

PART 330—POLICY GUIDANCE AND DELEGATION OF AUTHORITIES FOR USE OF PRIORITIES AND ALLOCATIONS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES IN ACCORDANCE WITH SUBSECTION 101(c) OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED (DMO-13)

Sec.

330.1 Purpose.

330.2 Policies.

330.3 Delegation of authority.

AUTHORITY: Defense Production Act of 1950, as amended, including amendment to sec. 101(c) by sec. 104 of the Energy Policy and Conservation Act (Pub. L. 94-163) 50 U.S.C. app. 2061 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12148 of July 20, 1979, 44 FR 43239; E.O. 11912 of April 13, 1976.

SOURCE: 45 FR 44586, July 1, 1980, unless otherwise noted.

§ 330.1 Purpose.

This part:

(a) Establishes policy guidance on determination and use of priorities and allocations for materials and equipment to maximize domestic energy supplies pursuant to section 104 of the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 878), which added subsection 101(c) to the Defense Production Act of 1950, as amended (the Act); and

(b) Delegates authority and assigns responsibility related thereto pursuant to sections 7 and 8 of Executive Order 11912, dated April 13, 1976.

§ 330.2 Policies.

(a) The authority of subsection 101(c) of the Act to require the allocation of, or priority performance under contracts or orders relating to, supplies of materials and equipment to maximize domestic energy supplies shall be limited to those exceptional circumstances when it is found that:

(1) Such supplies of material and equipment are scarce, critical, and essential; and

(2) The 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 this authority.

(b) The authority contained in subsection 101(c) shall not be used to require priority performance under contracts or orders relating to, or the allocation of, any supplies of materials and equipment except for programs or projects to maximize domestic energy supplies as specifically determined by the Secretary of Energy, after coordination with the Director, Federal Emergency Management Agency.

(c) The allocation of, or priority performance under contracts or orders relating to, supplies of materials and equipment in support of authorized programs or projects shall be so undertaken as to ensure that:

(1) Supplies of the specified materials and equipment are available to the extent practicable on time and in proper quantity to authorized programs or projects.

(2) The demands of these authorized programs or projects are distributed among suppliers on a fair and equitable basis.

(3) Allotments of supplies of materials and equipment are not made in excess of actual current requirements of these authorized programs or projects.

(4) Fulfillment of the needs of these authorized programs and projects are achieved in such manner and to such degree as to minimize hardship in the market place.

(d) The authority of subsection 101(c) of the Act will not be used to control the general distribution of any supplies of material and equipment in the civilian market, as that phrase is used in subsection 101(b) of the Act, except after Presidential approval as required by subsection 7(d) of Executive Order 11912.

§ 330.3 Delegation of authority.

(a) The functions of the Director of the Federal Management Agency under subsection 101(c) of the Act are hereby delegated to the Secretary of Commerce with respect to the areas of responsibility designated and subject to the limitations prescribed and section 7 of Executive Order 11912. Specifically: