Regulations. Termination; refunds.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

Regulations.

"(c) Under regulations prescribed by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate, an officer who has received payment under this section and who voluntarily, or because of his misconduct, fails to complete the total number of years of active duty specified in the written agreement shall be required to refund the amount received that exceeds his entitlement under those regulations. If an officer has received less incentive pay than he is entitled to under those regulations at the time of his separation from active duty, he shall be entitled to receive the additional amount due him.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

Report to congressional committees.

"(e) The Secretary of Defense and the Secretary of Health, Education, and Welfare shall each submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The report shall be on a fiscal year basis and shall contain—

"(1) a review of the program for the fiscal year in which the report is submitted; and

"(2) the plan for the program for the succeeding fiscal year. This report shall be submitted not later than April 30 of each year, beginning in 1975.".

Effective and expiration dates. 37 USC 302 note.

SEC. 2. The amendments made by this Act become effective on the first day of the first calendar month following the date of enactment. Except for the provisions of section 313 of title 37, United States Code, as added by section 1(4) of this Act, which will expire on June 30, 1976, the authority for the special pay provided by this Act shall, unless otherwise extended by Congress, expire on June 30, 1977.

Approved May 6, 1974.

Public Law 93-275

May 7, 1974 [H. R. 11793]

AN ACT

To reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

Federal Energy Administration Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

15 USC 761 note.

SECTION 1. This Act may be cited as the "Federal Energy Administration Act of 1974".

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare and the common defense and security require positive and effective action to conserve scarce energy supplies, to insure fair and efficient distribution of, and the maintenance of fair and reasonable consumer prices for, such supplies, to promote the expansion of readily usable energy sources, and to assist in developing policies and plans to meet the energy needs of the Nation. 15 USC 761.

(b) The Congress finds that to help achieve these objectives, and to assure a coordinated and effective approach to overcoming energy shortages, it is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

(c) The sole purpose of this Act is to create an administration in the executive branch, called the Federal Energy Administration, to vest in the Administration certain functions as provided in this Act, and to transfer to such Administration certain executive branch functions authorized by other laws, where such transfer is necessary on an interim basis to deal with the Nation's energy shortages.

ESTABLISHMENT

SEC. 3. There is hereby established an independent agency in the executive branch to be known as the Federal Energy Administration (hereinafter in this Act referred to as the "Administration"). 15 USC 762.

OFFICERS

SEC. 4. (a) There shall be at the head of the Administration an Administrator (hereinafter in this Act referred to as the "Administrator"), who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313). The Administration shall be administered under the supervision and direction of the Administrator. 15 USC 763. Compensation.

(b)(1) The functions and powers of the Administration shall be vested in and exercised by the Administrator. Functions.

(2) The Administrator may, from time to time and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Delegation.

(c) There shall be in the Administration two Deputy Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314). Deputy Administrators.

(d) There are authorized to be in the Administration six Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensa- Assistant Administrators.

tion at the rate prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

General Counsel.

(e) There shall be in the Administration a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(f)(1) There are authorized to be in the Administration not more than nine additional officers who shall be appointed by the Administrator and shall receive compensation at the rate prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(2) If any person, other than an officer within subsections (c), (d), or (e) of this section, is to be assigned principal responsibility for any program that shall be instituted in the Administration for either (i) allocation, (ii) pricing, (iii) rationing (if effected), or (iv) Federal and State coordination, he shall be one of the officers authorized by paragraph (1) of this subsection except that he shall be appointed by the President by and with the advice and consent of the Senate.

(3) Appointments to the positions described in this subsection may be made without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

5 USC 101 *et seq.*

(g) Subject to subsection (f) of this section, officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time.

(h) The Administrator shall designate the order in which the Deputy Administrators and other officials shall act for and perform the functions of the Administrator during his absence or disability or in the event of a vacancy in his office.

Conflict of interest.

(i)(1) For the purposes of this Act, section 208(b) of title 18, United States Code, relating to conflicts of interest, can be invoked and implemented only by the Administrator personally. Such subsection shall not be invoked as to any person unless and until—

Report to Congress.

