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50 U.S.C. 1641 (SEC. 401 OF THE NEA)

FOIA(b) (2)





CHAPTER 35—INTERNATIONAL EMERGENCY
ECONOMIC POWERS

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§ 1701. Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities

(a) Any authority granted to the President by section 1702 of this title may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

(Pub.L. 95-223, Title II, § 202, Dec. 28, 1977, 91 Stat. 1626.)

§ 1702. Presidential authorities

(a)(1) At the times and to the extent specified in section 1701 of this title, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

The International Emergencies Economic Powers Act
Public Law 95-223
50 U.S.C. 1701 et seq.

(3) Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value; or

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 1701 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

(Pub.L. 95-223, Title II, § 203, Dec. 28, 1977, 91 Stat. 1626.)

§ 1703. Consultation and reports

(a) Consultation with Congress

The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this chapter and shall consult regularly with the Congress so long as such authorities are exercised.

(b) Report to Congress upon exercise of Presidential authorities

Whenever the President exercises any of the authorities granted by this chapter, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) Periodic follow-up reports

At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) of this section with respect to an exercise of authorities under this chapter, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b) of this section.

(d) Supplemental requirements

The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act [50 U.S.C.A. § 1641].

(Pub.L. 95-223, Title II, § 204, Dec. 28, 1977, 91 Stat. 1627.)

The International Emergencies Economic Powers Act
Public Law 95-223
50 U.S.C. 1701 et seq.

§ 1704. Authority to issue regulations

The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this chapter.

(Pub.L. 95-223, Title II, § 205, Dec. 28, 1977, 91 Stat. 1628.)

§ 1705. Penalties

(a) A civil penalty of not to exceed \$10,000 may be imposed on any person who violates any license, order, or regulation issued under this chapter.

(b) Whoever willfully violates any license, order, or regulation issued under this chapter shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(Pub.L. 95-223, Title II, § 206, Dec. 28, 1977, 91 Stat. 1628.)

§ 1706. Savings provisions

(a) Termination of national emergencies pursuant to National Emergencies Act

(1) Except as provided in subsection (b) of this section, notwithstanding the termination pursuant to the National Emergencies Act [50 U.S.C.A. § 1601 et seq.] of a national emergency declared for purposes of this chapter, any authorities, granted by this chapter, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) Congressional termination of national emergencies by concurrent resolution

The authorities described in subsection (a)(1) of this section may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act [50 U.S.C.A. § 1622] and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c) Supplemental savings provisions; supersedure of inconsistent provisions

(1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) [50 U.S.C.A. § 1601(a)(1), (2), (3)] and of paragraphs (A), (B), and (C) of section 202(a) [50 U.S.C.A. § 1622(a)(A), (B), and (C)] of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) [50 U.S.C.A. § 1601(a)] and of title II [50 U.S.C.A. § 1621 et seq.] of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) Periodic reports to Congress

If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

(Pub.L. 95-223, Title II, § 207, Dec. 28, 1977, 91 Stat. 1628.)



TRADING WITH THE ENEMY ACT OF 1917

ACT OCT. 6, 1917, C. 106, 40 STAT. 411

- | | |
|---|---|
| Sec.
39. Retention of properties or interests of Germany and Japan and their nationals; compensation; proceeds covered into Treasury; transfer to War Claims Fund; limitation; payments to successor organizations re- | ceiving heirless property; reimbursement of Attorney General; deductions for certain administrative expenses; transfer to Federal Republic of Germany; ex gratia payment to Switzerland |
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TRADING WITH ENEMY ACT 50 App. § 5

§ 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1-6, 7-39 and 41-44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [sections 1-6, 7-39 and 41-44 of this Appendix]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however*, That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

(As amended Dec. 28, 1977, Pub.L. 95-223, Title I, §§ 101(a), 102, 103(b), 91 Stat. 1625, 1626.)



DEFENSE PRODUCTION ACT OF 1950

ACT SEPT. 8, 1950, C. 932, 64 STAT. 798

Sec.

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- (e) Bidding and contracting procedures and requirements applicable to purchases and commitments to purchase.
- (f) Scope of Presidential procurement power.
- (g) Determinations respecting purchase and sale of synthetic fuel.
- (h) Maximum liability of Federal Government under contracts; budgetary certifications.
- (i) Loan, guarantee, or purchase not to be deemed a major Federal action significantly affecting the quality of the human environment.
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§ 2061. Short title

This Act [sections 2061-2166 of this Appendix], divided into titles, may be cited as "the Defense Production Act of 1950". Sept. 8, 1950, c. 932, § 1, 64 Stat. 798.

§ 2062. Declaration of policy

In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs.

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other Act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities.

(As amended June 30, 1953, c. 171, § 2, 67 Stat. 129; Aug. 9, 1955, c. 655, § 2, 69 Stat. 360; Jan. 29, 1956, c. 474, § 4, 70 Stat. 408; June 30, 1980, Pub.L. 96-294, Title I, § 102, 94 Stat. 611)

TITLE I—PRIORITIES AND ALLOCATIONS

§ 2071. Priority in contracts and orders

(a) Allocation of materials and facilities

The President is authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) Critical and strategic materials

The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c) Domestic energy supplies

(1) Notwithstanding any other provision of this Act [section 2061 et seq. of this Appendix], the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection [Dec. 22, 1975], on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

(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.

(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, §§ 101, 102, 66 Stat. 296; June 30, 1953, c. 171, § 3, 67 Stat. 129; Dec. 22, 1975, Pub.L. 94-163, Title I, § 104(a), 89 Stat. 878.)

§ 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 2061-2166 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, c. 932, Title I, § 102, 64 Stat. 799; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 101(b), 65 Stat. 132.

§ 2073. Penalties for violation of title

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title 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, c. 932, Title I, § 103, 64 Stat. 799.

§ 2074. Omitted

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

Nothing in this Act [section 2061 et seq. 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, c. 932, Title I, § 105, as added June 30, 1980, Pub.L. 96-294, Title I, § 103, 94 Stat. 617.)

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

For purposes of this Act [section 2061 et seq. 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 [section 2061 et seq. of this Appendix] shall, by virtue of such designation—

(1) 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; or

(2) 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 [sections 2095 and 2096 of this Appendix] for synthetic fuel production.

(Sept. 8, 1980, c. 932, Title I, § 106, as added June 30, 1980, Pub.L. 96-294, Title I, § 103, 94 Stat. 617.)

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

§ 2081. Omitted

Codification. Section, Acts Sept. 8, 1950, c. 932, Title II, § 201, 64 Stat. 799; July 31, 1951, c. 275, Title I, § 102(b), 65 Stat. 132, terminated on June 30, 1953 by the terms of section 2166(a) of this Appendix, and has been omitted from the Code. ing of title in United States as purchaser, lessee was not entitled to recover from United States for eviction of lessee after conveyance to Unitec States. *Breinig Bros. v. U.S.*, 1953, 110 F.Supp. 269, 124 Ct.Cl. 645.

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

§ 2091. Loan guarantees

(a) Purpose of loans; guaranteeing agencies; Presidential determinations

(1) In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of Defense, the Department of Energy, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as "guaranteeing agencies"), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection herewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small-business concern (as defined in section 714(a)(1) of this Act [former section 2163a(a)(1) of this Appendix]) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(2) Except as provided in section 305 [section 2095 of this Appendix] and section 306 [section 2096 of this Appendix], no authority contained in sections 301, 302, or 303 [sections 2091, 2092, or 2093 of this Appendix] may be used in any manner—

(A) in the development, production, or distribution of synthetic fuel;

(B) for any synthetic fuel project;

(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

(D) to provide any assistance to any person for the purchase of synthetic fuel.

(3) Except during periods of national emergency declared by the Congress or the President, a guarantee may be entered into under this section only if the President determines that—

(A) the guaranteed contract or operation is for a material, or the performance of a service, which is essential to the national defense;

(B) Without the guarantee, United States industry cannot reasonably be expected to provide the capability for the needed material or service in a timely manner;

(C) The guarantee is the most cost-effective, expedient, and practical alternative for meeting the need involved; and

(D) the United States national defense demand is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the guarantee.

Fiscal agents; accountability; reimbursement

(b) Any Federal agency or any Federal Reserve bank, when designated by the President, is authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

Supervision; interest, fees, procedures

(c) All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

Funds available for guarantees

(d) Each guaranteeing agency is authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense. Sept. 8, 1950, c. 932, Title III, § 301, 64 Stat. 800.

(e) Identification of industrial resource shortfall; prevention of personal financial insolvency or bankruptcy

(1)(A) Except during periods of national emergency declared by the Congress or the President, a guarantee may be made under this section only if the industrial resource shortfall which such guarantee is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (a)(3) of this section.

(B) Any such guarantee may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

(C) If the making of any guarantee or guarantees to correct an industrial resource shortfall would cause the aggregate outstanding amount of all guarantees for such industrial resource shortfall to exceed \$25,000,000, any such guarantee or guarantees may be made only if specifically authorized by law.

(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committees on Banking and Currency of the respective Houses at least ten days prior to the exercise of that authority for such use.

As amended June 30, 1953, c. 171, § 4, 67 Stat. 129; Aug. 15, 1970, Pub.L. 91-379, Title I, § 104, 84 Stat. 799; June 30, 1980, Pub.L. 96-294, Title I, § 104(a), (b), 94 Stat. 618; Apr. 17, 1984, Pub.L. 98-265, §§ 3(a), 4(a), 98 Stat. 149, 150.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in subsec. (e) of this section.

§ 2092. Loans to private business enterprises

(a) Purposes

To expedite production and deliveries or services to aid in carrying out Government contracts for the procurement of materials or the performance of services for the national defense, the President may make provision for loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, and manufacture of newsprint.

(b) Terms and conditions; Presidential determinations

Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that—

(1) financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms; and

(2) except during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

(A) the loan is for the expansion of capacity, the development of a technological process, or the production of materials essential to the national defense;

(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need; and

(D) the United States national defense demand is equal to, or greater than, domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the loan.

(c) Identification of industrial resource shortfall

(1) No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President, unless the industrial resource shortfall which such loan is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (b)(2) of this section.

(2) Any such loan may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to paragraph (1).

(3) If the making of any loan or loans to correct an industrial resource shortfall would cause the aggregate outstanding amount of all loans for such industrial resource shortfall to exceed \$25,000,000, any such loan or loans may be made only if specifically authorized by law.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, § 104, 66 Stat. 298; Nov. 16, 1973, Pub.L. 93-155, Title VIII, § 807(b), 87 Stat. 615; June 30, 1980, Pub.L. 96-294, Title I, § 104(c), 94 Stat. 618; Apr. 17, 1984, Pub.L. 98-265, §§ 3(b), 4(b), 98 Stat. 149, 151.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in this section.

§ 2093. Purchases of raw materials and installation of equipment

(a) Purchases for use or resale; development of strategic minerals, metals, and materials; agricultural commodities; termination date; Presidential determinations; identification of industrial resource shortfall

To assist in carrying out the objectives of this Act [sections 2061 *et seq.* of this Appendix], the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals, metals, and materials: *Provided, however,* That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress [7 U.S.C.A. § 1427]: *Provided further, however,* That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act [June 30, 1952]. Except during periods of national emergency declared by the Congress or the President, the President may not execute a contract under this subsection unless the President determines that—

- (1) the mineral, metal, or material is essential to the national defense;
- (2) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed mineral, metal, or material in a timely manner;
- (3) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and
- (4) the United States national defense demand for the mineral, metal, or material is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

Except during periods of national emergency declared by the Congress or the President, the President shall take no action under authority of this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under authority of this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed \$25,000,000, any such action or actions may be taken only if specifically authorized by law.

(b) Terms and conditions of purchase

Subject to the limitations in subsection (a) of this section, purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond September 30, 1995, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government or that such purchases are necessary to assure the availability to the United States of overseas supplies.

**Subsidy payments on domestically produced materials;
exclusion of agricultural products**

(c) If the President finds—

- (1) that under generally fair and equitable ceiling prices for any raw or nonprocessed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act [sections 2061–2166 of this Appendix]; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials,

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing

law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

Transportation, storage, and processing

(d) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined, any materials procured under this section.

Installation of equipment in industrial facilities

(e) When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install government-owned equipment in plants, factories, and other industrial facilities owned by private persons.

(f) Transfers of excess material to National Defense Stockpile

Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act [section 2061 et seq. of this Appendix], shall be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act [50 U.S.C.A. § 98 et seq.], when the President deems such action to be in the public interest. Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds appropriated for the purposes of such Act, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be cancelled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304(b) of this Act, as amended [section 2094(b), of this Appendix], shall be reduced in an amount equal to the amount of any notes so cancelled.

(g) Development of substitutes for strategic and critical materials

When in his judgment it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials.

Sept. 8, 1950, c. 932, Title

III, § 303, 64 Stat. 801; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 103(a), 65 Stat. 133.

(As amended June 30, 1953, c. 171, §§ 5, 6, 67 Stat. 130; Aug. 9, 1955, c. 655, § 3, 69 Stat. 580; June 29, 1956, c. 474, § 2, 70 Stat. 408; June 30, 1964, Pub.L. 88-343, § 2, 78 Stat. 235; June 30, 1972, Pub.L. 92-325, § 1, 86 Stat. 390; Apr. 21, 1976, Pub.L. 94-273, § 2(29), 90 Stat. 376; July 30, 1979, Pub.L. 96-41, § 3(c), 96 Stat. 325; June 30, 1980, Pub.L. 96-294, Title I, § 104(d), 94 Stat. 618; Apr. 17, 1984, Pub.L. 98-265, §§ 3(c), 4(c), 98 Stat. 150, 151.)

§ 2094. Utilization and creation of agencies; cancellation of outstanding balance of unpaid notes; disposition of funds

(a) For the purposes of sections 302 and 303 [sections 2092 and 2093 of this Appendix], the President is authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

(b) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Treasury pursuant to this section, together with interest accrued and unpaid on such notes.

(c) Any cash balance remaining on June 30, 1974, in the borrowing authority previously authorized by this section, and any funds thereafter received on transactions heretofore or hereafter entered into pursuant to sections 302 and 303 [sections 2092 and 2093 of this Appendix] shall be covered into the Treasury as miscellaneous receipts.

(As amended June 30, 1960, Pub.L. 86-560, § 2, 74 Stat. 282; June 30, 1964, Pub.L. 88-343, § 3, 78 Stat. 235; Sept. 30, 1974, Pub.L. 93-426, § 2, 88 Stat. 1166.)

§ 2095

§ 2095. Synthetic fuel production

(a) Immediate Presidential action to meet national defense needs; exercise of authorities; United States Synthetic Fuel Corporation authority unaffected

(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act [sections 2061 et seq. of this Appendix] (other than sections 101(a), 101(b), 301, 302, 303, and 306 [sections 2071(a), 2071(b), 2091 to 2093, and 2096 of this Appendix]), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

(i) in consultation with the Secretary of Energy;

(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980 [42 U.S.C.A. § 8701 et seq.].

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(b) Specific Presidential authorities; requisites, limitations, etc.

(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301 [section 2091 of this Appendix], except that the provisions of section 301(e)(1)(B) [section 2091(e)(1)(B) of this Appendix] shall not apply with respect to such guarantees; and

(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302 [section 2092 of this Appendix], except that the provisions of section 302(2) [section 2092(2) of this Appendix] shall not apply with respect to such loans.

(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 [section 2091 of this Appendix] or section 302 [section 2092 of this Appendix] in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307 [section 2097 of this Appendix], any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

(c) Purchases and commitments to purchase by President; authority; limitations; advance payments prior to construction of synthetic fuel project

(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

(A) without regard to the limitations of existing law (other than the limitations contained in this Act [section 2061 et seq. of this Appendix]) regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a) [section 2166(a) of this Appendix], for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(d) Bidding and contracting procedures and requirements applicable to purchases and commitments to purchase

(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 [section 2097 of this Appendix] shall such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307 [section 2097 of this Appendix], any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3) [sections 2161(a)(2) and 2161(a)(3) of this Appendix], an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(e) Scope of Presidential procurement power

The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(f) Determinations necessary for purchase and sale of synthetic fuel

(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

(g) Maximum liability of Federal Government under contracts; budgetary certifications

(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less then aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(h) Loan, guarantee, or purchase agreement not to be deemed a major Federal action significantly affecting the quality of the human environment

For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(i) Labor standards; applicability, certifications, etc.

All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40 [40 U.S.C.A. § 276(c)].

(j) Other Jurisdictional, etc., authorities relating to water resources and rights unaffected

(1) Nothing in this section shall—

(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(k) Termination of contracting or commitment authority of President; renewal or extension of contracts

(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980 [42 U.S.C.A. § 8701 et seq.].

(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

(Sept. 8, 1950, c. 932, Title III, § 305, as added June 30, 1980, Pub.L. 96-294, Title I, § 104(e), 94 Stat. 619.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in this section.

§ 2096. Synthetic fuel production subsequent to determinations respecting a national energy supply shortage of defense fuels

(a) Invocation of authorities; judicial review prohibited

(1) At any time after the date of the enactment of this section [June 30, 1980], the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 [section 2097 of this Appendix] and the authorities under this section shall be effective only as provided under such section. For purposes of section 307 [section 2097 of this Appendix], any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

(3) No court shall have the authority to review any determination made by the President under this subsection.

(b) Immediate Presidential action to meet national defense needs; exercise of authorities; United States Synthetic Fuel Corporation authority unaffected

(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act [section 2061 et seq. of this Appendix] (other than sections 101(a), 101(b), 301, 302, 303, and 305) [sections 2071(a), 2071(b), 2091 to 2093, and 2095 of this Appendix], and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

(i) in consultation with the Secretary of Energy; and

(ii) through the Department of Defense and any other Federal department or agency designated by the President.

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(c) Specific Presidential authorities; requisites, limitations, etc.

(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301 [section 2091 of this Appendix], except that the provisions of section 301(e)(1)(B) [section 2091(e)(1)(B) of this Appendix] shall not apply with respect to such guarantees;

(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302 [section 2092 of this Appendix], except that the provisions of section 302(2) [section 2092(2) of this Appendix] shall not apply with respect to such loans;

(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

(ii) transport and store and have processed and refined such synthetic fuel.

(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 [section 2091 of this Appendix] or section 302 [section 2092 of this Appendix] in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307 [section 2097 of this Appendix], any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

(d) Purchases and commitments to purchase by President; authority; limitations; advance payments prior to construction of synthetic fuel project

(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

(A) without regard to the limitations of existing law (other than those limitations contained in this Act) [section 2061 et seq. of this Appendix] regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a) [section 2166(a) of this Appendix], for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(e) Bidding and contracting procedures and requirements applicable to purchases and commitments to purchase

(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable; the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 807 [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 807 [section 2097 of this Appendix], any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(f) Scope of Presidential procurement power

The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(g) Determinations respecting purchase and sale of synthetic fuel

(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

(h) Maximum liability of Federal Government under contracts; budgetary certifications

(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(i) Loan, guarantee, or purchase not to be deemed a major Federal action significantly affecting the quality of the human environment.

For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(j) Labor standards; applicability, certifications, etc.

All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40 [40 U.S.C.A. § 276(c)].

(k) Other jurisdictional, etc., authorities relating to water resources and rights unaffected

(1) Nothing in this section shall—

(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(f) Renewals and extensions of contracts

Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) [subsec. (a)(1) of this Appendix] remain in effect for purposes of the use of such authority.

(Sept. 8, 1950, c. 932, Title III, § 306, as added June 30, 1980, Pub.L. 96-294, Title I, § 104(e), 94 Stat. 623.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in this section.

§ 2096a. Annual reports on synthetic fuel production

Beginning one year after the effective date of this part [June 30, 1980], and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950 [sections 2095 and 2096 of this Appendix].

(Pub.L. 96-294, Title I, § 106, June 30, 1980, 94 Stat. 633.)

§ 2097. Synthetic fuel action

(a) Definition

For purposes of this section, the term "synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) Submission to Congress by President

The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Effective date; resolution of disfavor; earlier effective date

(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

(d) Congressional sessions for purposes of effective date

For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Later effective date

Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) Construction and applicability of procedures with rules of each House

This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g) Procedures applicable to resolutions of approval or disapproval

(1) For purposes of subsection (b), the term "resolution" means a resolution of either House of the Congress described in paragraph (2) or paragraph (3).

(2) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19____", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

(3) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19____", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

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(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

(Sept. 8, 1950, c. 932, Title III, § 307, as added June 30, 1980, Pub.L. 96-294, Title I, § 104(e), 94 Stat. 628.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in this section.

§ 2098. Definitions

(a) For purposes of this Act [section 2061 et seq. of this Appendix], the term "Government synthetic fuel project" means a synthetic fuel project undertaken in accordance with the provisions of section 306(c) [section 2096(c) of this Appendix]

(b)(1)(A) For purposes of this Act [section 2061 et seq. of this Appendix], the term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 [section 2095 of this Appendix] or section 306 [section 2096 of this Appendix]; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(2)(A) For purposes of this Act [section 2061 et seq. of this Appendix], the term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 [section 2095 of this Appendix] or section 306 [section 2096 of this Appendix].

