

of federal district courts, power of courts of competent jurisdiction to consider defenses, removal of cases raising constitutional defenses, and concurrent jurisdiction of cases or controversies arising under rules, regulations, or orders of State or local government agencies; and par. (3) provisions relating to procedures for State or local government agencies.

Subsecs. (j), (k). Pub. L. 95-91, §709(a)(2)(G), struck out subsecs. (j) and (k) relating to information for independent regulatory agencies and limitation on enforcement authority of the Administrator.

Subsec. (l). Pub. L. 95-70 added subsec. (l).

1976—Subsec. (c). Pub. L. 94-385, §103, struck out provisions relating to review of rules, regulations and procedures by the Cost of Living Council and redistributed remaining provisions as pars. (1) and (2).

Subsec. (i)(1)(D). Pub. L. 94-385, §104, inserted provisions which require any officer or agency authorized to issue rules, regulations or orders to establish criteria and guidelines for evaluation of special hardship situations, to include in every decision the standards applied in the disposition of such situations, and requiring the hearing upon request of the aggrieved party to be heard by an officer other than the one denying the adjustment.

Subsec. (i)(1)(F). Pub. L. 94-385, §105, added subpar. (F).

Subsec. (k). Pub. L. 94-385, §106, added subsec. (k).

#### TRANSFER OF FUNCTIONS

Federal Energy Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

### § 767. Transitional and savings provisions

#### (a) Continuance of effective status

All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(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 chapter, and

(2) which are in effect at the time this chapter 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shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, other authorized officials, a court of competent jurisdiction, or by operation of law.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) Pending proceedings; orders, appeals, payments

This chapter shall not affect any proceeding pending, at the time this chapter takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this chapter; 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 766(i)(2) of this title) shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter 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 chapter had not been enacted.

#### (c) Commencement of suits before effective date

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to the date this chapter 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 chapter had not been enacted.

#### (d) Litigation; abatement prohibition; Federal parties

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 chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter. 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 chapter 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) Substitution of parties

If, before the date on which this chapter takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter 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 chapter had not been enacted, with the Administrator, or other official as the case may be, substituted.

#### (f) Judicial review; other requirements respecting notices, hearings, action upon record, and administrative review; conflicting provisions

Final orders and actions of any official or component in the performance of functions transferred by this chapter 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 chapter. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this chapter 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 766 of this title, the provisions of section 766 of this title shall govern.

**(g) References in other laws deemed references to transferee offices or officers**

With respect to any function transferred by this chapter and performed after the effective date of this chapter, 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 chapter vests such functions.

**(h) Presidential functions, authorities, and delegations unaffected**

Nothing contained in this chapter shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this chapter; 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) References to other provisions deemed references to such provisions as amended or supplemented**

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

(Pub. L. 93-275, § 8, May 7, 1974, 88 Stat. 103.)

TRANSFER OF FUNCTIONS

Federal Energy Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

**§ 768. Repealed. Pub. L. 95-91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607**

Section, Pub. L. 93-275, § 9, May 7, 1974, 88 Stat. 105, related to incidental transfers of personnel, assets, liabilities, contracts, etc., by the Director of the Office of Management and Budget necessary and appropriate to accomplish the intent and purpose of this chapter.

**§ 769. Definitions**

As used in this chapter—

(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.

(Pub. L. 93-275, § 10, May 7, 1974, 88 Stat. 105.)

**§ 770. Appointments**

**(a) Interim funds**

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 chapter, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this chapter until such times as funds for that purpose are otherwise available.

**(b) Interim appointments**

In the event that any officer required by this chapter 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 chapter, 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 chapter, or any officer who was performing essentially the same functions immediately prior to the effective date of this chapter to act in such office until the office is filled as provided in this chapter: *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) Nontemporary personnel; transferee rights for one year**

Transfer of nontemporary personnel pursuant to this chapter 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) Compensation of new position at not less than provided for in Executive Schedule for previous position in cases of appointees without break in service**

Any person who, on the effective date of this chapter, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, 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.

(Pub. L. 93-275, § 11, May 7, 1974, 88 Stat. 105.)

TRANSFER OF FUNCTIONS

Federal Energy Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

**§ 771. Comptroller General, powers and duties**

**(a) Scope of activities; monitoring activity; data to Comptroller General from Administration; reports and recommendations to Congress**

For the duration of this chapter, 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.