 F.R. 11257; Ex. Ord. No. 10324, Feb. 6, 1952, 17 F.R. 1171; Ex. Ord. No. 10359, June 9, 1952, 17 F.R. 5269; Ex. Ord. No. 10373, July 15, 1952, 17 F.R. 6425; Ex. Ord. No. 10377, July 28, 1952, 17 F.R. 6891; Ex. Ord. No. 10390, Sept. 2, 1952, 17 F.R. 7995; and Ex. Ord. No. 10433, Feb. 4, 1953, 18 F.R. 761, which related to delegation of President's functions, was revoked by Ex. Ord. No. 10480, Aug. 18, 1953, 18 F.R. 4939, formerly set out under section 2153 of this Appendix.

#### ABOLITION OF WAGE STABILIZATION BOARD AND CREATION OF NEW BOARD

Wage Stabilization Board created by Ex. Ord. No. 10161, eff. Sept. 9, 1950, 15 F.R. 6105, as amended, abolished by section 2103(b)(6) of this Appendix. A new Wage Stabilization Board was created by section 2103(b)(1), which terminated according to section 2166 of this Appendix Apr. 30, 1953.

#### POWERS OF SECRETARY OF COMMERCE UNDER EX. ORD. NO. 10161

The Secretary of Commerce by F.R. Doc. 50-8068, filed Sept. 13, 1950, 15 F.R. 6182, established the National Production Authority in the Department of Commerce to perform the functions and exercise the powers vested in the Secretary of Commerce by Ex. Ord. No. 10161, and established the Advisory Committee on Priorities Administration which was to serve in an advisory capacity with respect to policy matters. The National Production Authority was abolished and its functions merged into the Business and Defense Services Administration by Secretary of Commerce order, dated Oct. 1, 1953, which in turn was abolished by Department Organization Order 40-1A of Sept. 15, 1970 and its functions transferred to the Bureau of Domestic Commerce. All functions of the Bureau of Domestic Commerce were transferred by the Secretary of Commerce to the Domestic and International Business Administration, within the Department of Commerce, eff. Nov. 17, 1972.

#### § 2072. Hoarding of designated scarce materials

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation.

In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the

reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [sections 2071 and 2154 of this Appendix].

(Sept. 8, 1950, ch. 932, title I, §102, 64 Stat. 799; July 31, 1951, ch. 275, title I, §101(b), 65 Stat. 132.)

#### AMENDMENTS

1951—Act July 31, 1951, authorized President to prescribe conditions and exceptions allowing maintenance of substantial inventories of critical materials in certain cases.

#### TERMINATION DATE

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

#### DELEGATION OF FUNCTIONS

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, Commerce and Trade.

### § 2073. Penalties

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [sections 2071 to 2078 of this Appendix] or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(Sept. 8, 1950, ch. 932, title I, §103, 64 Stat. 799.)

#### TERMINATION DATE

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

### § 2074. Limitation on actions without Congressional authorization

#### (a) Wage or price controls

No provision of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

#### (b) Chemical or biological weapons

No provision of title I of this Act [sections 2071 to 2078 of this Appendix] shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities, unless authorized by the President (or the President's designee who is serving in a position at level I of the Executive Schedule in accordance with section 5312 of title 5, United States Code) without further redelegation.

(Sept. 8, 1950, ch. 932, title I, §104, as added Pub. L. 102-558, title I, §112, Oct. 28, 1992, 106 Stat. 4202.)

#### PRIOR PROVISIONS

A prior section 2074, act Sept. 8, 1950, ch. 932, title I, §104, as added July 31, 1951, ch. 275, title I, §101(c), 65

Stat. 132; amended June 30, 1952, ch. 530, §103, 66 Stat. 297, which related to limitations on imports of fats and oils, terminated at close of June 30, 1953, by terms of section 2166(a) of this Appendix.

#### EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

#### DELEGATION OF AUTHORITY

Authority of President under subsec. (b) of this section delegated to Secretary of Defense by section 204 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29527, set out as a note under section 2153 of this Appendix.

### § 2075. Presidential power to ration gasoline among classes of end-users unaffected

Nothing in this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.

(Sept. 8, 1950, ch. 932, title I, §105, as added Pub. L. 96-294, title I, §103, June 30, 1980, 94 Stat. 617.)

#### EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96-294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

#### TERMINATION DATE

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

### § 2076. Designation of energy as a strategic and critical material

For purposes of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix], “energy” shall be designated as a “strategic and critical material” after the date of the enactment of this section [June 30, 1980]: *Provided*, That no provision of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] shall, by virtue of such designation<sup>1</sup> grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock (including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy.

(Sept. 8, 1950, ch. 932, title I, §106, as added Pub. L. 96-294, title I, §103, June 30, 1980, 94 Stat. 617; amended Pub. L. 111-67, §5, Sept. 30, 2009, 123 Stat. 2009.)

#### AMENDMENTS

2009—Pub. L. 111-67 substituted “such designation” for “such designation—” and “energy.” for “energy; or”, struck out par. (1) designation before “grant any new direct or indirect authority to the President for”, and struck out par. (2), which read as follows: “grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production.”

#### EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96-294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

<sup>1</sup> So in original. Probably should be followed by a comma.