(A) the Congress has received, ten days prior thereto, a written report containing notice of the Administrator's intention so to invoke such subsection, a detailed statement of the subject matter concerning which a conflict exists; and in the case of an exemption set forth in clause (1) of such subsection, the nature of an officer's or employee's financial interest; or in the case of an exemption set forth in clause (2) of such subsection, the name and statement of financial interest of each person who will come within such exemption; and

Publication in Federal Register.

(B) such written report is published in the Federal Register.

(2) Nothing contained in this subsection shall affect in any way the applicability or operation of other laws relating to officers and employees of the United States Government.

(j) No individual holding any of the positions described in subsections (a), (c), (d), and (e) of this section may also hold any other position in the executive branch during the same period.

FUNCTIONS AND PURPOSES OF THE FEDERAL ENERGY ADMINISTRATION

15 USC 764.

SEC. 5. (a) Subject to the provisions and procedures set forth in this Act, the Administrator shall be responsible for such actions as are

taken to assure that adequate provision is made to meet the energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—

(1) specifically transferred to or vested in him by or pursuant to this Act;

(2) delegated to him by the President pursuant to specific authority vested in the President by law; and

(3) otherwise specifically vested in the Administrator by the Congress.

(b) To the extent authorized by subsection (a) of this section, the Administrator shall—

(1) advise the President and the Congress with respect to the establishment of a comprehensive national energy policy in relation to the energy matters for which the Administration has responsibility, and, in coordination with the Secretary of State, the integration of domestic and foreign policies relating to energy resource management;

(2) assess the adequacy of energy resources to meet demands in the immediate and longer range future for all sectors of the economy and for the general public;

(3) develop effective arrangements for the participation of State and local governments in the resolution of energy problems;

(4) develop plans and programs for dealing with energy production shortages;

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

(6) assure that energy programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;

(7) develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources;

(8) develop and recommend policies on the import and export of energy resources;

(9) collect, evaluate, assemble, and analyze energy information on reserves, production, demand, and related economic data;

(10) work with business, labor, consumer and other interests and obtain their cooperation;

Propane gas prices.

(11) in administering any pricing authority, provide by rule, for equitable allocation of all component costs of producing propane gas. Such rules may require that (a) only those costs directly related to the production of propane may be allocated by any producer to such gas for purposes of establishing any price for propane, and (b) prices for propane shall be based on the prices for propane in effect on May 15, 1973. The Administrator shall not allow costs attributable to changes in ownership and

movement of propane gas where, in the opinion of the Administrator, such changes in ownership and movement occur primarily for the purpose of establishing a higher price; and

(12) perform such other functions as may be prescribed by law.

TRANSFERS

Transfer of functions. 15 USC 765.

SEC. 6. (a) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department—

(1) as relate to or are utilized by the Office of Petroleum Allocation;

(2) as relate to or are utilized by the Office of Energy Conservation;

(3) as relate to or are utilized by the Office of Energy Data and Analysis; and

(4) as relate to or are utilized by the Office of Oil and Gas.

(b) There are hereby transferred to and vested in the Administrator all functions of the Chairman of the Cost of Living Council, the Executive Director of the Cost of Living Council, and the Cost of Living Council, and officers and components thereof, as relate to or are utilized by the Energy Division of the Cost of Living Council.

ADMINISTRATIVE PROVISIONS

Attorneys. 15 USC 766.

SEC. 7. (a)(1) The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties. In addition to the number of positions which may be placed in GS-16, 17, and 18 under existing law, not to exceed 91 positions may be placed in GS-16, 17, and 18 to carry out the functions under this Act: *Provided*, That the total number of positions within the Administration in GS-16, 17, 18 shall not exceed 105: *And provided further*, That, except as provided in paragraph (2) of this subsection, the authority under this subsection shall be subject to the standards and procedures prescribed under Chapter 51 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act.

5 USC 5101.

(2) Twenty-five of the GS-16, 17, and 18 positions authorized by paragraph (1) of this subsection may be filled without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

5 USC 101 *et seq.*

Experts and consultants.

(b) The Administrator may employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 of the United States Code for persons in Government service employed intermittently.

5 USC 5332 note.

Rules and regulations.

(c) The Administrator may promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him: *Provided*, That:

Cost of Living Council, notification.

