

Public Law 95-70
95th Congress

An Act

To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act, to authorize appropriations for the Federal Energy Administration for the 1978 fiscal year, and for other purposes.

July 21, 1977

[S. 1468]

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

Federal Energy
Administration
Authorization Act
of 1977.

15 USC 761 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Energy Administration Authorization Act of 1977".

GENERAL AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 29 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 note) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$35,627,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$41,017,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Information and Analysis as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$34,971,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$43,544,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$62,459,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and Environment as of January 1, 1977 (other than functions described in part A and part D of title IV of the Energy Conservation and Production Act, parts B and C of title III of the Energy Policy and Conservation Act and, for the fiscal year ending September 30, 1977, functions described in title II of the Energy Conservation and Production Act and in paragraph (7) of this subsection)—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$38,603,000; and

42 USC 6861,
6881.
42 USC 6291,
6321.
42 USC 6801.

“(B) for the fiscal year ending September 30, 1978, not to exceed \$46,908,000.

“(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1977—

“(A) for the fiscal year ending September 30, 1977, not to exceed \$16,934,000; and

“(B) for the fiscal year ending September 30, 1978, not to exceed \$26,017,000.

“(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1977—

“(A) for the fiscal year ending September 30, 1977, not to exceed \$1,921,000; and

“(B) for the fiscal year ending September 30, 1978, not to exceed \$1,846,000.

“(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities, for the fiscal year ending September 30, 1977, not to exceed \$2,500,000.

“(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

15 USC 787.

Restrictions.

“(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

“(1) amounts to carry out the functions identified as assigned to the Office of Communication and Public Affairs as of January 1, 1977, shall not exceed \$2,112,000 for the fiscal year ending September 30, 1977; and

“(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

“(c) No amounts authorized to be appropriated in paragraphs (5) (B) and (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.

Transfer of funds.

“(d) Subject to the provisions of any other law enacted after the date of the enactment of this subsection, if any function for which funds are authorized to be appropriated by this section is transferred by or pursuant to any such provision of law to any department, agency, or office, the unexpended balances of appropriations, authorizations, allocations, and other funds, held, used, arising from, available to, or to be made available in connection with such function shall be transferred to such department, agency, or office, but shall continue to be subject to any restriction to which they were subject before such transfer.”.

ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

SEC. 3. (a) Section 339(c) (2) of the Energy Policy and Conservation Act (42 U.S.C. 6309(c) (2)) is amended by striking out “\$700,000” and inserting in lieu thereof “\$2,500,000”.

(b) Section 339(c)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6309(c)(3)) is amended by striking out "\$700,000" and inserting in lieu thereof "\$1,800,000".

STRATEGIC PETROLEUM RESERVE

SEC. 4. Section 166 of the Energy Policy and Conservation Act (42 U.S.C. 6246) is amended by striking out "and" at the end of paragraph (1), by striking out the period in paragraph (2) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(3) such funds for the fiscal year ending September 30, 1978, not to exceed \$1,210,000,000, as are necessary to permit the acquisition and storage of petroleum products in the Strategic Petroleum Reserve, in accordance with the storage schedule set forth in the Strategic Petroleum Reserve Plan then in effect in excess of the minimum volume specified in section 154(a), but not in excess of 500,000,000 barrels."

42 USC 6234.

ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

SEC. 5. Section 451(g) of the Energy Conservation and Production Act (42 U.S.C. 6881(g)) is amended by adding at the end thereof the following new paragraph:

"(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f)—

Appropriation
authorization.

"(A) for the fiscal year ending September 30, 1977, not to exceed \$1,836,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$4,950,000."

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

SEC. 6. The second sentence of section 30 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 note) is amended to read as follows: "This Act shall terminate September 30, 1978."

EXTENSION OF COAL CONVERSION AND ALLOCATION AUTHORITY

SEC. 7. Paragraph (1) of section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792(f)(1)) is amended by striking out "shall expire at midnight, June 30, 1977" and inserting in lieu thereof "shall expire at midnight, December 31, 1978".