(C) For purposes of this paragraph—

(i) the term "exclusive" means for the sole use of the project, except that an incidental by-product might be used for other purposes;

(ii) the term "incidental" means a relatively small portion of the total project cost; and

(iii) the term "necessary" means an integrated part of the project taking into account considerations of economy and efficiency of operation.

(c) For purposes of section 305 [section 2095 of this Appendix] and section 306 [section 2096 of this Appendix], the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Sept. 8, 1950, c. 932, Title III, § 308, as added June 30, 1980, Pub.L. 96-294, Title I, § 104(e), 94 Stat. 631.)

§ 2099. Annual report on impact of offsets

Not later than 18 months after the date of the enactment of the Defense Production Act Amendments of 1984 [April 17, 1984], and annually thereafter, the President shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States. Each such report also shall include a discussion of bilateral and multilateral negotiations on offsets in international procurement and provide information on the types, terms, and magnitude of the offsets.

(Sept. 8, 1950, c. 932, Title III, § 309, as added Apr. 17, 1984, Pub.L. 98-265, § 6, 98 Stat. 152.)

TITLE IV—PRICE AND WAGE STABILIZATION

§ 2101. Omitted

Codification. Section, Act Sept. 8, 1950, c. 932, Title IV, § 401, 64 Stat. 803, terminated on April 30, 1953 by the terms of section 2166(a) of

this Appendix, and has been omitted from the Code.

TITLE V—SETTLEMENT OF LABOR DISPUTES

§§ 2121 to 2123. Omitted

Codification. Sections, Act Sept. 8, 1950, c. 932, Title V, §§ 501 to 503, 64 Stat. 812, terminated on April 30, 1953 by the terms of section 2166(a) of this Appendix, and have been omitted from the Code.

Section 2121 stated the intent of Congress in providing for the settlement of labor disputes affecting national defense.

Section 2122, which was amended by Act July 31, 1951, c. 275, Title I, § 105(b), 65 Stat. 137, stated the national policy in connection with such settlements, and provided for voluntary conferences.

Section 2123, which was amended by Acts July 31, 1951, c. 275, Title I, § 105(c), 65 Stat. 137; June 30, 1952, c. 530, Title I, § 115, 66 Stat. 305, provided that, in such settlements, due regard

should be given to collective bargaining and other laws, and, as amended by the Act of June 30, 1952, requested the President to invoke the Labor-Management Relations Act, 1947 (sections 176 to 180 of Title 29) with regard to the steel strike then existing.

Notes of Decisions

1. Generally

Federal wage control procedure did not contemplate the government would interfere in parties' collective bargaining process. *Alpha Beta Food Markets v. Retail Clerks Union Local 770*, 1955, 291 P.2d 433, 45 C.2d 764, certiorari denied 76 S.Ct. 547, 350 U.S. 996, 100 L.Ed. 861.

TITLE VI—CONTROL OF REAL ESTATE CREDIT

Codification. Sections 2132-2137 of this Appendix, which comprised this title, terminated on June 30, 1953 by the terms of section 2166(a) of this Appendix, and have been omitted from the

Code. Previous to such termination, the catchline of this title, and the subtitle heading, had been amended by Act June 30, 1952, c. 530, Title I, § 116(a), 66 Stat. 305.

TITLE VII—GENERAL PROVISIONS

§ 2151. Encouragement of small business; allocation of supplies to business

(a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act [sections 2061–2166 of this Appendix].

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act [sections 2061–2166 of this Appendix] relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act [said sections];

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act [said sections], and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act [said sections], such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act [said sections]; and

(iv) in administering this Act [said sections], special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Allocation of materials in civilian market

Whenever the President invokes the powers given him in this Act [section 2061 et seq. of this Appendix] to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials. *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

(d) Distribution of defense contracts

In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurement going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1980 [June 30, 1980], which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business.

Sept. 8, 1950, c. 932, Title VII, § 701, 64 Stat. 815; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 108, 65 Stat. 138.

(As amended June 30, 1953, c. 171, § 7, 67 Stat. 130; Aug. 9, 1955, c. 655, §§ 4, 5, 69 Stat. 580; June 30, 1980, Pub.L. 96-294, Title I, § 105(c), 94 Stat. 633.)

§ 2152. Definitions

As used in this Act [sections 2061-2166 of this Appendix]—

(a) The word "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act [sections 2061-2166 of this Appendix] shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word "materials" shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word "facilities" shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services, including, but not limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments.

(f) The term "defense contractor" means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense.

(As amended June 30, 1953, c. 171, § 8, 67 Stat. 130; Aug. 15, 1970, Pub.L. 91-379, Title I, § 102, 84 Stat. 796.)

§ 2153. Delegation of authority; creation of new agencies; appointment and compensation of officers and personnel; State representation in regional offices

(a) Except as otherwise specifically provided, the President may delegate any power or authority conferred upon him by this Act [sections 2061-2166 of this Appendix] to any officer or agency of the Government, including any new agency or agencies (and the President is authorized to create such new agencies, other than corporate agencies, as he deems necessary), and he may authorize such redelegations by that officer or agency as the President may deem appropriate. The President is authorized to appoint heads and assistant heads of any such new agencies, and other officials therein of comparable status, and to fix their compensation, without regard to the Classification Act of 1949, as amended, the head of one such agency to be paid at a rate comparable to the compensation paid to the heads of executive departments of the Government, and other such heads, assistant heads, and officials at rates comparable to the compensation paid to the heads and assistant heads of independent agencies of the Government. Any officer or agency may employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, without regard to section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219 [section 947 of Title 5]), as the President deems necessary to carry out the provisions of this Act [sections 2061-2166 of this Appendix].

(b) The head and assistant heads of any independent agency created to administer the authority conferred by title IV of this Act [sections 2101-2110 of this Appendix] shall be appointed by the President, by and with the advice and consent of the Senate. There shall be included among the policy-making officers of each regional office administering the authority conferred by title IV of this Act [sections 2101-2110 of this Appendix] a resident of each State served by such office whose governor requests such representation. Sept. 8, 1950, c. 932, Title VII, § 703, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 109(a, b), 65 Stat. 138.

§ 2154. Rules, regulations, and orders

The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act [sections 2061-2166 of this Appendix]. Any regulation or order under this Act [said sections] may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act [said sections], or to prevent circumvention or evasion, or to facilitate enforcement of this Act [said sections], or any rule, regulation, or order issued under this Act [said sections]. No rule, regulation, or order issued under this Act [sections 2061-2166 of this Appendix] which restricts the use of natural gas (either directly, or by restricting the use of facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act [said sections]. Sept. 8, 1950, c. 932, Title VII, § 704, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 109 (c), 65 Stat. 139.

§ 2155. Investigations; records; reports; subpoenas

(a) The President shall be entitled, while this Act [sections 2061-2166 of this Appendix] is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act [said sections] and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Repealed. Pub.L. 91-452, Title II, § 251, Oct. 15, 1970, 84 Stat. 931

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

Sept. 8, 1950, c. 932, Title VII, § 705, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 109(d), 65 Stat. 139.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, Title I, § 117, 66 Stat. 306; June 30, 1953, c. 171, § 9, 67 Stat. 131; Oct. 15, 1970, Pub.L. 91-452, Title II, § 251, 84 Stat. 931.)

§ 2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of Act

(a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act [sections 2061-2166 of this Appendix], he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act [sections 2061-2166 of this Appendix] or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act [said sections] to enforce any liability or duty created by, or to enjoin any violation of, this Act [said sections] or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act [said sections], or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act [said sections]. All litigation arising under this Act [said sections] or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General. Sept. 8, 1950, c. 932, Title VII, § 706, 64 Stat. 817; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 109(e), 65 Stat. 139.

§ 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act [section 2061 et seq. of this Appendix], notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act [sections 2071 to 2076 of this Appendix] or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, Title I, § 118, 66 Stat. 306.)

§ 2158. Voluntary agreements for preparedness programs and expansion of production capacity and supply

(a) Immunity from civil and criminal liability or defense to action under antitrust laws; exceptions

Except as specifically provided in subsection (j) of this section and subsection (j) of section 708A [section 2158a of this Appendix], no provision of this Act [section 2061 et seq. of this Appendix] shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) Antitrust laws defined

As used in this section and section 708A [section 2158a of this Appendix] the term "antitrust laws" means—

- (1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);
- (2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);
- (3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
- (4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9);
- (5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and
- (6) the Act entitled "An Act to promote export trade and for other purposes", approved April 10, 1918 (15 U.S.C. 61-65).

(c) Prerequisites for agreements; delegation of authority to Presidential designees

(1) Except as otherwise provided in section 708A(o) [section 2158a(o) of this Appendix] upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements to help provide for the defense of the United States through the development of preparedness programs and the expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

(2) The authority granted to the President in paragraph (1) and subsection (d) may be delegated by him (A) to individuals who are appointed by and with the advice and consent of the Senate, or are holding offices to which they have been appointed by and with the advice and consent of the Senate, (B) upon the condition that such individuals consult with the Attorney General and with the Federal Trade Commission not less than ten days before consulting with any persons under paragraph (1), and (C) upon the condition that such individuals obtain the prior approval of the Attorney General, after consultation by the Attorney General with the Federal Trade Commission, to consult under paragraph (1). For the purpose of carrying out the objectives of title I of this Act [sections 2071 to 2076 of this Appendix] the authority granted in paragraph (1) of this subsection shall not be delegated to more than one individual.

(d) Advisory committees; establishment; applicable provisions; membership; notice and participation in meetings; verbatim transcript; availability to public

(1) To achieve the objectives of subsection (c)(1) of this section, the President or any individual designated pursuant to subsection (c)(2) may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, any such advisory committee shall be subject to the provisions of the Federal Advisory Committee Act, whether or not such Act or any of its provisions expire or terminate during the term of this Act [section 2061 et seq. of this Appendix] or of such committees, and in all cases such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552(b)(1) and (b)(3) of title 5, United States Code.

(e) Rules; promulgation by Presidential designees; consultation by Attorney General with Chairman of Federal Trade Commission; approval of Attorney General; procedures; incorporation of standards and procedures for development of agreements

(1) The individual or individuals referred to in subsection (c)(2) shall, after approval of the Attorney General, after consultation by the Attorney General with the Chairman of the Federal Trade Commission, promulgate rules, in accordance with section 553 of title 5, United States Code, incorporating standards and procedures by which voluntary agreements may be developed and carried out.

(2) In addition to the requirements of section 553 of title 5, United States Code—

(A) general notice of the proposed rulemaking referred to in paragraph (1) shall be published in the Federal Register, and such notice shall include—

(i) a statement of the time, place, and nature of the proposed rulemaking proceedings;

(ii) reference to the legal authority under which the rule is being proposed; and

(iii) either the terms of substance of the proposed rule or a description of the subjects and issues involved;

(B) the required publication of a rule shall be made not less than thirty days before its effective date; and

(C) the individual or individuals referred to in paragraph (1) shall give interested persons the right to petition for the issuance, amendment, or repeal of a rule.

(3) The rules promulgated pursuant to this subsection incorporating standards and procedures by which voluntary agreements may be developed shall provide, among other things, that—

(A) such agreements shall be developed at meetings which include—

(i) the Attorney General or his delegate,

(ii) the Chairman of the Federal Trade Commission or his delegate, and

(iii) an individual designated by the President in subsection (c)(2) or his delegate;

and which are chaired by the individual referred to in clause (iii);

(B) at least seven days prior to any such meeting, notice of the time, place, and nature of the meeting shall be published in the Federal Register;

(C) interested persons may submit written data and views concerning the proposed voluntary agreement, with or without opportunity for oral presentation;

(D) interested persons may attend any such meeting unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code;

(E) a full and verbatim transcript shall be made of any such meeting and shall be transmitted by the chairman of the meeting to the Attorney General and to the Chairman of the Federal Trade Commission;

(F) any voluntary agreement resulting from the meetings shall be transmitted by the chairman of the meetings to the Attorney General and to the Chairman of the Federal Trade Commission; and

(G) any transcript referred to in subparagraph (E) and any voluntary agreement referred to in subparagraph (F) shall be available for public inspection and copying, subject to subsections (b)(1) and (b)(3) of section 552 of title 5, United States Code.

(f) Commencement of agreements; expiration date; extensions

(1) A voluntary agreement may not become effective unless and until—

(A) the individual referred to in subsection (c)(2) who is to administer the agreement approves it and certifies, in writing, that the agreement is necessary to carry out the purposes of subsection (c)(1); and

(B) the Attorney General (after consultation with the Chairman of the Federal Trade Commission) finds, in writing, that such purpose may not reasonably be achieved through a voluntary agreement having less anticompetitive effects or without any voluntary agreement.

(2) Each voluntary agreement which becomes effective under paragraph (1) shall expire two years after the date it becomes effective (and at two-year intervals thereafter, as the case may be), unless (immediately prior to such expiration date) the individual referred to in subsection (c)(2) who administers the agreement and the Attorney General (after consultation with the Chairman of the Federal Trade Commission) make the certification or finding, as the case may be, described in paragraph (1) with respect to such voluntary agreement, in which case, the voluntary agreement may be extended for an additional period of two years.

(g) Monitoring of agreements by Attorney General and Chairman of Federal Trade Commission.

The Attorney General and the Chairman of the Federal Trade Commission shall monitor the carrying out of any voluntary agreement to assure—

- (1) that the agreement is carrying out the purposes of subsection (c)(1);
- (2) that the agreement is being carried out under rules promulgated pursuant to subsection (e);
- (3) that the participants are acting in accordance with the terms of the agreement; and
- (4) the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(h) Required provisions of rules for implementation of agreements

The rules promulgated under subsection (e) with respect to the carrying out of voluntary agreements shall provide—

- (1) for the maintenance, by participants in any voluntary agreement, of documents, minutes of meetings, transcripts, records, and other data related to the carrying out of any voluntary agreement;
- (2) that participants in any voluntary agreement agree, in writing, to make available to the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General and the Chairman of the Federal Trade Commission for inspection and copying at reasonable times and upon reasonable notice any item maintained pursuant to paragraph (1);
- (3) that any item made available to the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, or the Chairman of the Federal Trade Commission pursuant to paragraph (2) shall be available from such individual, the Attorney General, or the Chairman of the Federal Trade Commission, as the case may be, for public inspection and copying, subject to subsections (b)(1) and (b)(3) of section 552 of title 5, United States Code;
- (4) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, and the Chairman of the Federal Trade Commission, or their delegates, may attend meetings to carry out any voluntary agreement;
- (5) that a Federal employee (other than an individual employed pursuant to section 3109 of title 5 of the United States Code) shall attend meetings to carry out any voluntary agreement;
- (6) that participants in any voluntary agreement provide the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, and the Chairman of the Federal Trade Commission with adequate prior notice of the time, place, and nature of any meeting to be held to carry out the voluntary agreement;
- (7) for the attendance by interested persons of any meeting held to carry out any voluntary agreement, unless the individual designated by the President in subsection (c)(2) to administer the voluntary agreement finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code;
- (8) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement has published in the Federal Register prior notification of the time, place, and nature of any meeting held to carry out any voluntary agreement, unless he finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code, in which case, notification of the time, place, and nature of such meeting shall be published in the Federal Register within ten days of the date of such meeting;
- (9) that—
 - (A) the Attorney General (after consultation with the Chairman of the Federal Trade Commission and the individual designated by the President in subsection (c)(2) to administer a voluntary agreement), or
 - (B) the individual designated by the President in subsection (c)(2) to administer a voluntary agreement (after consultation with the Attorney General and the Chairman of the Federal Trade Commission),may terminate or modify, in writing, the voluntary agreement at any time, and that effective, immediately upon such termination or modification, any antitrust immunity conferred upon the participants in the voluntary agreement by subsection (j) shall not apply to any act or omission occurring after the time of such termination or modification; and
- (10) that participants in any voluntary agreement be reasonably representative of the appropriate industry or segment of such industry.

(i) Rules; promulgation by Attorney General and Chairman of Federal Trade Commission

The Attorney General and the Chairman of the Federal Trade Commission shall each promulgate such rules as each deems necessary or appropriate to carry out his responsibility under this section.

(j) Defense for violation of Federal or State antitrust laws

There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

(1) such act or omission to act was taken in good faith by that person—

(A) in the course of developing a voluntary agreement under this section, or

(B) to carry out a voluntary agreement under this section; and

(2) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.

(k) Surveys and studies by Attorney General and Federal Trade Commission; content; annual report to Congress and President by Attorney General

The Attorney General and the Federal Trade Commission shall each make surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this section. Such surveys shall include studies of the voluntary agreements authorized by this section. The Attorney General shall (after consultation with the Federal Trade Commission) submit to the Congress and the President at least once every year reports setting forth the results of such studies of voluntary agreements.

(l) Annual report to Congress and President by Presidential designees; contents

The individual or individuals designated by the President in subsection (c)(2) shall submit to the Congress and the President at least once every year reports describing each voluntary agreement in effect and its contribution to achievement of the purpose of subsection (c)(1).

(m) Jurisdiction to enjoin statutory exemption or suspension and order for production of transcripts, etc.; procedures

On complaint, the United States District Court for the District of Columbia shall have jurisdiction to enjoin any exemption or suspension pursuant to subsections (d)(2), (e)(3)(D) and (G), and (h)(3), (7), and (8), and to order the production of transcripts, agreements, items, or other records maintained pursuant to this section by the Attorney General, the Federal Trade Commission or any individual designated under subsection (c)(2), where the court determines that such transcripts, agreements, items, or other records have been improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such transcripts, agreements, items, or other records in camera to determine whether such transcripts, agreements, items, or other records or any parts thereof shall be withheld under any of the exemption or suspension provisions referred to in this subsection, and the burden is on the Attorney General, the Federal Trade Commission, or such designated individual, as the case may be, to sustain its action.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, Title I, § 116(c), 66 Stat. 305; Aug. 9, 1955, c. 555, § 6, 69 Stat. 581; Sept. 26, 1961, Pub.L. 87-305, § 5(b), 75 Stat. 667; Dec. 23, 1969, Pub.L. 91-151, Title I, § 9, 83 Stat. 376; Dec. 16, 1975, Pub.L. 94-152, § 3, 89 Stat. 810.)

§ 2158a. Voluntary agreements and plans of action for international agreements for international allocation of petroleum products and related information systems

(a) Immunity from civil or criminal liability or defense to action under antitrust laws; exceptions

Except as specifically provided in subsection (j) of this section and section 708(j) of this Act [section 2158(j) of this Appendix], no provision of this Act [section 2061 et seq. of this Appendix] shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) Definitions

As used in this section—

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international agreement is required by chapters III and IV of such program, and (B) ending on a date on which he determines such allocation is no longer required. Such a period may not exceed ninety days, but the President may establish one or more additional periods by making the determination under clause (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "international agreement" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974.

(3) The term "Administrator" means the Administrator of the Federal Energy Administration.

(4) The term "petroleum products" means—

- (A) crude oil;
- (B) natural gas liquids and other liquids produced in association with crude oil or natural gas;
- (C) refined petroleum products, including but not limited to gasoline, kerosene, distillates, residual fuel oil, refined lubricating oil, and liquefied petroleum gases; and
- (D) blending agents and additives used in conjunction with crude oil and refined petroleum products.

(c) Exclusive procedures applicable to agreements or plans

The requirements of this section shall be the sole procedures applicable to the development or implementation of voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, and to the availability of immunity from the antitrust laws respecting the development or implementation of such voluntary agreements or plans of action.

(d) Advisory committees; establishment; applicable provisions; membership; notice and participation in meetings; verbatim transcript; availability to public; representation on board, task force, etc.

(1) To achieve the purposes of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act and section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C.A. § 776], whether or not such Acts or any provisions thereof expire or terminate during the term of this Act [section 2061 et seq. of this Appendix] or of such committees, and, in all cases, such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of title 5, United States Code.

(3) For the purposes of this section, the provisions of subsection (a) of section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C.A. § 776] shall apply to any board, task force, commission, committee, or similar group, not composed entirely of full-time Federal employees (other than individuals employed pursuant to section 3109 of title 5, United States Code) established or utilized to advise the United States Government with respect to the development or implementation of any agreement or plan of action under the international agreement.

- (e) Rules of standards and procedures; promulgation by Administrator; consultation by Administrator and Attorney General with Federal Trade Commission and Secretary of State; approval by Attorney General.

The Administrator, subject to the approval of the Attorney General, after both of them have consulted with the Federal Trade Commission and the Secretary of State, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing petroleum products may develop and implement voluntary agreements and plans of action which are required to implement the provisions of the international agreement which relate to international allocation of petroleum products and the information system provided in such agreement.

- (f) Procedures applicable to promulgation of rules of standards and procedures; required provisions

The standards and procedures under subsection (e) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1)(A) Meetings held to develop or implement a voluntary agreement or plan of action under this section shall permit attendance by interested persons, including all interested segments of the petroleum industry, consumers, committees of Congress, and the public, shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency) to the public, and shall be initiated and chaired by a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code; except that (i) meetings of bodies created by the International Energy Agency established by the international agreement need not be open to interested persons and need not be initiated and chaired by a Federal employee, and (ii) the Administrator, in consultation with the Secretary of State and the Attorney General, may determine that a meeting held to implement or carry out an agreement or plan of action shall not be public and that attendance may be limited, subject to reasonable representation of affected segments of the petroleum industry (as determined by the Administrator, after consultation with the Attorney General) if he finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or implement a voluntary agreement or plan of action under this section, unless a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code, is present; except that during an international energy supply emergency, a meeting to implement such an agreement or plan of action may be held outside the presence of such an employee (and need not be initiated or chaired by such an employee) if prior consent is granted by the Administrator and the Attorney General. The Administrator and the Attorney General shall each make a written record of the granting of any such prior consent.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present in writing and orally, data, views, and arguments at such meetings.

(3) A verbatim transcript or, if keeping a verbatim transcript is not practicable, full and complete notes or minutes shall be kept of any meeting held or communication made to develop or implement a voluntary agreement or plan of action under this section, between or among persons who are parties to such a voluntary agreement, or with respect to meetings held or communications made to develop a voluntary agreement; except that, during any international energy supply emergency, in lieu of minutes or a transcript, a log may be kept containing a notation of the parties to, and subject matter of, any such communication (other than in the course of such a meeting). Such minutes, notes, transcript, or log shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such minutes, notes, transcripts, logs, and agreements shall be available for public inspection and copying, except as otherwise provided in section 552(b)(1) and (b)(3) of title 5, United States Code, or pursuant to a determination by the Administrator, in consultation with the Secretary of State and the Attorney General, that such disclosure would be detrimental to the foreign policy interests of the United States.

No provision of this section may be exercised so as to prevent committees of Congress from attending meetings to which this subsection applies, or from having access to any transcripts or minutes of such meetings, or logs of communication.

(g) Suspension by Administrator of applicable statutory provisions; criteria; procedures

Subject to the prior approval of the Attorney General and the Federal Trade Commission, the Administrator may suspend the application of—

- (1) sections 10 and 11 of the Federal Advisory Committee Act,
- (2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C.A. § 776],
- (3) the requirement under subsection (d)(1) of this section that meetings be open to the public; and
- (4) the second sentence of subsection (d)(2) of this section;

if the Administrator determines in each instance that such suspension is essential to the implementation of the international agreement as it relates to the international allocation of petroleum products or the information system provided in such agreement and if the Secretary of State determines that the application of such provisions would be detrimental to the foreign policy interests of the United States. Such determinations by the Administrator and the Secretary of State shall be in writing, shall set forth, to the extent possible consistent with the need to protect the security of classified national defense and foreign policy information, a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

(h) Development and implementation of agreements and plans; procedures

(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in any meeting to develop or implement voluntary agreements authorized under this section and, when practicable, in any meeting to implement plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this section. A voluntary agreement or plan of action under this section may not be implemented unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (j) of this section.

(2) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented (where it shall be made available for public inspection and copying subject to the provisions of subsection (g) of this section); except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such twenty-day period. Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under subsections (i)(3) and (i)(4).

(i) Monitoring of agreements and plans by Attorney General and Federal Trade Commission; promulgation of regulations by Attorney General for recordkeeping; maintenance of and access to records; promulgation of rules and regulations by Federal Trade Commission and Attorney General; enforcement powers

(1) The Attorney General and the Federal Trade Commission shall monitor the development and implementation of voluntary agreements and plans of action authorized under this section to assure the protection and fostering of competition and to prevent anticompetitive practices and effect.

(2) In addition to any requirements specified under subsections (e) and (f) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate regulations concerning the maintenance of necessary and appropriate records related to the development and implementation of voluntary agreements and plans of action pursuant to this section.

(3) Persons developing and implementing voluntary agreements or plans of action pursuant to this section shall maintain those records required by such regulations. Both the Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and places and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe pursuant to section 553 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws, the Antitrust Procedures and Penalties Act, or the Antitrust Civil Process Act [15 U.S.C.A. § 1311 et seq.]; and wherever any such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this section.

(j) Defense for violation of Federal or State antitrust laws or breach of contract actions

(1) There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

(A) such act or omission to act was taken in good faith by that person—

(i) in the course of developing a voluntary agreement under this section, or

(ii) to carry out a voluntary agreement under this section; and

(B) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.

(2) In any action in any Federal or State court for breach of contract there shall be available as a defense that the alleged breach of contract was caused solely by action taken during an international energy supply emergency in accordance with a voluntary agreement authorized and approved under the provisions of this section.

(k) Immunity from or limitation on existing remedy or penalty

No provision of this section 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 section [Dec. 16, 1975], (2) outside the scope and purpose or not in compliance with the terms and conditions of this section, or (3) subsequent to the expiration or repeal of this section or Act [section 2061 et seq. of this Appendix].

(l) Annual performance report to President and Congress by Administrator; semiannual impact report to President by Attorney General and Federal Trade Commission

(1) The Administrator, after consultation with the Secretary of State, shall report annually to the President and the Congress on the performance under voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement.

(2) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, reports on the impact on competition and on small business of actions authorized by this section.

(m) Authorities granted not to be deemed Congressional approval of international agreement

(The authorities contained in this section with respect to the executive agreement, commonly known as the Agreement on an International Energy Program dated November 18, 1974, and referred to in this section as the international energy agreement, shall not be construed in any way as advice and consent, ratification, endorsement, or any other form of congressional approval of the specific terms of such executive agreement or any related annex, protocol, amendment, modification, or other agreement which has been or may in the future be entered into.

(n) United States deemed place of action or agreement

Any action or agreement undertaken or entered into pursuant to this section shall be deemed to be undertaken or entered into in the United States.

(o) Contingent applicability to agreements or plans

If S. 622, Ninety-fourth Congress (the Energy Policy and Conservation Act) is enacted, then (effective on the effective date of the provisions of S. 622 which relate to international voluntary agreements to carry out the International Energy Program) this section and section 708 [section 2158 of this Appendix] shall not be applicable to (1) any voluntary agreement or plan of action developed or implemented to carry out obligations of the United States under the international agreement, or (2) any voluntary agreement or plan of action which relates to petroleum products and which is developed, in whole or in part, to carry out the purposes of a treaty or executive agreement to which the United States is a party or to implement a program of international cooperation between the United States and one or more foreign countries.

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§ 2159. Exemption from Administrative Procedure Act; statements in rules, regulations, and orders as to consultation with industry representatives

The functions exercised under this Act [sections 2061-2166 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [sections 1001-1011 of Title 5] except as to the requirements of section 3 thereof [section 1002 of Title 5]. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act [sections 2061-2166 of this Appendix] 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. Sept. 8, 1950, c. 932, Title VII, § 709, 64 Stat. 819.

§ 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, c. 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 [section 2061 et seq. 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 hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, United States Code, and section 190 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, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act [section 2061 et seq. of this Appendix];

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(6) The heads of the departments or agencies making appointments under this subsection shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within sixty days preceding his appointment has been an officer or director, or in which he owns, or within sixty days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within sixty days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such sixty-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(7) At least once every three months the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act to employ experts and consultants or organizations thereof, as authorized by section 55a of Title 5. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and per diem in lieu of subsistence, in accordance with title 5 of the United States Code (with respect to individuals serving without pay, while away from their homes or regular places of business), for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99).

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act [section 2061 et seq. of this Appendix].

Sept. 8, 1950, c. 932, Title VII, § 710
64 Stat. 798; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, §
109(f). 65 Stat. 139.

(As amended June 28, 1955, c. 189, § 12(c)(1), 69 Stat. 180; Aug. 9, 1955, c. 655, §§ 7, 8, 69 Stat.
583; Dec. 16, 1975, Pub.L. 94-152, § 5, 89 Stat. 820.)

§ 2161. Authorization of appropriations; availability of funds

(a)(1) Except as provided in paragraph (2) and paragraph (4) there are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act [section 2061 et seq. of this Appendix] (including sections 302 and 303 [sections 2092 and 2093 of this Appendix] and for payment of interest under subsection (b) of this section, but excluding sections 305 and 306 [sections 2095 and 2096 of this Appendix]) by the President and such agencies as he may designate or create. Funds made available pursuant to this paragraph for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Bureau of the Budget, to any agency designated to assist in carrying out this Act [said sections]. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed \$3,000,000,000 to carry out the provisions of section 305 [section 2095 of this Appendix] until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1) [section 2095(k)(1) of this Appendix]. Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

(B) Such funds may be expended to carry out section 305 [section 2095 of this Appendix] after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) [section 2095(k)(1) of this Appendix] or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980 [section 8795 of Title 42].

(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2) [section 2095(k)(2) of this Appendix].

(4)(A) There are authorized to be appropriated to carry out the provisions of section 303 [section 2093 of this Appendix] not to exceed \$100,000,000 for fiscal years 1985 and 1986, except that not more than \$25,000,000 is authorized to be appropriated for fiscal year 1985.

(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 [sections 2091, 2092, and 2093 of this Appendix] during fiscal years 1985 and 1986 may not exceed \$100,000,000.

(b) Interest shall accrue on (1) the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 [sections 2092 and 2093 of this Appendix] (except for storage, maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 [said sections] and any net losses incurred by an agency in carrying out its functions under sections 302 and 303 [said sections] when the head of the agency determines that such net losses have occurred; and (2) the current market value of the inventory of materials procured under section 303 [section 2093 of this Appendix] as of the first day of each fiscal year commencing with the fiscal year beginning July 1, 1975. At the close of each fiscal year there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity.

(As amended Sept. 30, 1974, Pub.L. 93-426, § 3, 88 Stat. 1167; June 30, 1980, Pub.L. 96-294, Title I, § 105(a), 94 Stat. 632; Apr. 17, 1984, Pub.L. 98-265, § 5, 98 Stat. 151.)

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50 U.S.C. App. 2061 et seq.

§ 2162. Joint Committee on Defense Production

(a) There is established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the

(b) It shall be the function of the Committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act [section 2061 et seq. of this Appendix] and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act [said sections]; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act [said sections].

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes [2 U.S.C.A. §§ 192 to 194] shall apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended [5 U.S.C.A. §§ 5101 et seq. and 5331 et seq.], fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed \$100,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman.

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap, and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before August 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Commerce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session).

Sept. 8, 1950, c. 938, Title VII, § 712, 64

Stat. 820.

(As amended June 30, 1952, 9:36 a.m. E.D.T. c. 530, Title I, § 119, 69 Stat. 306; Aug. 9, 1955, c. 555, § 9, 69 Stat. 583; June 29, 1956, c. 474, §§ 3, 5, 70 Stat. 408; June 30, 1966, Pub.L. 89-482, § 1, 80 Stat. 235; July 1, 1968, Pub.L. 90-370, § 2, 82 Stat. 279; Dec. 16, 1975, Pub.L. 94-152, § 6, 89 Stat. 820.)

§ 2163. Territorial application of Act

The provisions of this Act [sections 2061-2166 of this Appendix] shall be applicable to the United States, its Territories and possessions, and the District of Columbia. Sept. 8, 1950, c. 932, Title VII, § 713, 64 Stat. 821.

§ 2163a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 656.

§ 2164. Separability of provisions

If any provision of this Act [sections 2061-2166 of this Appendix] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act [said sections], and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. Sept. 8, 1950, c. 932, Title VII, § 715, 64 Stat. 821; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 110(b), 65 Stat. 144.

§ 2165. Persons disqualified for employment; penalties

No person may be employed under this Act [sections 2061-2166 of this Appendix] who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not a member of an organization of Government employees that asserts the right to strike against the Government of the United States or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation or fund contained in this Act [said sections] shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law. Sept. 8, 1950, c. 932, Title VII, § 716, 64 Stat. 821; July 31, 1951, 7:00 p. m., E. D. T., c. 275, Title I, § 110(b), 65 Stat. 144.

§ 2166. Termination of Act

(a) Title I [sections 2071 to 2076 of this Appendix] (except section 104 [section 2074 of this Appendix]) title III [sections 2091 to 2099 of this Appendix], and title VII [sections 2151 to 2169 of this Appendix], (except sections 708, 714, and 719 [sections 2158, 2163a, and 2168 of this Appendix]) of this Act, and all authority conferred thereunder, shall terminate at the close of September 30, 1986, Provided, That all authority hereby or hereafter extended under title III of this Act [sections 2091 to 2099 of this Appendix] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. Section 714 of this Act [section 2163a of this Appendix], and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104 [section 2074 of this Appendix], and title II [section 2081 of this Appendix], and title VI [sections 2131 to 2137 of this Appendix], of this Act, and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Title IV [sections 2101 to 2112 of this Appendix] and V [sections 2121 to 2123 of this Appendix] of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act [sections 2061–2166 of this Appendix] prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act [said sections] and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act [said sections] may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act [section 2061 et seq. of this Appendix], or of any agency or corporation utilized under this Act [said section], shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act [said sections] prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act [said sections], or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act [said section], including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act [section 2091 of this Appendix] shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act [section 2061 et seq. of this Appendix], the termination of title VI [sections 2132 to 2137 of this Appendix] or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act [section 2132 or 2135 of this Appendix], or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 [7 U.S.C.A. § 671 et seq.] shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952] with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved.

This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act [section 2061 et seq. of this Appendix], no termination date shall be applicable to this subsection.

Sept. 8, 1950, c. 932, Title VII,
§ 717, 64 Stat. 822; June 30, 1951, c. 198, § 1, 65 Stat. 110; July 31,
1951, 7:00 p. m., E. D. T., c. 275, Title I, §§ 110(b), 111, 65 Stat. 144.

(As amended June 30, 1952, 9:36 a.m., E.D.T., c. 530, Title I, §§ 120, 121(b), 66 Stat. 306; June 30, 1953, c. 170, § 20, 67 Stat. 126; June 30, 1953, c. 171, §§ 11, 12, 67 Stat. 131; June 30, 1955, c. 251, § 5, 69 Stat. 225; Aug. 9, 1955, c. 655, § 10, 69 Stat. 582; June 29, 1956, c. 474, § 1, 70 Stat. 408; June 28, 1958, Pub.L. 85-471, 72 Stat. 241; June 30, 1960, Pub.L. 86-560, § 1, 74 Stat. 282; June 28, 1962, Pub.L. 87-505, 76 Stat. 112; June 30, 1964, Pub.L. 88-343, § 1, 78 Stat. 235; June 30, 1966, Pub.L. 89-482, § 1, 80 Stat. 235; July 1, 1968, Pub.L. 90-370, § 1, 82 Stat. 279; June 30, 1970, Pub.L. 91-300, 84 Stat. 367; Aug. 1, 1970, Pub.L. 91-371, 84 Stat. 694; Aug. 15, 1970, Pub.L. 91-379, Title I, § 101, 84 Stat. 796; May 18, 1971, Pub.L. 92-15, § 2, 85 Stat. 38; June 30, 1972, Pub.L. 92-325, § 2, 86 Stat. 390; June 30, 1974, Pub.L. 93-323, 88 Stat. 280; Aug. 7, 1974, Pub.L. 93-367, 88 Stat. 419; Sept. 30, 1974, Pub.L. 93-426, § 4, 88 Stat. 1167; June 28, 1975, Pub.L. 94-42, § 1, 89 Stat. 232; Oct. 1, 1975, Pub.L. 94-100, § 1, 89 Stat. 483; Dec. 16, 1975, Pub.L. 94-152, § 2, 89 Stat. 810; June 1, 1977, Pub.L. 95-37, § 2, 91 Stat. 178; Sept. 29, 1979, Pub.L. 96-77, 93 Stat. 588; Jan. 28, 1980, Pub.L. 96-188, 94 Stat. 3; Apr. 3, 1980, Pub.L. 96-225, 94 Stat. 810; May 26, 1980, Pub.L. 96-250, 94 Stat. 371; June 30, 1980, Pub.L. 96-294, Title I, § 105(b), 94 Stat. 633; Sept. 30, 1981, Pub.L. 97-47, § 1, 95 Stat. 954; Oct. 15, 1982, Pub.L. 97-336, 96 Stat. 1630; March 29, 1983, Pub.L. 98-12, 97 Stat. 53; Nov. 30, 1983, Pub.L. 98-181, Title VII, § 703, 97 Stat. 1267; Apr. 17, 1984, Pub.L. 98-265, § 2, 98 Stat. 149.

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in subsec. (b) of this section.

§ 2167. Feasibility study of application of uniform cost accounting standards to defense procurement contracts; consultations; reports

The Comptroller General, in cooperation with the Secretary of Defense and the Director of the Bureau of the Budget, shall undertake a study to determine the feasibility of applying uniform cost accounting standards to be used in all negotiated prime contract and subcontract defense procurements of \$100,000 or more. In carrying out such study the Comptroller General shall consult with representatives of the accounting profession and with representatives of that segment of American industry which is actively engaged in defense contracting. The results of such study shall be reported to the Committees on Banking and Currency and the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than eighteen months after the date of enactment of this section [July 1, 1968].

(Sept. 8, 1950, c. 932, Title VII, § 718, as added July 1, 1968, Pub.L. 90-370, § 3, 82 Stat. 279.)

§ 2168. Cost-Accounting Standards Board

(a) **Formation; Comptroller General as chairman; experience of Board members; terms of office; vacancies; compensation of Board members appointed from private life**

There is established, as an agent of the Congress, a Cost-Accounting Standards Board which shall be independent of the executive departments and shall consist of the Comptroller General of the United States who shall serve as Chairman of the Board and four members to be appointed by the Comptroller General. Of the members appointed to the Board, two, of whom one shall be particularly knowledgeable about the cost accounting problems of small business, shall be from the accounting profession, one shall be representative of industry, and one shall be from a department or agency of the Federal Government who shall be appointed with the consent of the head of the department or agency concerned. The term of office of each of the appointed members of the Board shall be four years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed. Each member of the Board appointed from private life shall receive compensation at the rate of one two-hundred-sixtieth of the rate prescribed for level IV of the Federal Executive Salary Schedule [5 U.S.C.A. § 5315] for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

(b) **Appointment and compensation of staff members**

The Board shall have the power to appoint, fix the compensation of, and remove an executive secretary and two additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The executive secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively [5 U.S.C.A. §§ 5315, 5316].

(c) **Appointment and compensation of other necessary personnel**

The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

(d) **Utilization of personnel from Federal agencies or private life**

The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

(e) **Compensation of Board members and other personnel from Federal agencies; compensation of appointees from private life; travel expenses for personnel serving on an intermittent basis**

Except as otherwise provided in subsection (a), members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private life shall receive compensation at rates fixed by the Board, not to exceed one two-hundred-sixtieth of the rate prescribed for level V in the Federal Executive Salary Schedule [5 U.S.C.A. § 5316] for each day (including traveltime) in which they are engaged in the actual performance of their duties as prescribed by the Board. While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

(f) **Cooperation between Board and other Federal departments and agencies**

All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the department or agency concerned.

(g) Promulgation of cost accounting standards; use of standards by defense contractors and relevant Federal agencies; conditions for use of standards; inflationary effect of standards and implementing major rules and regulations; report to Congress; contents

The Board shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000, other than contracts or subcontracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. In promulgating such standards and major rules and regulations for the implementation of such standards, the Board shall take into account, and shall report to the Congress in the transmittal required by section 719(h)(3) of this Act [subsec. (h)(3) of this section] the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration, and settlement of contracts.

(h) Implementation of cost accounting standards; cost-accounting disclosure by defense contractors as a condition of contract; mandatory price adjustment clause in contract, with interest, for any increased costs due to contractor's failure to follow cost accounting standards; maximum rate and duration of interest; contract dispute; exemptions; effective date of proposed standards and regulations

(1) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall be set at a rate established by the Secretary of the Treasury pursuant to Public Law 92-41. Such interest shall accrue from the time such payments were made to the contractor or subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

(2) The Board is authorized, as soon as practicable after the date of enactment of this section [Aug. 15, 1970], to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

(3) Cost-accounting standards promulgated under subsection (g) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the proposed standards, rules, or regulations is transmitted to the Congress; if, between the date of transmittal and the expiration of such sixty-day period, there is not passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations. For the purposes of this subparagraph, in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of this paragraph do not apply to modifications of cost-accounting standards, rules, or regulations which have become effective in conformity with those provisions.

(l) Publication in Federal Register of cost-accounting standards and regulations; submission and consideration of views and comments by interested parties; standards, regulations and modifications thereof as having full force and effect of law; effective date; exclusion of functions exercised from operation of specified laws; exemptions

(A) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted the Board may promulgate rules, regulations, cost-accounting standards, and modifications thereof which shall have the full force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration of not less than thirty days after publication in the Federal Register.