(1) The Administrator shall, before promulgating proposed rules, regulations, or policies relating to the cost or price of energy, transmit notice of such proposed action to the Cost of Living Council and provide a period, which shall not be less than five days from the receipt of such notice, for the Cost of Living Council to approve or disapprove such proposed action. If during the period provided, the Cost of Living Council—

(A) approves such proposed action, it may take effect;

(B) disapproves such proposed action, it shall not take effect; or

(C) fails to either approve or disapprove such proposed action, it may take effect in the same manner as if the Cost of Living Council had given its approval.

Comments.

(2) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five days from receipt of notice of the proposed action during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published along with public notice of the proposed action.

Publication.

Review, waiver.

The review required by paragraphs (1) and (2) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action.

Interagency cooperation.

(d) The Administrator may utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, and local public agencies and instrumentalities, with or without reimbursement therefor, and may transfer funds made available pursuant to this Act, to Federal, State, regional, and local public agencies and instrumentalities, as reimbursement for utilization of such services, personnel, equipment, and facilities.

Seal.

(e) The Administrator shall cause a seal of office to be made for the Administration of such design as he shall approve, and judicial notice shall be taken of such seal.

Gifts, acceptance.

(f) The Administrator may accept unconditional gifts or donations of money or property, real, personal, or mixed, tangible or intangible.

Contract authority.

(g) The Administrator may enter into and perform contracts, leases, cooperative agreements, or other similar transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution.

(h) The Administrator may perform such other activities as may be necessary for the effective fulfillment of his administrative duties and functions.

5 USC 551.

(i)(1)(A) Subject to paragraphs (B), (C), and (D) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued pursuant to this Act, including any such rule, regulation, or order of a State or local government agency, or officer thereof, issued pursuant to authority delegated by the Administrator.

Publication in Federal Register.

Comments.

(B) Notice of any proposed rule, regulation, or order described in paragraph (A) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In addition, public notice of all rules, regulations, or orders described in paragraph (A) which are promulgated

Public notice, publication.

by officers of a State or local government agency shall to the maximum extent practicable be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

Views, oral presentation.

(C) In addition to the requirements of paragraph (B), if any rule, regulation, or order described in paragraph (A) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable by the officer or agency, for considering such requests for action under this paragraph.

Review.

Hearing.

Public information.

(E) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any such rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request, with such modifications as are necessary to insure confidentiality of information protected under such section 552.

Judicial review.

15 USC 751 note.

(2) (A) Judicial review of administrative rulemaking of general and national applicability done under this Act, except that done pursuant to the Emergency Petroleum Allocation Act of 1973, may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule, regulation, or order, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act, except that done pursuant to the Emergency Petroleum Allocation Act of 1973, may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule, regulation, or order, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule, regulation, or order is to have effect.

(B) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided*, That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

Jurisdiction.

28 USC 1441.

(3) The Administrator may by rule prescribe procedures for State or local government agencies authorized by the Administrator to carry out functions under this Act. Such procedures shall apply to such agencies in lieu of paragraph (1) of this subsection, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least ten days before taking the action.

(j) The Administration, in connection with the exercise of the authority under this Act, shall be considered an independent Federal regulatory agency for the purposes of sections 3502 and 3512 of title 44 of the United States Code.

TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 8. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

15 USC 767.

(1) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) This Act shall not affect any proceeding pending, at the time this Act takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals (except as provided in section 7(i)(2) of this Act) shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall

be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

Litigation.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official as the case may be, substituted.

Judicial review.

(f) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this Act shall apply to the performance of those functions by the Administrator, or any officer or component of the Administration. In the event of any inconsistency between the provisions of this subsection and section 7, the provisions of section 7 shall govern.

(g) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, Administrator, or other office or officers in which this Act vests such functions.

(h) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegations of functions.

(i) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

INCIDENTAL TRANSFERS

SEC. 9. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions which are transferred by or which revert under this Act, as the Director deems necessary and appropriate to accomplish the intent and purpose of this Act. 15 USC 768.

DEFINITIONS

SEC. 10. As used in this Act— 15 USC 769.

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

APPOINTMENTS

SEC. 11 (a) Funds available to any department or agency (or any official or component thereof), and lawfully authorized for any of the specific functions which are transferred to the Administrator by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such times as funds for that purpose are otherwise available. 15 USC 770.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, or any officer who was performing essentially the same functions immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act: *Provided*, That any officer acting pursuant to the provisions of this subsection may act no longer than a period of thirty days unless during such period his appointment as such an officer is submitted to the Senate for its advice and consent.