AUTHORITY AND RESPONSIBILITY OF GENERAL COUNSEL

SEC. 8. Section 7 of the Federal Energy Administration Act of 1974 (15 U.S.C. 766) is amended by adding at the end thereof the following new subsection:

"(1) Effective beginning July 1, 1977, amounts authorized to be appropriated under this Act or any other Act shall not be available for the payment of salaries and other expenses with respect to any office of regional counsel of the Administration unless such office is

under the direct supervision and control of the General Counsel of the Administration.”

USE OF COMMERCIAL STANDARDS

SEC. 9. Part A of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) is amended by adding at the end thereof the following new section:

“USE OF COMMERCIAL STANDARDS

Proposed rules.
15 USC 788.

“SEC. 32. (a) If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rulemaking shall—

“(1) identify, by name, the organization which promulgated such standards; and

“(2) state whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) in the promulgation of such standards.

“(b) An organization complies with the requirements of this subsection in promulgating any commercial standards if—

Hearings or
meetings.

“(1) it gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

“(2) the membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

Information,
availability to
public.

“(3) before promulgating such standards, it makes available to the public any records of proceedings of the organization, and any documents, letters, memorandums, and materials, relating to such standards; and

“(4) it has procedures allowing interested persons to—

“(A) obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

“(B) obtain a review of the standards (including a review of the basis or adequacy of such standards).

Consultation.

“(c) The Administrator shall not incorporate within any rule, nor prescribe any rule specifically authorizing or requiring the use of, any commercial standards unless he has consulted with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of such standards on competition and neither such individual recommends against such incorporation or use.

“(d) The foregoing provisions of this section shall not apply with respect to rules prescribed by the Administrator which relate to the procurement activities of the Administration.

Guidelines and
criteria.

“(e) Not later than 90 days after the date of the enactment of this section, the Administrator shall prescribe, by rule, guidelines or criteria which set forth the extent to which, and the terms and conditions under which, employees of the Administration may participate in their official capacity in the activities of any organization (which is not a Federal entity) which relate to the promulgation of commercial stand-

ards. Such guidelines and criteria may allow for such participation if it is in the public interest and relates to the purposes of this Act, but in no event may such employees who are participating in their official capacity be allowed under such guidelines or criteria to vote on any matter relating to commercial standards.

“(f) As used in this section, the term ‘commercial standards’ means—

“Commercial standards.”

- “(1) specifications of materials;
- “(2) methods of testing;
- “(3) criteria for adequate performance or operation;
- “(4) model codes;
- “(5) classification of components;
- “(6) delineation of procedures or definition of terms;
- “(7) measurement of quantity or quality for evaluating or referring to materials, products, systems, services, or practices; or
- “(8) similar rules, procedures, requirements, or standards; which are promulgated by any organization which is not a Federal entity. For purposes of the preceding sentence, any revision by any such organization of any such rule, procedure, requirement, or standard shall be considered to be the same as the promulgation of such standard.”

CONFLICT OF INTEREST

SEC. 10. Part A of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by this Act, is amended by adding at the end thereof the following:

“ORGANIZATIONAL CONFLICTS

“SEC. 33. (a) The Administrator shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by him for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Administrator, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Administrator, bearing on whether that person has a possible conflict of interest with respect to—

Contracts.
15 USC 789.

- “(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

- “(2) being given an unfair competitive advantage.

Such person shall insure, in accordance with regulations prescribed by the Administrator, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than \$10,000.

“(b) The Administrator shall not enter into any such contract, agreement, or arrangement unless he finds, after evaluating all information provided under subsection (a) and any other information otherwise available to him that—

- “(1) it is unlikely that a conflict of interest would exist, or

- “(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement;

except that if he determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Administrator may enter into such contract, agreement, or arrangement, if he determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

Rules,
publication.

“(c) The Administrator shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.”.

Approved July 21, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-323 accompanying H.R. 6794 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-123 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 123 (1977):

May 11, considered and passed Senate.

June 6, considered and passed House, amended, in lieu of H.R. 6794.

June 8, Senate concurred in House amendments with an amendment.

June 30, House concurred in Senate amendment.