(B) The functions exercised under this section are excluded from the operation of sections 551, 553-559, and 701-706 of title 5, United States Code.

(C) The provisions of paragraph (A) of this subsection shall not be applicable to rules and regulations prescribed by the Board pursuant to subsection (h)(2).

(j) Determination of compliance with cost-accounting standards; right of authorized person to examine and copy relevant records of contractor

For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

(k) Reports to Congress by Board

The Board shall report to the Congress, not later than twenty-four months after the date of enactment of this section [Aug. 15, 1970], concerning its progress in promulgating cost-accounting standards under subsection (g) and rules and regulations under subsection (h). Thereafter, the Board shall make an annual report to the Congress with respect to its activities and operations, together with such recommendations as it deems appropriate.

(l) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Sept. 8, 1950, c. 932, Title VII, § 719, as added Aug. 15, 1970, Pub.L. 91-379, Title I, § 103, 84 Stat. 796, and amended Dec. 16, 1975, Pub.L. 94-152, § 7, 89 Stat. 820; Nov. 8, 1985, Pub.L. 99-145, Title IX, § 934(b), 99 Stat. 700.)

Unconstitutionality of Legislative Veto Provisions

The provisions of section 1254(c)(2) of Title 8, Aliens and Nationality, which authorize a House of Congress, by resolution, to invalidate an action of the Executive Branch, were declared unconstitutional in Immigration and Naturalization Service v. Chadha, 1983, 103 S.Ct. 2764. See similar provisions in this section.

§ 2169. National Commission on Supplies and Shortages

(a) Short title

This section may be cited as the "National Commission on Supplies and Shortages Act of 1974."

(b) Congressional findings

(1) The United States is increasingly dependent on the importation from foreign nations of certain natural resources vital to commerce and the national defense.

(2) Nations that export such resources can alone or in association with other nations arbitrarily raise the prices of such resources to levels which are unreasonable and disruptive of domestic and foreign economies.

(3) Shortages of resources and commodities are becoming increasingly frequent in the United States, and such shortages cause undue inconvenience and expense to consumers and a burden on interstate commerce and the Nation's economy.

(4) Existing institutions do not adequately identify and anticipate such shortages and do not adequately monitor, study, and analyze other market adversities involving specific industries and specific sectors of the economy.

(5) Data with respect to such shortages and adversities is collected in various agencies of the Government for various purposes, but is not systematically coordinated and disseminated to the appropriate agencies and to the Congress.

(c) Statement of purposes

It is the purpose of this Act [section 2061 et seq. of this Appendix] to establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examining and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.

(d) Establishment; number and tenure of members

There is established as an independent instrumentality of the Federal Government a National Commission on Supplies and Shortages (hereinafter referred to as the "Commission"). The Commission shall be comprised of thirteen members selected for such period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life;

(2) The President shall designate four senior officials of the executive branch to serve without additional compensation, and may appoint additional nonvoting ex officio members from agencies having jurisdiction over areas being considered by the Commission;

(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Representatives, shall appoint two Representatives to be members of the Commission to serve without additional compensation.

(e) Chairman and Vice Chairman

The President, in consultation with the majority and minority leaders of the Senate and the House of Representatives shall designate a Chairman and Vice Chairman of the Commission.

(f) Compensation

Each member of the Commission appointed pursuant to subsection (d)(1) of this section shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position under level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of duties as such a member, and all members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(g) Functions of the Commission

It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

- (1) the existence or possibility of any long- or short-term shortages; employment, price or business practices; or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital investment, and the causes of such shortages, practices, or adversities);
- (2) the adverse impact or possible adverse impact of such shortages, practices, or adversities upon consumers, in terms of price and lack of availability of desired goods;
- (3) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, to correct the adversity or practice affecting the availability of any such items, or otherwise to mitigate the adverse impact or possible adverse impact of shortages, practices, or adversities upon consumers referred to in paragraph (2) of this subsection;
- (4) existing policies and practices of Government which may tend to affect the supply of natural resources and other commodities;
- (5) necessary legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policies which facilitates the availability of essential resources;
- (6) the means by which information with respect to paragraphs (1), (2), (3), (4) of this subsection can be most effectively and economically gathered and coordinated.

(h) Reports and recommendations to President and Congress

The Commission shall report not later than December 31, 1976, to the President and the Congress on specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system, to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world. The Commission may, until March 31, 1977, prepare, publish and transmit to the President and the Congress such other reports and recommendations as it deems appropriate.

(i) Advisory committees

- (1) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act.
- (2) The Commission shall establish an advisory committee to develop recommendations as to the establishment of a policy making process and structure within the executive and legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-State, regional and State governmental jurisdictions. For the purpose of carrying out the provision of this paragraph there is authorized to be appropriated not to exceed \$150,000 to remain available until March 31, 1977.

(j) Staff and powers of the Commission

- (1) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall—
 - (A) appoint and fix the compensation of an Executive Director at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and the General Schedule under section 5332 of such title; and
 - (B) be authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.
- (2) The Commission or any subcommittee thereof is authorized to hold hearings and to sit and act at such times and places, as it may deem advisable.
- (3) The Commission is authorized to contract with public or private agencies, institutions, corporations, and other organizations.

The Defense Production Act of 1950
50 U.S.C. App. 2061 et seq.

(k) Assistance of Government agencies

Each department, agency, and instrumentality of the Federal Government, including the Congress, consistent with the Constitution of the United States, and independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(l) Authorization of appropriations

There is authorized to be appropriated to the Commission not to exceed \$1,484,000 to remain available until March 31, 1977, to carry out the provisions of this Act [section 2061 et seq. of this Appendix].

(Sept. 8, 1950, c. 932, Title VII, § 720, as added Sept. 30, 1974, Pub.L. 93-426, § 5, 88 Stat. 1167, and amended Mar. 21, 1975, Pub.L. 94-9, 89 Stat. 15; Aug. 5, 1975, Pub.L. 94-72, 89 Stat. 399; Dec. 16, 1975, Pub.L. 94-152, § 8, 89 Stat. 820.)



Chapter 44—Emergency Management and Assistance

Executive Order 11490—Assigning emergency preparedness functions to Federal departments and agencies

SOURCE: The provisions of Executive Order 11490 of Oct. 28, 1969, appear at 34 FR 17567, 3 CFR, 1966-1970 Comp., p. 820, unless otherwise noted.

CROSS REFERENCE: Executive Order 11725 of June 27, 1973, 38 FR 17175, 3 CFR, 1970-1975 Comp., p. 779, which was revoked by Executive Order 12148 of July 20, 1979, this chapter, p. 806, transferred certain functions under Executive Order 11490 to the Administrator of General Services.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national emergency type situation that might conceivably confront the nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national emergency preparedness plans and has provided funds for the accomplishment thereof; and

WHEREAS this national emergency preparedness planning activity has been an established program of the United States Government for more than twenty years:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered as follows—

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[Table of Contents amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 11953 of Jan. 7, 1977, 42 FR 2492, 3 CFR, 1977 Comp., p.73; EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 142]

PART I—PURPOSE AND SCOPE

SECTION 101. Purpose. This order consolidates the assignment of emergency preparedness functions to various departments and agencies heretofore contained in the 21 Executive orders and 2 Defense Mobilization orders listed in Section 3015 of this order. Assignments have been adjusted to conform to changes in organization which have occurred subsequent to the issuance of those Executive orders and Defense Mobilization orders.

SEC. 102. Scope. (a) This order is concerned with the emergency national planning and preparedness functions of the several departments and agencies of the Federal Government which complement the military readiness planning responsibilities of the Department of Defense; together, these measures provide the basic foundation for our overall national preparedness posture, and are fundamental to our ability to survive.

The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.

(b) The departments and agencies of the Federal Government are hereby severally charged with the duty of assuring the continuity of the Federal Government in any national emergency type situation that might confront the nation. To this end, each department and agency with essential functions, whether expressly identified in this order or not, shall develop such plans and take such actions, including but not limited to those specified in this order, as may be necessary to assure that it will be able to perform its essential functions, and continue as a viable part of the Federal Government, during any emergency that might conceivably occur. These include plans for maintaining the continuity of essential functions of the department or agency at the seat of government and elsewhere, through programs concerned with: (1) succession to office; (2) predelegation of emergency authority; (3) safekeeping of essential records; (4) emergency relocation sites supported by communications and required services; (5) emergency action steps; (6) alternate headquarters or command facilities; and (7) protection of

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Government resources, facilities, and personnel. The continuity of Government activities undertaken by the departments and agencies shall be in accordance with guidance provided by, and subject to evaluation by, the Director of the Federal Preparedness Agency (GSA)¹.

(c) In addition to the activities indicated above, the heads of departments and agencies described in Parts 2 through 29 of this order shall: (1) prepare national emergency plans, develop preparedness programs, and attain an appropriate state of readiness with respect to the functions assigned to them in this order for all conditions of national emergency; (2) give appropriate consideration to emergency preparedness factors in the conduct of the regular functions of their agencies, particularly those functions considered essential in time of emergency, and (3) be prepared to implement, in the event of an emergency, all appropriate plans developed under this order.

[Sec. 102 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 103. *General Coordination.* The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.

[Sec. 103 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 104. *General and Specific Functions.* The functions assigned by Part 30, General Provisions, apply to all departments and agencies having emergency preparedness responsibilities. Specific functions are assigned to departments and agencies covered in Parts 2 through 29.

SEC. 105. *Construction.* The purpose and legal effect of the assignments contained in this order do not constitute authority to implement the emergency plans prepared pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

PART 2—DEPARTMENT OF STATE

SEC. 201. *Functions.* The Secretary of State shall prepare national emergency plans and develop preparedness programs to permit modification or expansion of the activities of the Department of State and agencies, boards, and commissions under his jurisdiction in order to meet all conditions of national emergency, including attack upon the United States. The Secretary of State shall provide to all other departments and agencies overall foreign policy direction, coordination, and supervision in the formulation and execution of those emergency preparedness activities which have foreign policy implications, affect foreign relations, or depend directly or indirectly, on the policies and capabilities of the Department of State. The Secretary of State shall de-

¹ EDITORIAL NOTE: Federal Preparedness Agency functions transferred from the General Services Administration to the Federal Emergency Management Agency by EO 12148 of July 20, 1979, this chapter, p. 806.

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velop policies, plans, and procedures for carrying out his responsibilities in the conduct of the foreign relations of the United States under conditions of national emergency, including, but not limited to (1) the formulation and implementation, in consultation with the Department of Defense and other appropriate agencies, and the negotiation of contingency and post-emergency plans with our allies and of the intergovernmental agreements and arrangements required by such plans; (2) formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral States; (3) formulation and execution of political strategy toward hostile or enemy States, including the definition of war objectives and the political means for achieving those objectives; (4) maintenance of diplomatic and consular representation abroad; (5) reporting and advising on conditions overseas which bear upon the national emergency; (6) carrying out or proposing economic measures with respect to other nations, including coordination with the export control functions of the Secretary of Commerce; (7) mutual assistance activities such as ascertaining requirements of the civilian economies of other nations, making recommendations to domestic resource agencies for meeting such requirements, and determining the availability of and making arrangements for obtaining foreign resources required by the United States; (8) providing foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs, and determination of the value thereof; (9) protection or evacuation of American citizens and nationals abroad and safeguarding their property; (10) protection and/or control of international organization and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States; (11) documentary control of persons seeking to enter or leave the United States; and (12) regulation and control of exports of items on the munitions list.

PART 3—DEPARTMENT OF THE TREASURY

SEC. 301. Functions. The Secretary of the Treasury shall develop policies, plans, and procedures for the performance of emergency functions with respect to (1) stabilization aspects of the monetary, credit, and financial system; (2) stabilization of the dollar in relation to foreign currencies; (3) collection of revenue; (4) regulation of financial institutions; (5) supervision of the Federal depository system; (6) direction of transactions in government securities; (7) tax and debt policies; (8) participation in bilateral and multilateral financial arrangements with foreign governments; (9) regulation of foreign assets in the United States and of foreign financial dealings (in consultation with the Secretaries of State and Commerce); (10) development of procedures for the manufacture and/or issuance and redemption of securities, stamps, coins, and currency; (11) development of systems for the issuance and payment of Treasury checks; (12) maintenance of the central government accounting and financial reporting system; (13) administration of customs laws, tax laws, the laws on control of alcohol, alcoholic beverages, tobacco, and firearms, and Title XI (Regulation of Explosives) of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40); (14) suppression of counterfeiting and forgery of government securities, stamps, coins, and currency; (15) protection of the President and the Vice President and

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other designated persons; (16) granting of loans (including participation in or guarantees of loans) for the expansion of capacity, the development of technological processes, or the production of essential material; and (17) to the extent that such functions have not been transferred to the Secretary of Transportation, enforcement of marine inspection and navigation laws.

[Sec. 301 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 302. *Financial Coordination.* The Secretary shall assume the initiative in developing plans for implementation of national policy on sharing war losses and for the coordination of emergency monetary, credit, and Federal benefit payment programs of those departments and agencies which have responsibilities dependent on the policies or capabilities of the Department.

PART 4—DEPARTMENT OF DEFENSE

SEC. 401. *Functions.* The Secretary of Defense shall perform the following emergency preparedness functions:

(1) Provide specific strategic guidance as required for emergency preparedness planning and programming, including, for example, guidance regarding such factors as accessibility of foreign sources of supply and estimated shipping loss discounts and aircraft losses in the event of war.

(2) Develop and furnish quantitative and time-phased military requirements for selected end-items, consistent with defined military concepts, and supporting requirements for materials, components, production facilities, production equipment, petroleum, natural gas, solid fuels, electric power, food, transportation, and other services needed to carry out specified Department of Defense current and mobilization procurement, construction, research and development, and production programs. The items and supporting resources to be included in such requirements, the periods to be covered, and the dates for their submission to the appropriate resource agency will be determined by mutual agreement between the Secretary of Defense and the head of the appropriate resource agency.

(3) Advise and assist the Director, Federal Emergency Management Agency in developing a national system of production urgencies.

(4) Advise and assist the Director, Federal Emergency Management Agency in developing a system, in conjunction with the Department of State, for the international allocation of critical materials and products among the United States and the various foreign claimants in the event of an emergency, including an attack on the United States.

(5) Plan for and administer priorities and allocations authority delegated to the Department of Defense. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Director, Federal Emergency Management Agency.

(6) Assist the Department of Commerce and other appropriate agencies in the development of the production and distribution controls plans for use in any period of emergency.

(7) Develop with industry, plans for the procurement and production of selected military equipment and supplies needed to fulfill emergency

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requirements, making maximum use of plants in dispersed locations, and, where essential and appropriate, providing for alternative sources of supply in order to minimize the effects of enemy attack.

(8) Develop with industry, plans and programs for minimizing the effect of attack damage to plants producing major items of military equipment and supply.

(9) Recommend to the Director, Federal Emergency Management Agency measures for overcoming potential deficiencies in production capacity to produce selected military supplies and equipment needed to fulfill emergency requirements, when necessary measures cannot be effected by the Department of Defense.

(10) Furnish information and recommendations, when requested by the Director, Federal Emergency Management Agency, for purposes of processing applications for defense loans under Title III of the Defense Production Act of 1950, as amended.

(11) Furnish advice and assistance on the utilization of strategic and critical materials in defense production, including changes that occur from time to time.

(12) Analyze problems that may arise in maintaining an adequate mobilization production base in military-product industries and take necessary actions to overcome these problems within the limits of the authority and funds available to the Department of Defense.

(13) Assist the Secretary of Commerce with respect to the identification and evaluation of facilities important to the national defense.

(14) Advise and assist the Director, Federal Emergency Management Agency in the development and review of standards for the strategic location and physical security of industries, services, government, and other activities for which continuing operation is essential to national security, and exercise physical security cognizance over the facilities assigned to him for such purpose.

(15) Develop and operate damage assessment systems and assist the Director, Federal Emergency Management Agency and other departments and agencies in their responsibilities as stated in Section 3002(2); participate with the Director, Federal Emergency Management Agency in the preparation of estimates of potential damage from enemy attack.

(16) Advise and assist the Director, Federal Emergency Management Agency in the development of over-all manpower policies to be instituted in the event of an emergency, including an attack on the United States, including the provision of information relating to the size and composition of the Armed Forces.

(17) Advise on existing communications facilities and furnish military requirements for commercial communications facilities and services in planning for and in event of an emergency, including an attack on the United States.

(18) Furnish military requirements for all forms of transportation and transportation facilities in planning for and in the event of emergency, including an attack upon the United States.

(19) Assist the Director, Federal Emergency Management Agency in preparation of legislative programs and plans for coordinating nonmilitary support of emergency preparedness programs.

(20) Develop plans and procedures for the Department of Defense utilization of nonindustrial facilities in the event of an emergency in

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order to reduce requirements for new construction and to provide facilities in a minimum period of time.

(21) Advise and assist the Director, Federal Emergency Management Agency in (1) determining what key foreign facilities and operating rights thereto are important to the security of the United States, and (2) obtaining through appropriate channels protection against sabotage.

(22) Develop plans and procedures to carry out Department of Defense responsibilities stated in the National Censorship Agreement between the Department of Defense and the Director, Federal Emergency Management Agency.

(23) Advise and assist the Department of State in planning for the evacuation of dependents from overseas areas, United States teachers and administrators in the overseas dependents schools, and such other United States citizens as may be working in United States schools overseas.

(24) Develop plans for implementation of approved Department of State/Department of Defense policies and procedures for the protection and evacuation of United States citizens and certain designated aliens abroad.

(25) Develop plans and procedures for the provision of logistical support to members of foreign forces, their employees and dependents as may be present in the United States under the terms of bilateral or multilateral agreements which authorize such support in the event of a national emergency.

(26) Develop with the Department of Transportation and Federal Communications Commission plans and programs for the control of air traffic, civil and military, during an emergency.

(27) Develop with the Federal Communications Commission and the National Security Council plans and programs for the emergency control of all devices capable of emitting electromagnetic radiation.

(28) Develop, under the guidance of the Department of the Interior, plans and programs designed to help meet water requirements in an emergency in watershed areas regulated by the Corps of Engineers or other Department of Defense elements.

(29) Develop plans for emergency assistance to public water supply utilities, working as necessary through agencies having primary responsibility, and with State and local governments.

(30) In coordination with the Department of Transportation and other responsible Federal agencies, and in cooperation with the Tennessee Valley Authority in matters affecting the Tennessee River and certain of its tributaries, and with respect to all other inland waterways, canals, harbors, and navigation channels within the United States and possessions and territories, develop emergency plans and procedures for improvement, restoration, rehabilitation, operation and maintenance of components of Federally authorized river and harbor projects; locating and removing obstructions to navigation; accomplishing dredging to clear and straighten navigation channels; collecting, compiling, and publishing information on the physical characteristics and facilities of ports of the United States and possessions and territories for the use and benefit of navigation.

[Sec. 401 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12046 of Mar. 27, 1978, 43 FR 13349, 3 CFR, 1978 Comp., p. 158; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

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PART 5—DEPARTMENT OF JUSTICE

SEC. 501. Functions. The Attorney General shall perform the following emergency preparedness functions:

(1) *Emergency documents and measures.* Provide advice, as appropriate, with respect to any emergency directive or procedure prepared by a department or agency as a part of its emergency preparedness function.

(2) *Industry support.* As appropriate, review the legal procedures developed by the Federal agencies concerned to be instituted if it becomes necessary for the Government to institute extraordinary measures with respect to vital production facilities, public facilities, communications systems, transportation systems, or other facility, system, or service essential to national survival.

(3) *Judicial and legislative liaison.* In cooperation with the Director, Federal Emergency Management Agency, maintain liaison with Federal courts and with the Congress so there will be mutual understanding of Federal emergency plans involving law enforcement and the exercise of legal powers during emergencies of various magnitudes.

(4) *Legal advice.* Develop emergency plans for providing legal advice to the President, the Cabinet, and the heads of Executive departments and agencies wherever they may be located in an emergency and provide emergency procedures for the review as to form and legality of Presidential proclamations, Executive orders, directives, regulations, and documents, and of other documents requiring approval by the President or by the Attorney General which may be issued by authorized officers after an armed attack.

(5) *Alien control and control of entry and departure.* Develop emergency plans for the control of alien enemies and other aliens within the United States and, in consultation with the Department of State and Department of the Treasury, develop emergency plans for the control of persons attempting to enter or leave the United States. These plans shall specifically include provisions for the following:

(a) The location, restraint, or custody of alien enemies.

(b) Temporary detention of alien enemies and other persons attempting to enter the United States pending determination of their admissibility.

(c) Apprehension of deserting alien crewmen and stowaways.

(d) Investigation and control of aliens admitted as contract laborers.

(e) Control of persons entering or departing from the United States at designated ports of entry.

(f) Increased surveillance of the borders to preclude prohibited crossings by persons.

(6) *Alien property.* Develop emergency plans, in consultation with the Department of State, for the seizure and administration of property of alien enemies under provisions of the Trading with the Enemy Act.