(c) Transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation, except for cause, for one year after such transfer.

(d) Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment, shall continue to be compensated in his new position at not less than the rate provided for his previous position. 5 USC 5301.

ACCESS TO INFORMATION BY THE COMPTROLLER GENERAL

Duties.
15 USC 771.

SEC. 12. (a) For the duration of this Act, the Comptroller General of the United States shall monitor and evaluate the operations of the Administration including its reporting activities. The Comptroller General shall (1) conduct studies of existing statutes and regulations governing the Administration's programs; (2) review the policies and practices of the Administration; (3) review and evaluate the procedures followed by the Administrator in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, supply, demand, industry structure, and environmental impacts; and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data within the possession or control of the Administration from any public or private source whatever, notwithstanding the provisions of any other law, as are necessary to carry out his responsibilities under this Act and shall report to the Congress at such times as he deems appropriate with respect to the Administration's programs, including his recommendations for modifications in existing laws, regulations, procedures, and practices.

Report to Congress.

(b) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section may request access to any books, documents, papers, statistics, data, records, and information of any person owning or operating facilities or business premises who is engaged in any phase of energy supply or major energy consumption, where such material relates to the purposes of this Act, including but not limited to energy costs, demand, supply, industry structure, and environmental impacts. The Comptroller General may request such person to submit in writing such energy information as the Comptroller General may prescribe.

(c) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any books, documents, papers, records, or other recorded information of any recipients of Federal funds or assistance under contracts, leases, cooperative agreements, or other transactions entered into pursuant to subsection (d) or (g) of section 7 of this Act which in the opinion of the Comptroller General may be related or pertinent to such contracts, leases, cooperative agreements, or similar transactions.

(d) To assist in carrying out his responsibilities under this section, the Comptroller General may, with the concurrence of a duly established committee of Congress having legislative or investigative jurisdiction over the subject matter and upon the adoption of a resolution by such a committee which sets forth specifically the scope and necessity therefor, and the specific identity of those persons from whom information is sought, sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, records, and information referred to in subsection (b) of this section.

(e) In case of disobedience to a subpena issued under subsection (d) of this section, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, records, and information referred to in subsection (b) of this section. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a

subpena issued by the Comptroller General, issue an order requiring such person to produce the books, documents, papers, statistics, data, records, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(f) Reports submitted by the Comptroller General to the Congress pursuant to this section shall be available to the public at reasonable cost and upon identifiable request. The Comptroller General may not disclose to the public any information which concerns or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, except that such information shall be disclosed by the Comptroller General or the Administrator, in a manner designed to preserve its confidentiality— Reports, availability.

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) to committees of Congress upon request; and

(3) to a court in any judicial proceeding under court order.

INFORMATION-GATHERING POWER

SEC. 13. (a) The Administrator shall collect, assemble, evaluate, and analyze energy information by categorical groupings, established by the Administrator, of sufficient comprehensiveness and particularity to permit fully informed monitoring and policy guidance with respect to the exercise of his functions under this Act. 15 USC 772.

(b) All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the Administrator such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development, as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.

(c) The Administrator may require, by general or special orders, any person engaged in any phase of energy supply or major energy consumption to file with the Administrator in such form as he may prescribe, reports or answers in writing to such specific questions, surveys, or questionnaires as may be necessary to enable the Administrator to carry out his functions under this Act. Such reports and answers shall be made under oath, or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as he may prescribe.

(d) The Administrator, to verify the accuracy of information he has received or otherwise to obtain information necessary to perform his functions under this Act, is authorized to conduct investigations, and in connection therewith, to conduct, at reasonable times and in a reasonable manner, physical inspections at energy facilities and business premises, to inventory and sample any stock of fuels or energy sources therein, to inspect and copy records, reports, and documents from which energy information has been or is being compiled, and to question such persons as he may deem necessary. Investigations.

(e)(1) The Administrator, or any of his duly authorized agents, shall have the power to require by subpena the attendance and testimony of witnesses, and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the Administrator is authorized to obtain pursuant to this section. Subpena.

(2) Any appropriate United States district court may, in case of contumacy or refusal to obey a subpena issued pursuant to this section, issue an order requiring the party to whom such subpena is directed to appear before the Administration and to give testimony touching on the matter in question, or to produce any matter described in paragraph (1) of this subsection, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

U.S. Government-owned lands.

(f) The Administrator shall collect from departments, agencies and instrumentalities of the executive branch of the Government (including independent agencies), and each such department, agency, and instrumentality is authorized and directed to furnish, upon his request, information concerning energy resources on lands owned by the Government of the United States. Such information shall include, but not be limited to, quantities of reserves, current or proposed leasing agreements, environmental considerations, and economic impact analyses.

PUBLIC DISCLOSURE OF INFORMATION

15 USC 773.

SEC. 14. (a) The Administrator shall make public, on a continuing basis, any statistical and economic analyses, data, information, and whatever reports and summaries are necessary to keep the public fully and currently informed as to the nature, extent, and projected duration of shortages of energy supplies, the impact of such shortages, and the steps being taken to minimize such impacts.

(b) Subject to the provisions of this Act, section 552 of title 5, United States Code, shall apply to public disclosure of information by the Administrator: *Provided*, That notwithstanding said section, the provisions of section 1905 of title 18, United States Code, or any other provision of law, (1) all matters reported to, or otherwise obtained by, any person exercising authority under this Act containing trade secrets or other matter referred to in section 1905 of title 18, United States Code, may be disclosed to other persons authorized to perform functions under this Act solely to carry out the purposes of the Act, or when relevant in any proceeding under this Act; and (2) the Administrator shall disclose to the public, at a reasonable cost, and upon a request which reasonably describes the matter sought, any matter of the type which could not be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a single product, unless such matter concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of a business enterprise.

15 USC 78m, 78o.

Guidelines.

(c) To protect and assure privacy of individuals and confidentiality of personal information, the Administrator is directed to establish guidelines and procedures for handling any information which the Administration obtains pertaining to individuals. He shall provide, to the extent practicable, in such guidelines and procedures a method for allowing any such individual to gain access to such information pertaining to himself.

REPORTS AND RECOMMENDATIONS

Report to Congress.
15 USC 774.

SEC. 15. (a) Six months before the expiration of this Act, the President shall transmit to Congress a full report together with his recommendations for—

(1) disposition of the functions of the Administration upon its termination;

(2) continuation of the Administration with its present functions; or

(3) reorganization of the Administration; and

(4) organization of the Federal Government for the management of energy and natural resources policies and programs.

Report to President and Congress.

(b) Not later than one year after the effective date of this Act, the Administrator shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as of the existing productive capacity and the extent to which such capacity could be increased for crude oil and each major petroleum product each year for the next ten years through full utilization of available technology and capacity. The report shall also contain the Administration's recommendations for improving the utilization and effectiveness of Federal energy data and its manner of collection. The data collection and analysis portion of this report shall be prepared by the Federal Trade Commission for the Administration. Unless specifically prohibited by law, all Federal agencies shall make available estimates, statistics, data and other information in their files which, in the judgment of the Commission or Administration, are necessary for the purposes of this subsection.

Report to President and Congress.

(c) The Administrator shall prepare and submit directly to the Congress and the President every year after the date of enactment of this Act a report which shall include—

(1) a review and analysis of the major actions taken by the Administrator;

(2) an analysis of the impact these actions have had on the Nation's civilian requirements for energy supplies for materials and commodities;

(3) a projection of the energy supply for the midterm and long term for each of the major types of fuel and the potential size and impact of any anticipated shortages, including recommendations for measures to—

(A) minimize deficiencies of energy supplies in relation to needs;

(B) maintain the health and safety of citizens;

(C) maintain production and employment at the highest feasible level;

(D) equitably share the burden of shortages among individuals and business firms; and

(E) minimize any distortion of voluntary choices of individuals and firms;

(4) a summary listing of all recipients of funds and the amount thereof within the preceding period; and

(5) a summary listing of information-gathering activities conducted under section 13 of this Act.

Citizen fuel use, summer guidelines.

(d) Not later than thirty days after the effective date of this Act, the Administrator shall issue preliminary summer guidelines for citizen fuel use.

Interim reports to Congress.

(e) The Administrator shall provide interim reports to the Congress from time to time and when requested by committees of Congress.