(7) *Security standards.* In consultation with the Department of Defense and with other executive agencies, to the extent appropriate, prepare plans for adjustment of security standards governing the employment of Federal personnel and Federal contractors in an emergency.

(8) *Drug Control.* Develop emergency plans and procedures for the administration of laws governing the import, manufacture, and distribution of narcotics. Consult with and render all possible aid and assistance

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to the Director, Federal Emergency Management Agency, the Department of Health, Education, and Welfare, and the General Services Administration in the allocation, distribution, and, if necessary, the replenishment of Government stockpiles of narcotic drugs.

[Sec. 501 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 502. *Civil Defense Functions.* In consonance with national civil defense programs developed by the Director of the Federal Emergency Management Agency, the Attorney General shall:

(1) *Local law enforcement.* Upon request, consult with and assist the Director of the Federal Emergency Management Agency to plan, develop, and distribute materials for use in the instruction and training of law enforcement personnel for civil defense emergency operations; develop and carry out a national plan for civil defense instruction and training for enforcement officers, designed to utilize to the maximum extent practicable the resources and facilities of existing Federal, State, and local police schools, academies, and other appropriate institutions of learning; and assist the States in preparing for the conduct of intra-state and interstate law enforcement operations to meet the extraordinary needs that would exist for emergency police services under conditions of attack or imminent attack.

(2) *Penal and correctional institutions.* Develop emergency plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutional resources, when available, for cooperation with local authorities in connection with mass feeding and housing, for the storage of standby emergency equipment, for the emergency use of prison hospitals and laboratory facilities, for the continued availability of prison-industry products, and, in coordination with the Department of Labor, for the development of Federal prisoner skills to appropriately augment the total supply of manpower, advise States and their political subdivisions regarding the use of State and local prisons, jails, and prisoners for the purpose of relieving local situations and conditions arising from a state of emergency.

(3) *Identification and location of persons.* Develop emergency plans and procedures for the use of the facilities and personnel of the Department of Justice in assisting the Department of Health, Education, and Welfare with the development of plans and procedures for the identification of the dead and the reuniting of families during a civil defense emergency.

[Sec. 502 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 6—UNITED STATES POSTAL SERVICE

[Title amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 601. *Functions.* The Postmaster General shall prepare plans and programs for emergency mail service and shall cooperate with indicated Federal agencies, in accordance with existing agreements or directives, in the following national emergency programs:

(1) *Registering of persons.* Assist the Department of Health, Education, and Welfare in planning a national program and developing technical guidance for States, and directing Postal Service activities con-

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cerned with registering persons and families for the purpose of receiving and answering welfare inquiries and reuniting families in civil defense emergencies. The program shall include procurement, transportation, storage, and distribution of safety notification and emergency change of address cards in quantities and localities jointly determined by the Director of the Federal Emergency Management Agency and the United States Postal Service.

(2) *Other emergency programs.* (a) Censorship of international mails. (Department of Defense; Department of the Treasury; Director, Federal Emergency Management Agency)

(b) Provision for emergency mail service to Federal agencies at both regular and emergency sites. (General Services Administration)

(c) Emergency registration of Federal employees. (Office of Personnel Management)

(d) Registration of enemy aliens. (Department of Justice)

[Sec. 601 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 426; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 7—DEPARTMENT OF THE INTERIOR

SEC. 701. *Resume of Responsibilities.* The Secretary of the Interior shall prepare national emergency plans and develop preparedness programs covering (1) electric power; (2) petroleum and gas; (3) solid fuels; (4) minerals; and (5) water, as defined in Section 702 of this part.

SEC. 702. *Definitions.* As used in this part:

(1) "Electric power" means all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(2) "Petroleum" means crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage.

(3) "Gas" means natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage.

(4) "Solid fuels" means all forms of anthracite, bituminous, subbituminous, and lignitic coals, coke, and coal chemicals produced in the coke-making process.

(5) "Minerals" means all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of the Interior and the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

(6) "Water" means all usable waters, from all sources, within the jurisdiction of the United States, which can be managed, controlled and allocated to meet emergency requirements.

[Sec. 702 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 703. *Resource functions.* With respect to the resources defined in Section 702, the Secretary of the Interior shall:

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(1) *Minerals development.* Develop programs and encourage the exploration, development, and mining of strategic and critical minerals for emergency purposes.

(2) *Production.* Provide guidance and leadership to assigned industries in the development of plans and programs to insure the continuity of production in the event of an attack, and cooperate with the Department of Commerce in the identification and evaluation of essential facilities.

(3) *Water.* Develop overall plans for the management, control, and allocation of the water resources of the nation in an emergency. Establish a system of priorities for the use of water in periods of emergency. Coordinate the emergency water planning efforts of those departments and agencies having specific statutory or delegated water responsibilities. Coordinate the overall plans with those developed by the Environmental Protection Agency to provide potable water for community needs. In developing any plans relating to water for use on farms and in food facilities, assure that those plans are in consonance with plans and programs of the Department of Agriculture. Provide national leadership and coordination for the development of Federal emergency plans for the management and allocation of water resources in the national interest during an emergency. Coordinate emergency water resource planning at the State, interstate, and local levels through the appropriate Federal departments and agencies concerned with each area of planning.

(4) *Electric power and natural gas.* In preparedness planning for electric power and natural gas, the Federal Power Commission shall assist the Secretary of the Interior as set forth in Section 1901 of this order.

[Sec. 703 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 8—DEPARTMENT OF AGRICULTURE

SEC. 801. *Resume of Responsibilities.* The Secretary of Agriculture shall prepare national emergency plans and develop preparedness programs covering: (1) food resources, farm equipment, fertilizer, and food resource facilities as defined below; (2) lands under the jurisdiction of the Secretary of Agriculture; (3) rural fire control; (4) defense against hazardous agents (nuclear, biological and chemical) and effects pertaining to agricultural activities; and (5) rural defense information and education.

[Sec. 801 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 802. *Definitions.* As used in this part:

(1) "Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not

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include any such material after it loses its identity as an agricultural commodity or agricultural product.

(2) "Farm equipment" means machinery, equipment, and repair parts manufactured primarily for use on farms in connection with the production or preparation for market or use of "food resources".

(3) "Fertilizer" means any product or combination of products for plant nutrition in form for distribution to the users thereof.

(4) "Food resource facilities" means plants, machinery, vehicles (including on farm), and other facilities (including farm housing) for the production, processing, distribution, and storage (including cold storage) of food resources, and for domestic distribution of farm equipment and fertilizer.

SEC. 803. *Functions.* With respect to food resources, food resource facilities, lands under the jurisdiction of the Secretary, farm equipment, and fertilizer, the Secretary of Agriculture shall:

(1) *Production, processing, storage, and distribution.* Develop plans for priorities, allocations, and distribution control systems and related plans, including control of use of facilities designed to provide adequate and continuing production, processing, storage, and distribution of essential food resources in an emergency, and to provide for the domestic distribution of farm equipment and fertilizer.

(2) *Stockpiles.* Take all possible measures in the administration of Commodity Credit Corporation inventories of food resources to assure the availability of such inventories when and where needed in an emergency. The Secretary shall also develop plans and procedures for the proper utilization of agricultural items stockpiled for survival purposes.

(3) *Land management.* Develop plans and direct activities for the emergency protection, management, and utilization of the lands, resources, and installations under the jurisdiction of the Secretary of Agriculture and assist in the development of plans for the emergency operation, production, and processing of forest products in cooperation with other Federal, State, and private agencies.

[Sec. 803 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 804. *Civil Defense Functions.* In consonance with national civil defense programs developed by the Director of the Federal Emergency Management Agency, the Secretary of Agriculture shall:

(1) *Rural fire defense.* In cooperation with Federal, State, and local agencies, develop plans for a national program and direct activities relating to the prevention and control of fires in the rural areas of the United States caused by the effects of enemy attack.

(2) *Nuclear, biological, and chemical hazards protection for agriculture.* Develop, in consonance with overall planning of the Environmental Protection Agency, plans for a national program, direct Federal activities, and furnish technical guidance to State and local authorities concerning (a) diagnosis and strengthening of defensive barriers and control or eradication of diseases, pests, or chemicals introduced as agents of biological or chemical warfare against animals, crops or products thereof; (b) protective measures, treatment and handling of livestock, including poultry or products thereof, which have been exposed to or affected by radiation; and, (c) use of crops, agricultural commodities on farms and ranches, agricultural lands, forest lands, and water for agri-

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cultural purposes, any of which have been exposed to or affected by radiation. Develop plans for a national program and direction of Federal activities to assure the safety and wholesomeness and to minimize losses from hazardous agents (nuclear, biological and chemical) and other emergency hazards of livestock, meat and meat products, poultry and poultry products in establishments under the continuous inspection of the Department of Agriculture, and agricultural commodities and products owned by the Commodity Credit Corporation or by the Department of Agriculture.

(3) *Defense information and education.* Conduct a defense information and education program in support of the Department's emergency responsibilities.

(4) Develop, under guidance of the Department of the Interior, plans and programs for water to be used in agricultural production and food processing in an emergency.

[Sec. 804 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 9—DEPARTMENT OF COMMERCE

SEC. 901. *Resume of Responsibilities.* The Secretary of Commerce shall prepare national emergency plans and develop preparedness programs covering:

(1) The production and distribution of all materials, the use of all production facilities (except those owned by, controlled by, or under the jurisdiction of the Department of Defense or the Energy Research and Development Administration), the control of all construction materials, and the furnishing of basic industrial services except those otherwise assigned, including:

(a) Production and distribution of and use of facilities for petroleum, solid fuels, gas, electric power, and water;

(b) Production, processing, distribution, and storage of food resources and the use of food resource facilities for such production, processing, distribution, and storage;

(c) Domestic distribution of farm equipment and fertilizer;

(d) Use of communications services and facilities, housing and lodging facilities, and health, education, and welfare facilities;

(e) Production, and related distribution, of minerals as defined in Subsection 702(5), and source materials as defined in the Atomic Energy Act of 1954, as amended; and the construction and use of facilities designated as within the responsibilities of the Secretary of the Interior;

(f) Distribution of items in the supply systems of, or controlled by, the Department of Defense and the Atomic Energy Commission;¹

(g) Construction, use, and management of civil aviation facilities; and

(h) Construction, use and management of highways, streets, and appurtenant structures; and

¹ EDITORIAL NOTE: The Atomic Energy Commission was abolished and its functions transferred to the Energy Research and Development Administration and the Nuclear Regulatory Commission by the Energy Reorganization Act of 1974 (Pub. L. 93-438, 88 Stat. 1233). The functions of the Energy Research and Development Administration were transferred to the Department of Energy by the Department of Energy Organization Act (91 Stat. 565, 42 U.S.C. 7151), effective October 1, 1977.

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(i) Domestic distribution of health resources.

(2) Federal emergency operational control responsibilities with respect to ocean shipping, ports, and port facilities, except those owned by, controlled by, or under the jurisdiction of the Department of Defense, and except those responsibilities of the Department of the Treasury with respect to the entrance and clearance of vessels. The following definitions apply to this part:

(a) "Ocean shipping" includes all overseas, coastwise, intercoastal, and Great Lakes shipping except that solely engaged in the transportation of passengers and cargo between United States ports on the Great Lakes.

(b) "Port" or "port area" includes any zone contiguous to our associated in the traffic network of an ocean or Great Lakes port, or outport location, including beach loading sites, within which facilities exist for transshipment of persons and property between domestic carriers and carriers engaged in coastal, intercoastal, and overseas transportation.

(c) "Port facilities" includes all port facilities, port equipment including harbor craft, and port services normally used in accomplishing the transfer or interchange of cargo and passengers between ocean-going vessels and other media of transportation, or in connection therewith (including the Great Lakes).

(3) Scientific and technological services and functions, essential to emergency preparedness plans, programs, and operations of the Federal departments and agencies, in which the Department of Commerce has the capability, including, but not limited to:

(a) Meteorological and related services;

(b) Preparation, reproduction, and distribution of nautical and aeronautical charts, geodetic, hydrographic, and oceanographic data, and allied services for nonmilitary purposes;

(c) Standards of measurement and supporting services; and,

(d) Research, development, testing, evaluation, application, and associated services and activities in the various fields and disciplines of science and technology in which the Department has special competence.

(4) Collection, compilation, and reporting of census information and the provision of statistical and related services, as required, for emergency planning and operations.

(5) Regulation and control of exports and imports, under the jurisdiction of the Department of Commerce, in support of national security, foreign policy, and economic stabilization objectives.

(6) Regulation and control of transfers of capital to, and reinvestment of earnings of, affiliated foreign nationals pursuant to authority conferred by Executive Order No. 11387 of January 1, 1968.

[Sec. 901 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 11953 of Jan. 7, 1977, 42 FR 2492, 3 CFR, 1977 Comp., p. 73]

SEC. 902. *Production Functions.* Within the areas designated in section 901(1) hereof, the Secretary of Commerce shall:

(1) *Priorities and allocations.* Develop control systems for priorities, allocation, production, and distribution, including provisions for other Federal departments and agencies, as appropriate, to serve as allotting agents for materials and other resources made available under such systems for designated programs and the construction and operation of facilities assigned to them.

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(2) *New construction.* Develop procedures by which new production facility construction proposals will be reviewed for appropriate location in light of such area factors as locational security, availability of labor, water, power, housing, and other support requirements.

(3) *Industry evaluation.* Identify those industrial products which are essential, or of very great importance, to mobilization readiness, national defense, or postattack survival and recovery; identify the facilities capable of producing the identified products and evaluate the importance of such facilities to the national security.

(4) *Production capability.* Analyze potential effects of attack on actual production capability, taking into account the entire production complex, including shortages of resources, and conduct studies as a basis for recommending pre-attack measures that would strengthen capabilities for post-attack production.

(5) *Loans for plant modernization.* Develop plans, in coordination with the Small Business Administration, for providing emergency assistance to essential small business establishments through direct loans or participation loans for the financing of production facilities and equipment.

(6) *Water claimancy.* Develop a system and procedures to provide essential industrial water resource claimancy requirements to the Department of the Interior in an emergency.

[Sec. 902 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 903. *Maritime Functions.* Within the areas designated in section 901(2) of this part, the Secretary of Commerce shall develop plans and procedures in consonance with international treaties, under coordinating authority of the Secretary of Transportation and in cooperation with other appropriate Federal agencies and the States and their political subdivisions, to provide for Federal operational control of ocean ports and shipping, including:

(1) *Shipping allocation.* Allocation of specific ocean shipping to meet the national requirements, including those for military, foreign assistance, emergency procurement programs, and those essential to the civilian economy.

(2) *Ship acquisition.* Provision of ships for ocean shipping by purchase, charter, or requisition, by breakout from the national defense reserve fleet, and by construction.

(3) *Operations.* Operation of ocean shipping, directly or indirectly.

(4) *Traffic control.* Provisions for the control of passengers and cargo through port areas to assure an orderly and continuous flow of such traffic.

(5) *Traffic priority.* Administration of priorities for the movement of passengers and cargo through port areas.

(6) *Port allocation.* Allocation of specific ports and port facilities to meet the needs of the Nation and our allies.

(7) *Support activities.* Performance of supporting activities needed to carry out the above-described functions, such as: ascertaining national support requirements for ocean shipping, including those for support of military and other Federal programs and those essential to the civil economy; maintenance, repair, and arming of ships; recruiting, training, and assigning of officers and seamen; procurement, warehousing, and issuance of ships' stores, supplies, equipment, and spare parts; supervision

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of stevedoring and bunkering; management of terminals, shipyards, repair, and other facilities; and provision, maintenance, and restoration of port facilities. Claimancy for resources shall include materials, manpower, equipment, supplies, services, and water.

[Sec. 903 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 904. *Census Functions.* Within the area designated in section 901(4) hereof, the Secretary of Commerce shall:

(1) Provide for the collection and reporting of census information on the status of human and economic resources, including population, housing, agriculture, manufacture, mineral industries, business, transportation, foreign trade, construction, and governments, as required for emergency planning purposes.

(2) Plan, create, and maintain a capability for the conduct of post-attack surveys to provide information on the status of surviving populations and resources as required for the programs of the Director, Federal Emergency Management Agency.

(3) Provide for and maintain the ability to make estimates of attack effects on industry, population, and other resources for use within the Department of Commerce.

[Sec. 904 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 905. *Civil Defense Functions.* In consonance with national civil defense programs developed by the Director of the Federal Emergency Management Agency, the Secretary of Commerce shall:

(1) *Weather functions.* Prepare and issue currently, as well as in an emergency, forecasts and estimates of areas likely to be covered by radiological fallout in event of attack and make this information available to Federal, State, and local authorities for public dissemination.

(2) *Geodetic, hydrographic, and oceanographic data.* Provide geodetic, hydrographic, and oceanographic data and services to the Department of Defense and other governmental agencies, as appropriate.

[Sec. 905 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 906. *National Oceanic and Atmospheric Administration's National Marine Fisheries Service functions.* Under a redelegation of authority from the Department of Agriculture to the Department of Commerce, the National Oceanic and Atmospheric Administration shall develop overall plans and programs to ensure that the fishing industry continues to produce essential protein. This includes responsibility for priority and allocation functions, acting as claimant agency for critical materials and additional facilities, labor supply, production and processing of fishery products, and the control and protection of fishing vessels.

[Sec. 906 added by EO 11921 of June 11, 1976, 3 CFR, 1976 Comp., p. 124]

PART 10—DEPARTMENT OF LABOR

SEC. 1001. *Resume of Responsibilities.* The Secretary of Labor shall have primary responsibility for preparing national emergency plans and developing preparedness programs covering civilian manpower mobilization, more effective utilization of limited manpower resources, includ-

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ing specialized personnel, wage and salary stabilization, worker incentives and protection, manpower resources and requirements, skill development and training, research, labor-management relations, and critical occupations.

SEC. 1002. *Functions.* The Secretary of Labor shall:

(1) *Civilian manpower mobilization.* Develop plans and issue guidance designed to utilize to the maximum extent civilian manpower resources, such plans and guidance to be developed with the active participation and assistance of the States and local political subdivisions thereof, and of other organizations and agencies concerned with the mobilization of the people of the United States. Such plans shall include, but not necessarily be limited to:

(a) *Manpower management.* Recruitment, selection and referral, training, employment stabilization (including appeals procedures), proper utilization, and determination of the skill categories critical to meeting the labor requirements of defense and essential civilian activities;

(b) *Priorities.* Procedures for translating survival and production urgencies into manpower priorities to be used as guides for allocating available workers; and

(c) *Improving mobilization base.* Programs for more effective utilization of limited manpower resources, and, in cooperation with other appropriate agencies, programs for recruitment, training, allocation, and utilization of persons possessing specialized competence or aptitude in acquiring such competence.

(2) *Wage and salary stabilization.* Develop plans and procedures for wage and salary stabilization and for the national and field organization necessary for the administration of such a program in an emergency, including investigation, compliance, and appeals procedures; statistical studies of wages, salaries, and prices for policy decisions and to assist operating stabilization agencies to carry out their functions.

(3) *Worker incentives and protection.* Develop plans and procedures for wage and salary compensation and death and disability compensation for authorized civil defense workers and, as appropriate, measures for unemployment payments, re-employment rights, and occupational safety, and other protection and incentives for the civilian labor force during an emergency.

(4) *Skill development and training.* Initiate current action programs to overcome or offset present or anticipated manpower deficiencies, including those identified as a result of resource and requirements studies.

(5) *Labor-management relations.* Develop, after consultation with the Department of Commerce, the Department of Transportation, the Department of Defense, the National Labor Relations Board, the Federal Mediation and Conciliation Service, the National Mediation Board, and other appropriate agencies and groups, including representatives of labor and management, plans and procedures, including organization plans for the maintenance of effective labor-management relations during a national emergency.

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PART 11—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE¹

SEC. 1101. *Resume of Responsibilities.* The Secretary of Health, Education, and Welfare shall prepare national emergency plans and develop preparedness programs, covering health services, civilian health manpower, health resources, welfare services, social security benefits, and educational programs as defined below.

[Sec. 1101 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 1102. *Definitions.* As used in this part:

(1) "Emergency health services" means medical and dental care for the civilian population in all of the specialties and adjunct therapeutic fields, and the planning, provision, and operation of first aid stations, hospitals, and clinics; preventive health services, including detection, identification, and control of communicable diseases, their vectors, and other public health hazards, inspection and control of purity and safety of food, drugs, and biologicals; vital statistics services, rehabilitation and related services for disabled survivors; preventive and curative care related to human exposure to hazardous agents (nuclear, biological and chemical); sanitary aspects of disposal of the dead; and food and milk sanitation. It shall be understood that health services for the purposes of this order do not encompass the following areas for which the Department of Agriculture has responsibility: plant and animal diseases and pest prevention, control, and eradication; wholesomeness of meat and meat products, and poultry and poultry products, in establishments under continuous inspection service by the Department of Agriculture; veterinary biologicals, agricultural commodities and products owned by the Commodity Credit Corporation or the Department of Agriculture; livestock; agricultural commodities stored or harvestable on farms and ranches; agricultural lands and water.

(2) "Health manpower" means physicians (including osteopaths); dentists, sanitary engineers; registered professional nurses; and such other occupations as may be included in the List of Health Manpower Occupations issued for the purposes of this part by the Director of the Federal Emergency Management Agency after agreement by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(3) "Health resources" means manpower, material, and facilities required to prevent the impairment of, improve, and restore the physical and mental health conditions of the civilian population.

(4) "Emergency welfare services" means feeding; clothing; lodging in private and congregate facilities; registration; locating and reuniting families; care of unaccompanied children, the aged, the handicapped, and other groups needing specialized care or services; necessary financial or other assistance; counseling and referral services to families and individuals; aid to welfare institutions under national emergency or post-attack conditions; and all other feasible welfare aid and services to people in need during a civil defense emergency. Such measures include organization, direction, and provision of services to be instituted

¹ EDITORIAL NOTE: Redesignated as the Department of Health and Human Services by Pub. L. 96-88 (93 Stat. 695, 20 U.S.C. 3508).

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before attack, in the event of strategic or tactical evacuation, and after attack in the event of evacuation or of refuge in shelters.

(5) "Social security benefits" means the determination of entitlement and the payment of monthly insurance benefits to those eligible, such as workers who have retired because of age or disability and to their dependent wives and children, and to the eligible survivors of deceased workers. It also includes determinations of eligibility and payments made on behalf of eligible individuals to hospitals, home health agencies, extended care facilities, physicians, and other providers of medical services.

(6) "Education" or "training" means the organized process of learning by study and instruction primarily through public and private systems.

[Sec. 1102 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 1103. Health Functions. With respect to emergency health services, as defined above, and in consonance with national civil defense plans, programs, and operation of the Director of the Federal Emergency Management Agency under Executive Order No. 12148, the Secretary of Health, Education, and Welfare shall:

(1) *Professional training.* Develop and direct a nationwide program to train health manpower both in professional and technical occupational content and in civil defense knowledge and skills. Develop and distribute health education material for inclusion in the curricula of schools, colleges, professional schools, government schools, and other educational facilities throughout the United States. Develop and distribute civil defense information relative to health services to States, voluntary agencies, and professional groups.

(2) *Radiation.* Develop and coordinate programs of radiation measurement and assessment as may be necessary to carry out the responsibilities involved in the provision of emergency health services.

(3) *Biological and chemical warfare.* Develop and coordinate programs for the prevention, detection, and identification of human exposure to chemical and biological warfare agents as may be necessary to carry out the responsibilities involved in the provision of emergency health services, including the provision of guidance and consultation to Federal, State, and local authorities on measures for minimizing the effects of biological or chemical warfare.

(4) *Food, drugs, and biologicals.* Plan and direct national programs for the maintenance of purity and safety in the manufacture and distribution of food, drugs, and biologicals in an emergency.

(5) *Disabled survivors.* Prepare national plans for emergency operations of vocational rehabilitation and related agencies, and for measures and resources necessary to rehabilitate and make available for employment those disabled persons among the surviving population.

[Sec. 1103 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 1104. Welfare Functions. With respect to emergency welfare services as defined above, and in consonance with national civil defense plans, programs, and operations of the Director of the Federal Emergency Management Agency under Executive Order No. 12148, the Secretary of Health, Education, and Welfare shall:

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(1) *Federal support.* Cooperate in the development of Federal support procedures, through joint planning with other departments and agencies, including but not limited to the Post Office Department, the Department of Labor, and the Selective Service System, the Department of Housing and Urban Development, and resource agencies, including the Department of Agriculture, the Department of the Interior, and the Department of Commerce, for logistic support of State and community welfare services in an emergency.

(2) *Emergency welfare training.* Develop and direct a nationwide program to train emergency welfare manpower for the execution of the functions set forth in this part, develop welfare educational materials, including self-help program materials for use with welfare organizations and professional schools, and develop and distribute civil defense information relative to emergency welfare services to States, voluntary agencies, and professional groups.

(3) *Financial aid.* Develop plans and procedures for financial assistance to individuals injured or in want as a result of enemy attack and for welfare institutions in need of such assistance in an emergency.

(4) *Non-combatant evacuees to the Continental United States.* Develop plans and procedures for assistance, at ports of entry to U.S. personnel evacuated from overseas areas, their onward movement to final destination, and follow-up assistance after arrival at final destination.

[Sec. 1104 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 1105. Social Security Functions. With respect to social security, the Secretary of Health, Education, and Welfare shall:

(1) *Social security benefits.* Develop plans for the continuation or restoration of benefit payments to those on the insurance rolls as soon as possible after a direct attack upon the United States, and prepare plans for the acceptance and disposition of current claims for social security benefits.

(2) *Health insurance.* Develop plans for the payment of health insurance claims for reimbursement for items or services provided by hospitals, physicians, and other providers of medical services submitted by or on behalf of individuals who are eligible under the Medicare program.

SEC. 1106. Education Functions. With respect to education, the Secretary of Health, Education, and Welfare shall:

(1) *Program guidance.* Develop plans and issue guidance for the continued function of educational systems under all conditions of national emergency. Although extraordinary circumstances may require the temporary suspension of education, plans should provide for its earliest possible resumption.

(2) *Educational adjustment.* Plan to assist civilian educational institutions, both public and private, to adjust to demands laid upon them by a large expansion of government activities during any type of emergency. This includes advice and assistance to schools, colleges, universities, and other educational institutions whose facilities may be temporarily needed for Federal, State, or local government programs in an emergency or whose faculties and student bodies may be affected by the demands of a sudden or long-standing emergency.

(3) *Post-attack recovery.* Develop plans for the rapid restoration and resumption of education at all levels after an attack. This includes as-

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sistance to educators and educational institutions to locate and use surviving facilities, equipment, supplies, books, and educational personnel. Particular emphasis shall be given to the role of educational institutions and educational leadership in reviving education and training in skills needed for post-attack recovery.

(4) *Civil defense education.* In consonance with national civil defense plans, programs, and operations of the Director of the Federal Emergency Management Agency, develop and issue instructional materials to assist schools, colleges, and other educational institutions to incorporate emergency protective measures and civil defense concepts into their programs. This includes assistance to various levels of education to develop an understanding of the role of the individual, family, and community for civil defense in the nuclear age.

[Former sec. 1106 deleted and new sec. 1106 redesignated from sec. 1107 by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 12—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 1201. *Resume of Responsibilities.* The Secretary of Housing and Urban Development shall prepare national emergency plans and develop preparedness programs covering all aspects of housing, community facilities related to housing, and urban development (except that housing assets under the jurisdiction and control of the Department of Defense, other than those leased for terms not in excess of one year, shall be and remain the responsibility of the Department of Defense).

SEC. 1202. *Definition.* As used in this part:

(1) "Emergency housing" means any and all types of accommodations used as dwellings in an emergency.

(2) "Community facilities related to housing" means installations necessary to furnish water, sewer, electric, and gas services between the housing unit or project and the nearest practical source or servicing point.

(3) "Urban development" means the building or restoration of urban community, suburban, and metropolitan areas (except transportation facilities).

SEC. 1203. *Housing and Community Facilities Functions.* The Secretary of Housing and Urban Development shall:

(1) *New housing.* Develop plans for the emergency construction and management of new housing and the community facilities related thereto to the extent that it is determined that it may be necessary to provide for such construction and management with public funds and through direct Federal action, and to the extent that such construction of new housing may have to be provided through Federal financial or credit assistance.

(2) *Community facilities.* Develop plans to restore community facilities related to housing affected by an emergency through the repair of damage, the construction of new facilities, and the use of alternate or back-up facilities.

SEC. 1204. *Urban Development Functions.* The Secretary of Housing and Urban Development shall:

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(1) *Regional cooperation.* Encourage regional emergency planning and cooperation among State and local governments with respect to problems of housing and metropolitan development.

(2) *Vulnerability and redevelopment.* In cooperation with the Director, Federal Emergency Management Agency, develop criteria and provide guidance for the design and location of housing and community facilities related to housing to minimize the risk of loss under various emergency situations. Develop criteria for determining which areas should be redeveloped in the event of loss or severe damage resulting from emergencies.

[Sec. 1204 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 1205. *Civil Defense Functions.* In consonance with national civil defense plans, programs, and operations of the Director of the Federal Emergency Management Agency under Executive Order No. 12148, the Secretary of Housing and Urban Development shall:

(1) *Transitional activities.* Develop plans for the orderly transfer of people from fallout shelters and from billets to temporary or permanent housing, including advice and guidance for State and local government agencies in the administration thereof. These plans shall be coordinated with national plans and guidance for emergency welfare services of the Department of Health, Education, and Welfare.

(2) *Temporary housing.* Develop plans for the emergency repair and restoration for use of damaged housing, for the construction and management of emergency housing units and the community facilities related thereto, for the emergency use of tents and trailers, and for the emergency conversion for dwelling use of non-residential structures, such activities to be financed with public funds through direct Federal action or through financial or credit assistance.

(3) *Shelter.* In conformity with national shelter policy, assist in the development of plans to encourage the construction of shelters for both old and new housing, and develop administrative procedures to encourage the use of low-cost design and construction techniques to maximize protection in connection with national programs.

[Sec. 1205 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 13—DEPARTMENT OF TRANSPORTATION

SEC. 1301. *Resume of Responsibilities.* The Secretary of Transportation, in carrying out his responsibilities to exercise leadership on transportation matters affecting the national defense and those involving national or regional transportation emergencies, shall prepare emergency plans and develop preparedness programs covering:

(1) Preparation and promulgation of over-all national policies, plans, and procedures related to providing civil transportation of all forms—air, ground, water, and pipelines, including public storage and warehousing (except storage of petroleum and gas and agricultural food resources including cold storage): *Provided* that plans for the movement of petroleum and natural gas through pipelines shall be the responsibility of the Secretary of the Interior except to the extent that such plans

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are a part of functions vested in the Secretary of Transportation by law;

(2) Movement of passengers and materials of all types by all forms of civil transportation;

(3) Determination of the proper apportionment and allocation for control of the total civil transportation capacity (service, equipment and facilities), or any portion thereof, to meet overall essential civil and military needs;

(4) Determination and identification of the transportation resources available and required to meet all degrees of national emergencies and regional transportation emergencies;

(5) Assistance to the various States, the local political subdivisions thereof, and non-governmental organizations and systems engaged in transportation activities in the preparation of emergency plans;

(6) Rehabilitation and recovery of the Nation's transportation systems; and

(7) Provisions for port security and safety, for aids to maritime navigation, and for search and rescue and law enforcement over, upon, and under the navigable waters of the United States and the high seas.

[Sec. 1301 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 1302. *Transportation Planning and Coordination Functions.* In carrying out the provisions of Section 1301, the Secretary of Transportation, with assistance and support of other Federal, State and local governmental agencies, and the transport industries, as appropriate, shall:

(1) Obtain, assemble, analyze, and evaluate data on current and projected emergency requirements of all claimants for all forms of civil transportation to meet the needs of the military and of the civil economy, and on current and projected civil transportation resources—of all forms—available to the United States to move passengers or materials in an emergency.

(2) Develop plans and procedures to provide—under emergency conditions—for the collection and analysis of passenger and cargo movement demands as they relate to the capabilities of the various forms of transport, including the periodic assessment of over-all transport resources available to meet emergency requirements.

(3) Conduct a continuing analysis of transportation requirements and capabilities in relation to economic projections for the purpose of initiating actions and/or recommending incentive and/or regulatory programs designed to stimulate government and industry improvement of the structure of the transportation system for use in an emergency.

(4) Develop systems for the control of the movement of passengers and cargo by all forms of transportation, except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, including allocation of resources and assignment of priorities, and develop policies, standards, and procedures for emergency enforcement of these controls.

SEC. 1303. *Departmental Emergency Transportation Preparedness.* Except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, the Secretary of Transportation shall prepare emergency operational plans and programs for, and devel-

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op a capability to carry out, the transportation operating responsibilities assigned to the Department, including but not limited to:

(1) Allocating specifically designated civil air carrier type aircraft to the Civil Reserve Air Fleet (CRAF) and to the War Air Service Program (WASP).

(2) Emergency resource management of the National Aviation System, which is the physical complex of civil airmen, aircraft (including air carrier and general aviation aircraft), airports, airspace, airways and facilities and services, regulations, plans, standards, procedures and practices associated with the complex, for emergency management of the National Airspace System, and for control of civil and military air traffic, except as provided in Part 15 herein. In the performance of these responsibilities:

(a) The Secretary of Transportation, assisted by the Civil Aeronautics Board as appropriate, shall, with respect to WASP and CRAF aircraft, be responsible for the functions enumerated in Sections 3001 (excluding evaluation), 3002, 3003 and 3005. When CRAF is activated by the Secretary of Defense, the Secretary of Transportation retains the responsibility for the claimancy function for CRAF aircraft.

(b) The Secretary of Transportation, assisted by the Secretary of Defense, shall, with respect to the CRAF program, specifically when civil air carrier aircraft allocated thereto are withdrawn for use in the program, retain responsibility for claimancy as provided in Section 3001.

(3) Emergency resource management of all Federal, State, city, local and other highways, roads, streets, bridges, tunnels, and appurtenant structures, and publicly-owned highway maintenance equipment, including:

(a) The adaptation, development, construction, reconstruction and maintenance of the Nation's highway and street systems to meet emergency requirements; and

(b) The regulation of highway traffic in an emergency through a national program in cooperation with all Federal, State, and local governmental units concerned to assure efficient and safe utilization of available road space.

(4) Emergency plans for urban mass transportation, including:

(a) Providing guidance to urban communities in their emergency mass transportation planning efforts, either directly or through State, regional, or metropolitan agencies;

(b) Coordinating all such emergency planning with the Department of Housing and Urban Development to assure compatibility with emergency plans for all other aspects of urban development;

(c) Maintaining an inventory of urban mass transportation systems.

(5) Maritime safety and law enforcement over, upon, and under the high seas and waters, subject to the jurisdiction of the United States, in the following specific programs:

(a) Safeguarding vessels, harbors, ports, and waterfront facilities from destruction, loss or injury, accidents, or other causes of a similar nature.

(b) Safe passage over, upon, and under the high seas and United States waters through effective and reliable systems of aids to navigation and ocean stations.

(c) Waterborne access to ice-bound locations in furtherance of natural economic, scientific, defense, and consumer needs.

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(d) Protection of lives, property, natural resources, and national interests through enforcement of Federal law and timely assistance.

(e) Safety of life and property through regulation of commercial vessels, their officers and crew, and administration of maritime safety law.

(f) Knowledge of the sea, its boundaries, and its resources through collection and analysis of data in support of the national interest.

(g) Operational readiness for essential wartime functions.

(6) Planning for the emergency management and operation of the Alaska Railroad, and for the continuity of railroad and petroleum pipeline safety programs.

(7) Planning for the emergency operation and maintenance of the United States-controlled sections of the Saint Lawrence Seaway.

[Sec. 1303 amended by EO 11921 of June 11, 1976, 41 FR 24924, 3 CFR, 1976 Comp., p. 124]

PART 14—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION¹

SEC. 1401. *Functions.* (a) The Administrator of the Energy Research and Development Administration (ERDA) shall prepare emergency plans and develop preparedness programs for the continuing conduct of ERDA activities in any national emergency-type situation, including nuclear attack on the United States. These plans and programs shall include development of a state of readiness in those areas with respect to national emergencies which are governed by applicable provisions of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, and they shall be coordinated with the Director, Federal Emergency Management Agency, Department of Defense, and other departments and agencies as is appropriate.

(b) The Administrator of the Energy Research and Development Administration shall develop operational plans and procedures and develop a state of readiness so that if, and only if, authorized by lawful authority during a national emergency declared pursuant to statutory or constitutional authorization, the Energy Research and Development Administration will be prepared to:

(1) *Health and Safety.* (a) Shut down, place in safe standby condition, or curtail operations of and maintain under surveillance, as required, all ERDA-owned facilities and operations which could become or cause a significant hazard to public health and safety in the event they are damaged or destroyed; and (b) bring to bear such ERDA resources as can be made available to assist Federal, State and local officials to alleviate the suffering of the public and to minimize damage to property and to the environment.

(2) *Nuclear Materials Security.* Assure the security of special nuclear material, fissionable material, or nuclear weapons or devices in ERDA custody; participate in the conduct, direction or coordination of search and recovery operations for nuclear materials, weapons or devices; assist in the identification and deactivation of improvised nuclear de-

¹ EDITORIAL NOTE: The Energy Research and Development Administration was terminated and its functions transferred to the Department of Energy by Pub. L. 95-91 (91 Stat. 577, 42 U.S.C. 7151), effective Oct. 1, 1977.

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vices; and render advice on radiation and damage probabilities in the event of the detonation of an improvised nuclear device.

(3) *Production.* In an emergency, continue or resume essential:

(a) Development, manufacture, assembly and control of nuclear weapons, components thereof, and equipment, except to the extent that the control over nuclear weapons and equipment shall have been transferred to the Department of Defense;

(b) Development of the technology related to the production of power from all forms of energy sources;

(c) Production and processing of nuclear reactor fuel, special nuclear materials, and other special products;

(d) Related feed materials procurement, processing, and development; and

(e) Repair, maintenance, and construction related to the above activities.

(4) *Priorities and Allocations.* Administer, within the agency, priorities and allocations authority that may be delegated to ERDA, including the authority to authorize procurement and production schedules and make allotments of source materials and strategic and critical materials allocated to ERDA under national emergency industrial mobilization and defense production plans.

(5) *Scientific and Technical Information.* Organize, reproduce, and disseminate scientific and technical reports and data relating to emergency preparedness for energy research, development, engineering, applications and effects to interested Government agencies, the scientific and technical communities, the public, and approved, friendly and cooperating foreign nations. In the dissemination of such information, utilize, to the extent appropriate, the capabilities of the National Technical Information Service of the Department of Commerce.

(6) *State Relations.* Maintain in coordination with the Nuclear Regulatory Commission (NRC) general liaison with States concerning ERDA health and safety operations to ensure that these operations are effectively maintained during periods of national emergency.

(7) *International Liaison.* Maintain, in consultation with the Department of State and in coordination with other departments and agencies as appropriate, with respect to emergency preparedness activities of mutual interest involving nuclear or nonnuclear energy research and development, essential liaison with foreign nations, foreign organizations, and international organizations.

[Part 14 amended by EO 11953 of Jan. 7, 1977, 42 FR 2492, 3 CFR, 1977 Comp., p. 73; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 14A—NUCLEAR REGULATORY COMMISSION

SEC. 1450. *Functions.* (a) The Nuclear Regulatory Commission shall prepare national emergency plans and develop emergency preparedness programs and procedures for the continuing conduct of the nuclear regulatory activities of the Federal Government as specified in the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. These emergency preparedness plans and programs shall be designed to develop a state of readiness under conditions of national emergency including emergencies related to the national defense.

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(b) The Nuclear Regulatory Commission shall develop operational plans and procedures and develop a state of readiness so that if, and only if, authorized by lawful authority during a national emergency declared pursuant to statutory or constitutional authorization, the Commission will be prepared to:

(1) *Regulation.* In an emergency, continue or resume (a) controlling the possession, use, transfer, import, and export of licensed nuclear materials and facilities;

(b) authorizing the operation or continued operation of key facilities important to the national defense, or ordering the suspension of operation of licensed facilities and activities as necessary; and (c) authorizing the recapture from licensees of special nuclear materials where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security.

(2) *Health and Safety.* Order the suspension or limitation of operation, if required, of Commission-licensed nuclear facilities and activities which could otherwise constitute an unnecessary hazard to public health and safety; and assure the development and maintenance of emergency preparedness programs by licensed facilities and activities.

(3) *Contingency Plans.* Implement contingency plans, developed in consultation and coordination with ERDA and other departments and agencies as appropriate, for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes, and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended; and participate in the execution of the plans where necessary to protect the public health and safety and the common defense and security.

(4) *Facility and Nuclear Materials Security and Safeguards.* Assure the continued maintenance by licensees of security and safeguards programs at licensed facilities and for nuclear materials to provide physical protection to the facilities and their nuclear materials against thefts and sabotage.

(5) *Scientific and Technical Information.* Organize, reproduce, and disseminate essential scientific and technical reports and information to interested Government agencies, the scientific and technical communities, the public and approved, friendly and cooperating foreign nations regarding the regulation of the construction and operation of licensed nuclear facilities and the use of licensed nuclear facilities and licensed nuclear materials. In the dissemination of such information, utilize, to the extent appropriate, the capabilities of the National Technical Information Service of the Department of Commerce.

(6) *State Relations.* Maintain, in consultation with other cognizant Federal agencies, general liaison with the several States concerning the Agreement States materials licensing program and the radiological incident emergency planning program, to assure that these programs are effectively maintained to protect public health and safety. (See Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation, 40 FR 59494.)