SEX DISCRIMINATION

15 USC 775.

SEC. 16. No individual shall on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal

assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to any individual alleging discrimination.

42 USC 2000d.

ADVISORY COMMITTEES

15 USC 776.

SEC. 17. (a) Whenever the Administrator shall establish or utilize any board, task force, commission, committee, or similar group, not composed entirely of full-time Government employees, to advise with respect to, or to formulate or carry out, any agreement or plan of action affecting any industry or segment thereof, the Administrator shall endeavor to insure that each such group is reasonably representative of the various points of view and functions of the industry and users affected, including those of residential, commercial, and industrial consumers, and shall include, where appropriate, representation from both State and local governments, and from representatives of State regulatory utility commissions, selected after consultation with the respective national associations.

Meetings.

(b) Each meeting of such board, task force, commission, committee, or similar group, shall be open to the public, and interested persons shall be permitted to attend, appear before, and file statements with, such group, except that the Administrator may determine that such meeting shall be closed in the interest of national security. Such determination shall be in writing, shall contain a detailed explanation of reasons in justification of the determination, and shall be made available to the public.

Reports, availability.

(c) All records, reports, transcripts, memoranda, and other documents, which were prepared for or by such group, shall be available for public inspection and copying at a single location in the offices of the Administration.

(d) Advisory committees established or utilized pursuant to this Act shall be governed in full by the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), except as inconsistent with this section.

5 USC app. I.

ECONOMIC ANALYSIS OF PROPOSED ACTIONS

15 USC 777.

SEC. 18. (a) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, insure that the potential economic impacts of proposed regulatory and other actions are evaluated and considered, including but not limited to an analysis of the effect of such actions on—

(1) the fiscal integrity of State and local governments;

(2) vital industrial sectors of the economy;

(3) employment, by industrial and trade sectors, as well as on a national, regional, State, and local basis;

(4) the economic vitality of regional, State, and local areas;

(5) the availability and price of consumer goods and services;

(6) the gross national product;

(7) low and middle income families as defined by the Bureau of Labor Statistics;

(8) competition in all sectors of industry; and

(9) small business.

(b) The Administrator shall develop analyses of the economic impact of various conservation measures on States or significant sectors

thereof, considering the impact on both energy for fuel and energy as feed stock for industry.

(c) Such analyses shall, wherever possible, be made explicit, and to the extent possible, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies are authorized and directed to cooperate with the Administrator in preparing such analyses: *Provided*, That the Administrator's actions pursuant to this section shall not create any right of review or cause of action except as would otherwise exist under other provisions of law.

Energy actions, economic impact, monitors. Report to Congress.

(d) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with a report every six months on the impact of the energy shortage and the Administrator's actions on employment and the economy. Such report shall contain recommendations as to whether additional Federal programs of employment and economic assistance should be put into effect to minimize the impact of the energy shortage and any actions taken.

(e) The Administrator shall formulate and implement regulatory and other actions in a manner (1) which does not unduly discriminate against any industry or any region of the United States; and (2) designed to insure that, to the greatest extent possible, the costs and burdens of meeting energy shortages shall be borne equally by every sector and segment of the country and of the economy.

MANAGEMENT OVERSIGHT REVIEW

15 USC 778.

SEC. 19. The Administrator may, for a period not to exceed thirty days in any one calendar year, provide for the exercise or performance of a management oversight review with respect to the conduct of any Federal or State (with consent of the Governor) energy program conducted pursuant to this Act. Such review may be conducted by contract or by any Federal department or agency. A written report shall be submitted to the Administrator concerning the findings of the review.

Report to Administrator.

COORDINATION WITH, AND TECHNICAL ASSISTANCE TO, STATE GOVERNMENTS

15 USC 779.

SEC. 20. (a) The Administrator shall—

(1) coordinate Federal energy programs and policies with such programs and policies of State governments by providing—

Report to Congress and State governments.

(A) within sixty days of the effective date of this Act, the Congress and State governments with a report on the manner in which he has organized the Administration based upon the functions delegated by the President or assigned to the Administrator by this Act or under the authority of other Acts; and

Report to the public, State governments and Congress.

(B) within one hundred and twenty days of the effective date of this Act, the public, State governments, and all Members of the Congress with a report in nontechnical language which—

(i) describes the functions performed by the Administration;

(ii) sets forth in detail the organization of the Administration, the location of its offices (including regional, State, and local offices), the names and phone numbers of Administration officials, and other appropriate information concerning the operation of the Administration;

(iii) delineates the role that State, and Federal governments will or may perform in achieving the purposes of this Act; and

(iv) provides the public with a clear understanding of their duties and obligations, rights, and responsibilities under any of the programs or functions of the Administration;

Comments.

(2) before promulgating any rules, regulations, or policies, and before establishing any programs under the authority of this Act, provide, where practicable, a reasonable period in which State governments may provide written comments if such rules, regulations, policies, or programs substantially affect the authority or responsibility of such State governments;

Energy shortages, status reports.

(3) provide, in accordance with the provisions of this Act, upon request, to State governments all relevant information he possesses concerning the status and impact of energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, within the distribution area serving that particular State government; and

Information clearinghouse.

(4) provide for a central clearinghouse for Federal agencies and State governments seeking energy information and assistance from the Federal Government.

(b) Pursuant to his responsibility under this section, the Administrator shall—

Technical assistance.

(1) provide technical assistance—including advice and consultation relating to State programs, and, where necessary, the use of task forces of public officials and private persons assigned to work with State governments—to assist State governments in dealing with energy problems and shortages and their impact and in the development of plans, programs, and policies to meet the problems and shortages so identified;

Conferences.

(2) convene conferences of State and Federal officials, and such other persons as the Administrator designates, to promote the purposes of this Act, and the Administrator is authorized to pay reasonable expenses incurred in the participation of individuals in such conferences;

Model legislation.

(3) draft and make available to State governments model legislation with respect to State energy programs and policies; and

Grant criteria.

(4) promote the promulgation of uniform criteria, procedures, and forms for grant or contract applications for energy proposals submitted by State governments.

OFFICE OF PRIVATE GRIEVANCES AND REDRESS

Establishment. 15 USC 780.

SEC. 21. (a) The Administrator shall establish and maintain an Office of Private Grievances and Redress, headed by a director, to receive and evaluate petitions filed in accordance with subsection (b) of this section, and to make recommendations to the Administrator for appropriate action.

Petition.

(b) Any person, adversely affected by any order, rule, or regulation issued by the Administrator in carrying out the functions assigned to him under this Act, may petition the Administrator for special redress, relief, or other extraordinary assistance, apart from, or in addition to, any right or privilege to seek redress of grievances provided in section 7.

Report to Congress.

(c) The Administrator shall report quarterly to the Congress on the nature and number of the grievances which have been filed, and the

action taken and relief provided, pursuant to this section; and he shall make recommendations to the Congress from time to time concerning legislative or administrative actions which may be taken to better assist persons adversely affected by the energy shortages and to distribute more equitably the burdens resulting from any measures adopted, or actions taken, by him.

Recommendations to Congress.

COMPREHENSIVE ENERGY PLAN

SEC. 22. (a) Pursuant and subject to the provisions and procedures set forth in this Act, the Administrator shall, within six months from the date of the enactment of this Act, develop and report to the Congress and the President a comprehensive plan designed to alleviate the energy shortage, for the time period covered by this Act. Such plan shall be accompanied by full analytical justification for the actions proposed therein. Such analysis shall include, but not be limited to—

Report to President and Congress.

15 USC 781.

(1) estimates of the energy savings of each action and of the program as a whole;

(2) estimates of any windfall losses and gains to be experienced by corporations, industries, and citizens grouped by socioeconomic class;

(3) estimates of the impact on supplies and consumption of energy forms consequent to such price changes as are or may be proposed; and

(4) a description of alternative actions which the Administrator has considered together with a rationale in explanation of the rejection of any such alternatives in preference to the measures actually proposed.

(b) The Administrator may, from time to time, modify or otherwise alter any such plan, except that, upon request of an appropriate committee of the Congress, the Administrator shall supply analytical justifications for any such alterations.

(c) The Administrator shall be responsible for monitoring any such plans as are implemented with respect to their effectiveness in achieving the anticipated benefits.