(7) *International Liaison.* Maintain, in consultation with the Department of State and in coordination with other departments and agencies as appropriate, essential liaison with foreign nations with respect to the export licensing program and other activities of mutual interest involving nuclear energy.

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(8) *Priorities and Allocations.* Administer any priorities and allocations authority delegated to the Nuclear Regulatory Commission.

[Part 14A added by EO 11953 of Jan. 7, 1977, 42 FR 2492, 3 CFR, 1977 Comp., p. 73]

PART 15—CIVIL AERONAUTICS BOARD¹

SEC. 1501. *Definitions.* As used in this part:

(1) "War Air Service Program" (hereinafter referred to as WASP) means the program designed to provide for the maintenance of essential civil air routes and services, and to provide for the distribution and redistribution of air carrier aircraft among civil air transport carriers after withdrawal of aircraft allocated to the Civil Reserve Air Fleet.

(2) "Civil Reserve Air Fleet" (hereinafter referred to as CRAF) means those air carrier aircraft allocated by the Secretary of Transportation to the Department of Defense to meet essential military needs in the event of an emergency.

SEC. 1502. *Functions.* The Civil Aeronautics Board, under the coordinating authority of the Secretary of Transportation, shall exercise emergency resource management of the WASP. Except for those functions enumerated in Sections 3001 (excluding evaluation), 3002, 3003, and 3005, which have been reserved to the Secretary of Transportation with assistance from the Civil Aeronautics Board as appropriate. The Civil Aeronautics Board, in exercising emergency resource management of the WASP, shall:

(1) *Distribution of aircraft.* Develop plans and be prepared to carry out such distribution and redistribution of all air carrier civil aircraft allocated by the Secretary of Transportation among the civil air transport carriers as may be necessary to assure the maintenance of essential civil routes and services under WASP operations after the CRAF requirements have been met.

(2) *Economic regulations.* Develop plans covering route authorizations and operations, tariffs, rates, and fares charged the public, mail rates, government compensation and subsidy, and accounting and contracting procedures essential to WASP operations.

(3) *Operational controls and priorities.* Develop plans and procedures for the administration of operational controls and priorities of passenger and cargo movements in connection with the utilization of air carrier aircraft for WASP purposes in an emergency.

(4) *Investigation.* Maintain the capability to investigate violations of emergency economic regulations affecting air carrier operations.

(5) *Contracting.* Prepare to perform as a contracting agency, if such an agency is necessary, in connection with distribution and redistribution of aircraft for WASP.

(6) *Interagency assistance.* Assist the Secretary of Transportation in planning for those responsibilities enumerated in Section 1303(2)(a).

[Sec. 1502 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

¹ EDITORIAL NOTE: The functions of the Civil Aeronautics Board were terminated or transferred to the Department of Transportation, Department of Justice, and the United States Postal Service by Pub. L. 95-504 (92 Stat. 1705, 49 U.S.C. 1551) effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

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PART 15A—ENVIRONMENTAL PROTECTION AGENCY

SEC. 1550. *Resume of responsibilities.* The Administrator of the Environmental Protection Agency is responsible for diagnosis of quality problems and hazards in the environment which would impede the survival and recovery efforts of the nation and for developing coordinated Federal plans and fostering State and local plans designed to prevent or minimize the long-term ecological impact of hazardous agents introduced into the environment in an emergency situation, and to assist and coordinate with all primary resource agencies regarding plans to preserve the quality of a resource needed in an emergency.

SEC. 1551. *Definitions.* As used in this part:

(1) "Potable water" means drinkable water from all sources required for use in community water supply systems.

(2) "Hazardous agents" means nuclear, biological, and chemical, or other agents introduced into the environment in an emergency to affect adversely the health of the population and to impede resumption of normal operations of a community or nation.

SEC. 1552. *Functions.* The Administrator of the Environmental Protection Agency shall:

(1) Develop, in coordination with the Department of the Interior and other responsible Federal agencies, emergency plans to assure the provision of potable water supplies to meet community needs; develop plans and procedures to safeguard water quality under emergency conditions; and develop emergency programs and procedures designed to assure the availability of materials and equipment for water supply systems.

(2) Provide guidance on acceptable emergency levels for hazardous agents, and support plans of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment.

(3) Develop these plans in close coordination with appropriate primary resource and support agencies.

[Part 15A added by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 16—EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 1601. *Functions.* (a) Under guidance of the Secretary of the Treasury, the Export-Import Bank shall develop plans for the utilization of the resources of the Bank, or other resources made available to the Bank, in expansion of productive capacity abroad for essential materials, foreign barter arrangements, acquisition of emergency imports, and in support of the domestic economy, or any other plans designed to strengthen the relative position of the Nation and its allies.

(b) In carrying out the guidance functions described above, the Secretary of the Treasury shall consult with the Secretary of State and the Secretary of Commerce as appropriate.

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PART 17—FEDERAL BANK SUPERVISORY AGENCIES

SEC. 1701. *Financial Plans and Programs.* The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Farm Credit Administration, and the Federal Deposit Insurance Corporation shall participate with the Director, Federal Emergency Management Agency, the Department of the Treasury, and other agencies in the formulation of emergency financial and stabilization policies. The heads of such agencies shall, as appropriate, develop emergency plans, programs, and regulations, in consonance with national emergency financial and stabilization plans and policies, to cope with potential economic effects of mobilization or an attack, including, but not limited to, the following:

(1) *Money and credit.* Provision and regulation of money and credit in accordance with the needs of the economy, including the acquisition, decentralization, and distribution of emergency supplies of currency; the collection of cash items and non-cash items; and the conduct of fiscal agency and foreign operations.

(2) *Financial institutions.* Provision for the continued or resumed operation of banking, savings and loan, and farm credit institutions, including measures for the re-creation of evidence of assets or liabilities destroyed or inaccessible.

(3) *Liquidity.* Provision of liquidity necessary to the continued or resumed operation of banking, savings and loan, credit unions, and farm credit institutions, including those damaged or destroyed by enemy action.

(4) *Cash withdrawals and credit transfers.* Regulation of the withdrawal of currency and the transfer of credits including deposit and share account balances.

(5) *Insurance.* Provision for the assumption and discharge of liability pertaining to insured deposits and insured savings accounts or withdrawal shares in banking and savings and loan institutions destroyed or made insolvent.

[Sec. 1701 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 1702. *Sharing of war losses.* Heads of agencies shall, as appropriate, participate with the Director, Federal Emergency Management Agency and the Department of the Treasury in the development of policies, plans, and procedures for implementation of national policy on sharing war losses.

[Sec. 1702 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 18—FEDERAL COMMUNICATIONS COMMISSION

SEC. 1801. *Definitions.* As used in this part:

(1) "Common carrier" means any person subject to Commission regulation engaged in providing, for use by the public, for hire, interstate or foreign communications facilities or services by wire or radio; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

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(2) "Broadcast facilities" means those stations licensed by the Commission for the dissemination of radio communications intended to be received by the public directly or by the intermediary of relay stations.

(3) "Safety and special radio services" includes those non-broadcast and non-common carrier services which are licensed by the Commission under the generic designation "safety and special radio services" pursuant to the Commission's Rules and Regulations.

SEC. 1802. *Functions.* The Federal Communications Commission shall develop policies, plans, and procedures, in consonance with national telecommunications plans and policies developed pursuant to Executive Order No. 12046, Executive Order No. 12148, the Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System", and other appropriate authority, covering:

(1) *Common carrier service.* (a) Extension, discontinuance, or reduction of common carrier facilities or services, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency; and control of all rates, charges, practices, classifications, and regulations for service to Government and non-Government users during an emergency, in consonance with overall national economic stabilization policies.

(b) Development and administration of priority systems for public correspondence and for the use and resumption of leased inter-city private line service in an emergency.

(c) Use of common carrier facilities and services to overseas points to meet vital needs in an emergency.

(2) *Broadcasting service.* Construction, activation, or deactivation of broadcasting facilities and services, the continuation or suspension of broadcasting services and facilities, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency.

(3) *Safety and special radio services.* Authorization, operation, and use of safety and special radio services, facilities, and personnel in the national interest in an emergency.

(4) *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

(5) *Electromagnetic radiation.* Closing of any radio station or any device capable of emitting electromagnetic radiation or suspension or amending any rules or regulations applicable thereto, in any emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

(6) *Investigation and enforcement.* Investigation of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement actions required in the interest of national security.

[Sec. 1802 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12046 of Mar. 27, 1978, 43 FR 13349, 3 CFR, 1978 Comp., p. 158; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

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PART 19—FEDERAL POWER COMMISSION¹

SEC. 1901. *Functions.* The Federal Power Commission shall assist the Department of the Interior, in conformity with Part 7, in the preparation of national emergency plans and the development of preparedness programs for electric power and natural gas in accordance with current agreements between the Secretary of the Interior and the Chairman of the Federal Power Commission.

[Sec. 1901 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 20—GENERAL SERVICES ADMINISTRATION

SEC. 2001. *Resume of Responsibilities.* The Administrator of General Services shall prepare national emergency plans and develop preparedness programs designed to permit modification or expansion of the activities of the General Services Administration under the Federal Property and Administrative Services Act of 1949, as amended and other statutes prescribing the duties and responsibilities of the Administrator. These plans and programs shall include, but not be limited to: (1) operation, maintenance, and protection of Federal buildings and their sites; construction, alteration, and repair of public buildings; and acquisition, utilization, and disposal of real and personal properties; (2) public utilities service management for Federal agencies; (3) telecommunications to meet the essential requirements of civilian activities of executive departments and agencies; (4) transportation management to meet the traffic service requirements of civilian activities of Federal agencies; (5) records management; (6) Emergency Federal Register; (7) Government-wide supply support; (8) service to survival items stockpiles; (9) national industrial reserve; (10) guidance and consultation to Government agencies regarding facilities protection measures; (11) administration of assigned functions under the Defense Production Act; and (12) administration and operation of the stockpile of strategic and critical materials in accordance with such guidance as may be provided by the National Security Council and, with respect to the economic and disposal aspects of stockpiling of strategic and critical materials by the Council on Economic Policy.

[Sec. 2001 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

SEC. 2002. *Functions.* The Administrator of General Services shall:

(1) *Public buildings.* Develop emergency plans and procedures for the operation, maintenance, and protection of both existing and new Federally-owned and Federally-occupied buildings, and construction, alteration, and repair of public buildings. Develop emergency operating procedures for the control, acquisition, assignment, and priority of occupancy of real property by the Federal Government and by State and local governments to the extent they may be performing functions as agents of the Federal Government.

¹ EDITORIAL NOTE: The Federal Power Commission was terminated and its functions transferred to the Department of Energy by Pub. L. 95-91 (91 Stat. 565, 42 U.S.C. 7101 nt.), effective Oct. 1, 1977.

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(2) *Public utility service management.* Develop emergency operational plans and procedures for the claimancy, procurement, and use of public utility services for emergency activities of executive agencies of the Government.

(3) *Communications.* Plan for and provide, operate, and maintain appropriate telecommunications facilities designed to meet the essential requirements of Federal civilian departments and agencies during an emergency within the framework of the National Communications System. Plans and programs of the Administrator shall be in consonance with national telecommunications policies, plans, and programs developed pursuant to Executive Order No. 12046, Executive Order No. 12148, and the Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System," or other appropriate authority.

(4) *Transportation.* Develop plans and procedures for providing: (a) general transportation and traffic management services to civilian activities of Federal agencies in connection with movement of property and supplies, including the claimancy, contracting, routing, and accounting of Government shipments by commercial transportation in time of emergency; and (b) motor vehicle service to meet the administrative needs of Federal agencies, including dispatch and scheduled Government motor service at and between headquarters, field offices, relocation sites, and other installations of the Federal and State governments.

(5) *Records.* Provide instructions and advice on appraisal, selection, preservation, arrangement, reference, reproduction, storage, and salvage of essential records needed for the operation of the Federal Government after attack, on an emergency basis, including a decentralized system.

(6) *Federal Register.*¹ Develop emergency procedures for providing and making available, on a decentralized basis, a Federal Register of Presidential Proclamations and Executive Orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress during a national emergency.

(7) *Government-wide procurement and supply.* Prepare plans and procedures for the coordination and/or operation of Government-wide supply programs to meet the requirements of Federal agencies under emergency conditions, including the development of policies, methods, and procedures for emergency procurement and for emergency requisitioning of private property when authorized by law and competent authority; identification of essential civil agency supply items under the Federal catalog system; development of emergency Federal specifications and standards; determination of sources of supply; procurement of personal property and non-personal services; furnishing appropriate inspection and contract administration services; and establishment, coordination, and/or operation of emergency storage and distribution facilities.

¹EDITORIAL NOTE: The National Archives and Records Service, the parent agency of the Office of the Federal Register, was a part of the General Services Administration until it was reestablished as an independent agency, the National Archives and Records Administration, by Pub. L. 98-497 (98 Stat. 2280, 44 U.S.C. 101 nt.), effective Apr. 1, 1985.

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(8) *Survival item stockpiles.* Assist the Department of Health, Education, and Welfare, insofar as civil defense medical stockpile items under its jurisdiction are concerned, and the Director of the Federal Emergency Management Agency insofar as survival items under its jurisdiction are concerned, in formulating plans and programs for service activity support relating to stockpiling of such supplies and equipment. The Administrator shall arrange for the procurement, storage, maintenance, inspection, survey, withdrawal, and disposal of supplies and equipment in accordance with the provisions of interagency agreements with the departments concerned.

(9) *National industrial reserve and machine tool program.* Develop plans for the custody of the industrial plants and production equipment in the national industrial reserve and assist the Department of Defense, in collaboration with the emergency reactivation, and utilization of the plants and equipment of this reserve in the custody of the Administrator.

(10) *Excess and surplus real and personal property.* Develop plans and emergency operating procedures for the utilization of excess and surplus real and personal property by Federal Government agencies with emergency assignments or by State and local governmental units as directed, including review of the property holdings of Federal agencies which do not possess emergency functions to determine the availability of property for emergency use, and including the disposal of real and personal property and the rehabilitation of personal property.

(11) *Facilities protection and building and shelter manager service.* In accordance with the guidance from the Department of Defense, promote, with respect to Federal buildings and installations, a Government-wide program (a) to stimulate protection, preparedness, and control in emergencies in order to minimize the effects of overt or covert attack, including dispersal of facilities; and (b) to establish shelter manager organizations, including safety and service personnel, shelter manager service, first aid, police, and evacuation service.

[Sec. 2002 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12046 of Mar. 27, 1978, 43 FR 13349, 3 CFR, 1978 Comp., p. 158; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 2003. *Defense Production.* The Administrator of General Services shall assist the Director, Federal Emergency Management Agency in the formulation of plans and programs relating to the certification of procurement programs, subsidy payments, and plant improvement programs provided for by the Defense Production Act of 1950, as amended.

[Sec. 2003 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 2004. *Strategic and Critical Materials Stockpiles.* The Administrator of General Services shall assist the Director, Federal Emergency Management Agency in formulating plans, programs, and reports relating to the stockpiling of strategic and critical materials. Within these plans and programs, the Administrator shall provide for the procurement (for this purpose, procurement includes upgrading, rotation, and

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beneficiation), storage, security, maintenance, inspection, withdrawal, and disposal of materials, supplies, and equipment.

[Sec. 2004 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 21—INTERSTATE COMMERCE COMMISSION

SEC. 2101. *Resume of Responsibilities.* The Chairman of the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, shall prepare national emergency plans and develop preparedness programs covering railroad utilization, reduction of vulnerability, maintenance, restoration, and operation in an emergency (other than for the Alaska Railroad—see Section 1303(6)); motor carrier waterway utilization of equipment and shipping, reduction of vulnerability, and operation in an emergency; and also provide guidance and consultation to domestic surface transportation and storage industries, as defined below, regarding emergency preparedness measures, and to States regarding development of their transportation plans in assigned areas.

SEC. 2102. *Definitions.* As used in this part:

(1) "Domestic surface transportation and storage" means rail, motor, and inland water transportation facilities and services and public storage;

(2) "Public storage" includes warehouses and other places which are used for the storage of property belonging to persons other than the persons having the ownership or control of such premises;

(3) "Inland water transportation" includes shipping on all inland waterways and Great Lakes shipping engaged solely in the transportation of passengers or cargo between United States ports on the Great Lakes;

(4) Specifically excluded, for the purposes of this part, are pipelines, petroleum and gas storage, agricultural food resources storage, including the cold storage of food resources, the St. Lawrence Seaway, ocean ports and Great Lakes ports and port facilities, highways, streets, roads, bridges, and related appurtenances, maintenance of inland waterways, and any transportation owned by or pre-allocated to the military.

SEC. 2103. *Transportation Functions.* The Interstate Commerce Commission shall:

(1) *Operational control.* Develop plans with appropriate private transportation and storage organizations and associations for the coordination and direction of the use of domestic surface transportation and storage facilities for movement of passenger and freight traffic.

(2) *Emergency operations.* Develop and maintain necessary orders and regulations for the operation of domestic surface transport and storage industries in an emergency.

PART 22—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 2201. *Functions.* The Administrator of the National Aeronautics and Space Administration shall:

(1) *Research and development.* Adapt and utilize the scientific and technological capability of the National Aeronautics and Space Administration, consistent with over-all requirements, to meet priority needs of the programs of the Federal Government in an emergency. This will include the direction and conduct of essential research and development activities relating to (a) aircraft, spacecraft, and launch vehicles, (b) as-

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sociated instrumentation, guidance, control and payload, propulsion, and communications systems, (c) scientific phenomena affecting both manned and unmanned space flights, (d) the life sciences (biology, medicine, and psychology) as they apply to aeronautics and space, and (e) atmospheric and geophysical sciences.

(2) *Military support.* Provide direct assistance as requested by the Department of Defense and other agencies in support of the military effort. This may include (a) undertaking urgent projects to develop superior aircraft, spacecraft, launch vehicles, and weapons systems, (b) developing methods to counter novel or revolutionary enemy weapons systems, (c) providing technical advice and assistance on matters involving air and space activities, and (d) furnishing personnel and facilities to assist in emergency repairs of equipment deficiencies and for other essential purposes.

PART 22A—NATIONAL CREDIT UNION ADMINISTRATION

SEC. 2250. *Functions.* The Administrator of the National Credit Union Administration shall:

(1) *Credit union operations.* Provide instructions to all State and Federally chartered credit unions for the development of emergency plans to be put into effect as soon as possible after an attack upon the United States in order to guarantee continuity of credit union operations.

(2) *Economic stabilization.* Provide guidance and funds as necessary to credit unions that will contribute to stabilization of the nation's economy by helping to establish and maintain a sound economic base for continuing operations, combating inflation, maintaining confidence in public and private financial institutions, and promoting thrift.

[Part 22A added by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 23—NATIONAL SCIENCE FOUNDATION

SEC. 2301. *Functions.* The Director of the National Science Foundation shall:

(1) *Manpower functions.* Assist the Department of Labor in sustaining readiness for the mobilization of civilian manpower by: (a) being prepared for rapid expansion of the Foundation's current operation as a central clearinghouse for information covering all scientific and technical personnel in the United States and its possessions; and (b) developing, in consultation with the Department of Labor, the Selective Service System, and the Department of Defense, plans and procedures to assure the most effective distribution and utilization of the nation's scientific and engineering manpower in an emergency.

(2) *Specific functions.* (a) Provide leadership in developing, with the assistance of Federal and State agencies and appropriate nongovernmental organizations, the ability to mobilize scientists, in consonance with overall civilian manpower mobilization programs, to perform or assist in performance of special tasks, including the identification of and defense against unconventional warfare; (b) advance the national radiological defense capability by including, in consultation with appropriate agencies, pertinent scientific information and radiological defense techniques in the Foundation's science education programs for science,

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mathematics and engineering teachers; (c) assemble data on the location and character of major scientific research facilities, including non-governmental as well as governmental facilities, and their normal inventories of types of equipment and instruments which would be useful in identification and an analysis of hazards to human life in the aftermath of enemy attack; and (d) prepare to carry on necessary programs for research and for training of scientific manpower.

[Sec. 2301 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 24—RAILROAD RETIREMENT BOARD

SEC. 2401. *Functions.* The Railroad Retirement Board shall:

(1) *Manpower functions.* Within the framework of the over-all manpower plans and programs of the Department of Labor, assist in the mobilization of civilian manpower in an emergency by developing plans for the recruitment and referral of that segment of the Nation's manpower resources subject to the Railroad Retirement and Railroad Unemployment Insurance Acts.

(2) *Benefit payments.* Develop plans for administering, under emergency conditions, the essential aspects of the Railroad Retirement Act and Railroad Unemployment Insurance Act consistent with over-all Federal plans for the continuation of benefit payments after an enemy attack.

PART 25—SECURITIES AND EXCHANGE COMMISSION

SEC. 2501. *Functions.* The Securities and Exchange Commission shall collaborate with the Secretary of the Treasury in the development of emergency financial control plans, programs, procedures, and regulations for:

(1) *Stock trading.* Temporary closure of security exchanges, suspension of redemption rights, and freezing of stock and bond prices, if required in the interest of maintaining economic controls.

(2) *Modified trading.* Development of plans designed to reestablish and maintain a stable and orderly market for securities when the situation permits under emergency conditions.

(3) *Protection of securities.* Provision of a national records system which will make it possible to establish current ownership of securities in the event major trading centers and depositories are destroyed.

(4) *Flow of capital.* The control of the formation and flow of private capital as it relates to new securities offerings or expansion of prior offerings for the purpose of establishing or reestablishing industries in relation to the Nation's needs in or following a national emergency.

(5) *Flight of capital.* The prevention of the flight of capital outside this country, in coordination with the Secretary of Commerce, and the impounding of securities in the hands of enemy aliens.

PART 26—SMALL BUSINESS ADMINISTRATION

SEC. 2601. *Functions.* The Administrator of the Small Business Administration shall:

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(1) *Prime contract authority.* Develop plans to administer a program for the acquisition of prime contracts by the Administration and, in turn, for negotiating or otherwise letting of subcontracts to capable small business concerns in an emergency.

(2) *Resource information.* Provide data on facilities, inventories, and potential production capacity of small business concerns to all interested agencies.

(3) *Procurement.* Develop plans to determine jointly with Federal procurement agencies, as appropriate, which defense contracts are to go to small business concerns and to certify to the productive and financial ability of small concerns to perform specific contracts, as required.

(4) *Loans for plant modernization.* Develop plans for providing emergency assistance to essential individual industrial establishments through direct loans or participation loans for the financing of production facilities and equipment.

(5) *Resource pools.* Develop plans for encouraging and approving small business defense production and research and development pools.

(6) *Financial assistance.* Develop plans to make loans, directly or in participation with private lending institutions, to small business concerns and to groups or pools of such concerns, to small business investment companies, and to State and local development companies to provide them with funds for lending to small business concerns, for defense and essential civilian purposes.

PART 27—TENNESSEE VALLEY AUTHORITY

SEC. 2701. Functions. The Board of Directors of the Tennessee Valley Authority shall:

(1) *Electric power.* Assist the Department of the Interior in the development of plans for the integration of the Tennessee Valley Authority power system into national emergency programs and prepare plans for the emergency management, operation, and maintenance of the system and for its essential expansion.

(2) *Waterways.* Assist the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, in the development of plans for integration and control of inland waterway transportation systems and, in cooperation with the Department of Defense and the Department of the Interior, prepare plans for the management, operation, and maintenance of the river control system in the Tennessee River and certain of its tributaries for navigation during an emergency.

(3) *Flood control.* Develop plans and maintain its river control operations for the prevention or control of floods caused by natural phenomena or overt and covert attack affecting the Tennessee River System and, in so doing, collaborate with the Department of Defense with respect to the control of water in the lower Ohio and Mississippi Rivers.

(4) *Emergency health services and sanitary water supplies.* Assist the Department of Health, Education, and Welfare in the development of plans and programs covering emergency health services, civilian health manpower, and health resources in the Tennessee Valley Authority area and, in collaboration with the Department of the Interior and the

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Department of Health, Education, and Welfare, prepare plans for the management, operation, and maintenance of the Tennessee River System consistent with the needs for sanitary public water supplies, waste disposal, and vector control.

(5) *Coordination of water use.* Develop plans for determining or proposing priorities for the use of water by the Tennessee Valley Authority in the event of conflicting claims arising from the functions listed above.

(6) *Fertilizer.* Assist the Department of Agriculture in the development of plans for the distribution and claimancy of fertilizer; assist the Department of Commerce and the Department of Defense in the development of Tennessee Valley Authority production quotas and any essential expansion of production facilities, and prepare plans for the management operation, and maintenance of its facilities for the manufacture of nitrogen and phosphorous fertilizers.

(7) *Munitions production.* Perform chemical research in munitions as requested by the Department of Defense, maintain standby munitions production facilities, and develop plans for converting and utilizing fertilizer facilities as required in support of the Department of Defense's munitions program.

(8) *Land management.* Develop plans for the maintenance, management, and utilization of Tennessee Valley Authority-controlled lands in the interest of an emergency economy.

(9) *Food and forestry.* Assist the Department of Agriculture in the development of plans for the harvesting and processing of fish and game, and the Department of Commerce in the development of plans for the production and processing of forest products.

(10) *Coordination with Valley States.* Prepare plans and agreements with Tennessee Valley States, consistent with Federal programs, for appropriate integration of Tennessee Valley Authority and State plans for the use of available Tennessee Valley Authority resources.

PART 28—OFFICE OF PERSONNEL MANAGEMENT

SEC. 2801. *Functions.* The Office of Personnel Management shall:

(1) *Personnel system.* Prepare plans for adjusting the Federal civilian personnel system to simplify administration and to meet emergency demands.

(2) *Utilization.* Develop policies and implementing procedures designed to assist Federal agencies in achieving the most effective utilization of the Federal Government's civilian manpower in an emergency.

(3) *Manpower policies.* As the representative of the Federal Government as an employer, participate, as appropriate, in the formulation of national and regional manpower policies as they affect Federal civilian personnel and establish implementing policies as necessary.

(4) *Manpower administration.* Prepare plans, in consonance with national manpower policies and programs, for the administration of emergency civilian manpower and employment policies within the executive branch of the Government, including the issuance and enforcement of regulations to implement such policies.

(5) *Wage and salary stabilization.* Participate, as appropriate, with the Director, Federal Emergency Management Agency and the Department of Labor in the formulation of national and regional wage and

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salary stabilization policies as they affect Federal civilian personnel. Within the framework of such policies, prepare plans for the implementation of such policies and controls established for employees within the executive branch of the Government, including the issuance and enforcement of necessary regulations.

(6) *Assistance.* Develop plans for rendering personnel management and staffing assistance to new and expanding Federal agencies.

(7) *Recruiting.* Develop plans for the coordination and control of civilian recruiting policies and practices by all Federal agencies in order to increase the effectiveness of the total recruitment efforts during an emergency and to prevent undesirable recruitment practices.

(8) *Reassignment.* Develop plans to facilitate the reassignment or transfer of Federal civilian employees, including the movement of employees from one agency or location to another agency or location, in order to meet the most urgent needs of the executive branch during an emergency.

(9) *Registration.* Develop plans and procedures for a nationwide system of post-attack registration of Federal employees to provide a means for locating and returning to duty those employees who become physically separated from their agencies after an enemy attack, and to provide for the maximum utilization of the skills of surviving employees.

(10) *Deferment.* Develop plans and procedures for a system to control Government requests for the selective service deferment of employees in the executive branch of the Federal Government and in the municipal government of the District of Columbia.

(11) *Investigation.* Prepare plans, in coordination with agencies having responsibilities in the personnel security field, for the conduct of national agency checks and inquiries, limited suitability investigations, and full field investigations under emergency conditions.

(12) *Salaries, wages, and benefits.* Develop plans for operating under emergency conditions the essential aspects of salary and wage systems and such benefit systems as the Federal Employees Retirement System, the Federal Employees Group Life Insurance Program, the Federal Employees and Retired Federal Employees Health Benefits Programs, and the Federal Employees Compensation Program.

(13) *Federal manpower mobilization.* Assist Federal agencies in establishing manpower plans to meet their own emergency manpower requirements; identify major or special manpower problems of individual Federal agencies and the Federal Government as a whole, in mobilizing a civilian work force to meet essential emergency requirements; identify sources of emergency manpower supply for all agencies where manpower problems are indicated; and develop Government-wide plans for the use of surplus Federal civilian manpower.

(14) *Distribution of manpower.* Participate in the formulation of policies and decisions on the distribution of the nation's civilian manpower resources, obtain appropriate civilian manpower data from Federal agencies, and establish necessary implementing policies and procedures within the Executive Branch.

(15) *Training.* Develop, organize, and conduct, as appropriate, inter-agency training programs in emergency personnel management for Federal employees.

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[Sec. 2801 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

PART 28A—UNITED STATES INFORMATION AGENCY

SEC. 2850. *Functions.* (a) The Director of the United States Information Agency shall prepare national emergency plans and develop preparedness programs for the continuation of essential emergency foreign information activities. These plans and programs shall be designed to develop a state of readiness which will permit continuing necessary activities under all conditions of national emergency including attack upon the United States.

(b) The Director shall (1) develop plans for the formulation and execution of foreign information programs utilizing the Agency's overseas posts and all media designed to promote an intelligent understanding abroad of the status of the emergency within the United States and the efforts, policies, activities, needs, and aims of the United States in dealing with the international situation then existing; (2) develop emergency plans and programs, and emergency organizational structures required thereby, as an integral part of the continuing activities of the United States Information Agency on the basis that it will have the responsibility for carrying on such programs during an emergency; (3) provide and maintain the capability necessary for simultaneous direct radio broadcasting in major languages to all areas of the world, and wireless teletype to all United States Embassies; (4) provide advice to the executive branch on foreign opinion, and its implications for United States policies, programs, and official statements; (5) maintain liaison with the information agencies of friendly nations for the purpose of relating the United States Government information programs and facilities to those of such nations; (6) participate in the development of policy with regard to the psychological aspects of defense and develop plans for assisting the appropriate agencies in the execution of psychological operations with special attention to overseas crises short of war; (7) maintain United States Information Service staffs abroad for the conduct of public information for all agencies of the Government, recognizing that in a theater of operations the United States Information Agency would make available to the appropriate Commander all United States citizen personnel on the staff of the Agency, who agree to remain, to serve in support of psychological operations; and (8) lend appropriate support in psychological warfare to the military command in the theater or theaters of active military operations, and provide daily guidance and basic informational materials.

(c) The Director shall insure development of appropriate plans necessary under this Part and issue emergency instructions required to implement all appropriate plans developed under this Part.

[Part 28A added by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124]

PART 29—VETERANS ADMINISTRATION

SEC. 2901. *Functions.* The Administrator of Veterans Affairs shall develop policies, plans, and procedures for the performance of emergency

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functions with respect to the continuation or restoration of authorized programs of the Veterans Administration under all conditions of national emergency, including attack upon the United States. These include:

(1) The emergency conduct of inpatient and outpatient care and treatment in Veterans Administration medical facilities and participation with the Departments of Defense and Health, Education, and Welfare as provided for in interagency agreements.

(2) The emergency conduct of compensation, pension, rehabilitation, education, and insurance payments consistent with over-all Federal plans for the continuation of Federal benefit payments.

(3) The emergency performance of insurance and loan guaranty functions in accordance with indirect stabilization policies and controls designed to deal with various emergency conditions.

PART 30—GENERAL PROVISIONS

SEC. 3001. *Resource Management.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Director, Federal Emergency Management Agency under Executive Order No. 12148, and subject to the provisions of the preceding parts, the head of each department and agency shall:

(1) *Priorities and allocations.* Develop systems for the emergency application of priorities and allocations to the production, distribution, and use of resources for which he has been assigned responsibility.

(2) *Requirements.* Assemble, develop as appropriate, and evaluate requirements for assigned resources, taking into account estimated needs for military, atomic energy, civilian, and foreign purposes. Such evaluation shall take into consideration geographical distribution of requirements under emergency conditions.

(3) *Evaluation.* Assess assigned resources in order to estimate availability from all sources under an emergency situation, analyze resource availabilities in relation to estimated requirements, and develop appropriate recommendations and programs, including those necessary for the maintenance of an adequate mobilization base. Provide data and assistance before and after attack for national resource analysis purposes of the Director, Federal Emergency Management Agency.

(4) *Claimancy.* Prepare plans to claim from the appropriate agency supporting materials, manpower, equipment, supplies, and services which would be needed to carry out assigned responsibilities and other essential functions of his department or agency, and cooperate with other agencies in developing programs to insure availability of such resources in an emergency.

[Sec. 3001 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3002. *Facilities protection and warfare effects monitoring and reporting.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Director, Federal Emergency Management Agency under Executive Order No. 12148, and with the national civil defense plans, programs, and operations Director of the Federal Emergency Management Agency under Executive Order No. 12148, the head of each department and agency shall:

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(1) *Facilities protection.* Provide facilities protection guidance material adapted to the needs of the facilities and services concerned and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack on facilities or other resources for which he has management responsibility. Guidance shall include, but not be limited to, organization and training of facility employees, personnel shelter, evacuation plans, records protection, continuity of management, emergency repair, dispersal of facilities, and mutual aid associations for an emergency.

(2) *Warfare effects monitoring and reporting.* Maintain a capability, both at national and field levels, to estimate the effects of attack on assigned resources and to collaborate with and provide data to the Director, Federal Emergency Management Agency, the Department of Defense, and other agencies, as appropriate, in verifying and updating estimates of resource status through exchanges of data and mutual assistance, and provide for the detection, identification, monitoring and reporting of such warfare effects at selected facilities under his operation or control.

(3) *Salvage and rehabilitation.* Develop plans for salvage, decontamination, and rehabilitation of facilities involving resources under his jurisdiction.

(4) *Shelter.* In conformity with national shelter policy, where authorized to engage in building construction, plan, design, and construct such buildings to protect the public to the maximum extent feasible against the hazards that could result from an attack upon the United States with nuclear weapons; and where empowered to extend Federal financial assistance, encourage recipients of such financial assistance to use standards for planning design and construction which will maximize protection for the public.

[Sec. 3002 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3003. *Critical skills and occupations.* (a) The Secretaries of Defense, Commerce, and Labor shall carry out the mandate of the National Security Council, dated February 15, 1968, to "maintain a continuing surveillance over the Nation's manpower needs and identify any particular occupation or skill that may warrant qualifying for deferment on a uniform national basis." In addition, the Secretaries of Defense, Commerce, Labor, and Health, Education, and Welfare shall carry out the mandate of the National Security Council to "maintain a continuing surveillance over the Nation's manpower and education needs to identify any area of graduate study that may warrant qualifying for deferment in the national interest." In carrying out these functions, the Secretaries concerned shall consult with the National Science Foundation with respect to scientific manpower requirements.

(b) The Secretaries of Commerce and Labor shall maintain and issue, as necessary, lists of all essential activities and critical occupations that may be required for emergency preparedness purposes.

SEC. 3004. *Research.* Within the framework of research policies and objectives established by the Director, Federal Emergency Management Agency, the head of each department and agency shall supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities, designate representatives for

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necessary ad hoc or task force groups, and provide advice and assistance to other agencies in planning for research in areas involving each agency's interest.

[Sec. 3004 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3005. *Stockpiles.* The head of each department and agency, with appropriate emergency responsibilities, shall assist the Director, Federal Emergency Management Agency, in formulating and carrying out plans for stockpiling of strategic and critical materials, and survival items.

[Sec. 3005 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3006. *Direct Economic Controls.* The head of each department and agency shall cooperate with the Director, Federal Emergency Management Agency and the Federal financial agencies in the development of emergency preparedness measures involving emergency financial and credit measures, as well as price, rent, wage and salary stabilization, and consumer rationing programs.

[Sec. 3006 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3007. *Financial Aid.* The head of each department and agency shall develop plans and procedures in cooperation with the Federal financial agencies for financial and credit assistance to those segments of the private sector for which he is responsible in the event such assistance is needed under emergency conditions.

SEC. 3008. *Functional Guidance.* The head of each department and agency in carrying out the functions assigned to him by this order, shall be guided by the following:

(1) *National program guidance.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Director, Federal Emergency Management Agency under Executive Order No. 12148, and with the national civil defense plans, programs, and operations of the Director of the Federal Emergency Management Agency, technical guidance shall be provided to State and local governments and instrumentalities thereof, to the end that all planning concerned with functions assigned herein will be effectively coordinated. Relations with the appropriate segment of the private sector shall be maintained to foster mutual understanding of Federal emergency plans.

(2) *Interagency coordination.* Emergency preparedness functions shall be coordinated by the head of the department or agency having primary responsibility with all other departments and agencies having supporting functions related thereto.

(3) *Emergency preparedness.* Emergency plans, programs, and an appropriate state of readiness, including organizational readiness, shall be developed as an integral part of the continuing activities of each department or agency on the basis that that department or agency will have the responsibility for carrying out such plans and programs during an emergency. The head of each department or agency shall be prepared to implement all appropriate plans developed under this order. Modifications and temporary organizational changes, based on emergency

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conditions, shall be in accordance with policy determinations by the President.

(4) *Professional liaison.* Mutual understanding and support of emergency preparedness activities shall be fostered, and the National Defense Executive Reserve shall be promoted by maintaining relations with the appropriate non-governmental sectors.

[Sec. 3008 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3009. *Training.* The head of each department and agency shall develop and direct training programs which incorporate emergency preparedness and civil defense training and information programs necessary to insure the optimum operational effectiveness of assigned resources, systems, and facilities.

SEC. 3010. *Emergency Public Information.* In consonance with such emergency public information plans and central program decisions of the Director, Federal Emergency Management Agency, and with plans, programs, and procedures established by the Director of the Federal Emergency Management Agency to provide continuity of programming for the Emergency Broadcast System, the head of each department and agency shall:

(1) Obtain and provide information as to the emergency functions or assignments of the individual department or agency for dissemination to the American people during the emergency, in accordance with arrangements made by the Federal Preparedness Agency (GSA).

(2) Determine requirements and arrange for prerecordings to provide continuity of program service over the Emergency Broadcast System so that the American people can receive information, advice, and guidance pertaining to the implementation of the civil defense and emergency preparedness plans or assignments of each individual department or agency.

[Sec. 3010 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3011. *Emergency Actions.* This order does not confer authority to put into effect any emergency plan, procedure, policy, program, or course of action prepared or developed pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

SEC. 3012. *Redelegation.* The head of each department and agency is hereby authorized to redelegate the functions assigned to him by this order, and to authorize successive redelegations to agencies or instrumentalities of the United States, and to officers and employees of the United States.

SEC. 3013. *Transfer of Functions.* Any emergency preparedness function under this order, or parts thereof, may be transferred from one department or agency to another with the consent of the heads of the organizations involved and with the concurrence of the Director of the Federal Emergency Management Agency. Any new emergency preparedness function may be assigned to the head of a department or

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agency by the Director of the Federal Preparedness Agency (GSA)¹ by mutual consent.

[Sec. 3013 amended by EO 11921 of June 11, 1976, 41 FR 24294, 3 CFR, 1976 Comp., p. 124; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

SEC. 3014. *Retention of Existing Authority.* Except as provided in Section 3015, nothing in this order shall be deemed to derogate from any now existing assignment of functions to any department or agency or officer thereof made by statute, Executive order, or Presidential directives, including Memoranda.

SEC. 3015. *Revoked Orders.* The following are hereby revoked:

- (1) Defense Mobilization Order VI-2 of December 11, 1953.
- (2) Defense Mobilization Order I-12 of October 5, 1954.
- (3) Executive Order No. 10312 of December 10, 1951.
- (4) Executive Order No. 10346 of April 17, 1952.
- (5) Executive Order No. 10997 of February 16, 1962.
- (6) Executive Order No. 10998 of February 16, 1962.
- (7) Executive Order No. 10999 of February 16, 1962.
- (8) Executive Order No. 11000 of February 16, 1962.
- (9) Executive Order No. 11001 of February 16, 1962.
- (10) Executive Order No. 11002 of February 16, 1962.
- (11) Executive Order No. 11003 of February 16, 1962.
- (12) Executive Order No. 11004 of February 16, 1962.
- (13) Executive Order No. 11005 of February 16, 1962.
- (14) Executive Order No. 11087 of February 26, 1963.
- (15) Executive Order No. 11088 of February 26, 1963.
- (16) Executive Order No. 11089 of February 26, 1963.
- (17) Executive Order No. 11090 of February 26, 1963.
- (18) Executive Order No. 11091 of February 26, 1963.
- (19) Executive Order No. 11092 of February 26, 1963.
- (20) Executive Order No. 11093 of February 26, 1963.
- (21) Executive Order No. 11094 of February 26, 1963.
- (22) Executive Order No. 11095 of February 26, 1963.
- (23) Executive Order No. 11310 of October 11, 1966.

SEC. 3016. Effective October 1, 1977, the Secretary of Energy shall exercise all authority and discharge all responsibility herein delegated to or conferred upon (a) the Federal Power Commission, (b) the Energy Research and Development Administration, and (c) with respect to electric power, petroleum, gas and solid fuels, upon the Department of the Interior.

[Sec. 3016 added by EO 12038 of Feb. 3, 1978, 42 FR 4957, 3 CFR, 1978 Comp., p. 136]

Executive Order 11795—Delegating disaster relief functions pursuant to the Disaster Relief Act of 1974

SOURCE: The provisions of Executive Order 11795 of July 11, 1974, appear at 39 FR 25939, 3 CFR, 1971-1975 Comp., p. 887, unless otherwise noted.

¹ EDITORIAL NOTE: Federal Preparedness Agency functions transferred from the General Services Administration to the Federal Emergency Management Agency by EO 12148 of July 20, 1979, this chapter, p. 806.