PETROCHEMICAL REPORT

SEC. 23. (a) Within ninety days after he has entered upon the office of Administrator or has been designated by the President to act in such office, the Administrator, or acting Administrator, as the case may be, with the assistance of the Department of Commerce, the Cost of Living Council, and the United States Tariff Commission shall, by written report, inform the Congress as to the—

Report to Congress.

15 USC 782.

(1) effect of current petrochemical prices upon the current level of petrochemical exports, and export levels expected for 1975;

(2) effect of current and expected 1975 petrochemical export levels upon domestic petrochemical raw materials and products available to petrochemical producers, converters, and fabricators currently and in 1975;

(3) current contribution of petrochemical imports to domestic supplies and the expected contribution in 1975;

(4) anticipated economic effects of current and expected 1975 levels of domestic supplies of petrochemicals upon domestic producers, converters, and fabricators of petrochemical raw materials and products; and

(5) exact nature, extent, and sources of data and other information available to the Federal Government regarding the matters

set forth in paragraphs (1) through (4) of this subsection, including the exact nature, extent, and sources of such data and information utilized in connection with the report required by this subsection.

"Petrochemical."

(b) As used in this section, the term "petrochemical" includes organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black and ammonia.

HYDROELECTRIC GENERATING FACILITIES

15 USC 783.

SEC. 24. Within ninety days of the effective date of this Act, the Administrator of the Federal Energy Administration, in consultation with the Secretary of the Interior and the Secretary of the Army, shall—

Lists, transmittal to Congress.

(1) transmit to the Congress—

(A) a list of hydroelectric generating facilities and electric power transmission facilities which have been authorized for construction by the Congress and which are not yet completed, and

(B) a list of opportunities to increase the capacity of existing hydroelectric generating facilities, and

(2) provide, for each such facility which is listed—

(A) a construction schedule and cost estimates for an expedited construction program which would make the facility available for service at the earliest practicable date, and

(B) a statement of the accomplishments which could be provided by the expedited completion of each facility and a statement of any funds which have been appropriated but not yet obligated.

INFORMATION CONCERNING TRANSACTION, SALE, EXCHANGE OR SHIPMENT INVOLVING THE EXPORT FROM THE UNITED STATES TO A FOREIGN NATION OF COAL AND ANY REFINED PETROLEUM PRODUCT

File maintenance.
15 USC 784.

SEC. 25. (a) The Administrator is authorized and directed to establish and maintain a file which shall contain information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current and shall include, but shall not be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vessel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export.

(b) Upon request of any committee of Congress or the head of any Federal agency, the Administrator shall promptly provide any information maintained in the file and a report thereon to such committee, or agency head, except where the President finds such disclosure to be detrimental to national security.

(c) Notwithstanding any other provision of law, any Federal agency which collects or has information relevant to the functions required by this section shall make such information available to the Administrator.

FOREIGN OWNERSHIP

SEC. 26. The Administrator shall conduct a comprehensive review of foreign ownership of, influence on, and control of domestic energy sources and supplies. Such review shall draw upon existing information, where available, and any independent investigation necessary by the Administration. The Administrator shall, on or before the expiration of the one hundred and eighty day period following the effective date of this Act, report to the Congress in sufficient detail so as to apprise the Congress as to the extent and forms of such foreign ownership of, influence on, and control of domestic energy sources and supplies, and shall thereafter continue to monitor such ownership, influence and control.

Review. 15 USC 785.

Report to Congress.

SEPARABILITY

SEC. 27. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

15 USC 761 note.

REVERSION

SEC. 28. Upon the termination of this Act, any functions or personnel transferred by this Act shall revert to the department, agency, or office from which they were transferred. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position other than for cause, to reemployment in the position occupied at the time of appointment, or in a position of comparable grade and salary.

15 USC 786.

AUTHORIZATION OF APPROPRIATIONS

SEC. 29. There are hereby authorized to be appropriated to the Administrator, to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this Act.

15 USC 761 note.

EFFECTIVE DATE; TERMINATION DATE

SEC. 30. This Act shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This Act shall terminate June 30, 1976.

15 USC 761 note.

Approved May 7, 1974.

Public Law 93-276

AN ACT

May 10, 1974 [S. 3292]

To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. There is hereby authorized to be appropriated to the Atomic Energy Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended:

Atomic Energy Commission. Appropriation authorization. 42 USC 2017.