

1981, of President's authority to promulgate and amend any regulation or to issue any order under this chapter, but such expiration not to affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.

Section 760h, Pub. L. 93-159, §19, as added Pub. L. 94-163, title IV, §462, Dec. 22, 1975, 89 Stat. 955, provided for reimbursement to States for implementation of delegated responsibilities.

## CHAPTER 16B—FEDERAL ENERGY ADMINISTRATION

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### SUBCHAPTER I—FEDERAL ENERGY ADMINISTRATION

#### § 761. Congressional declaration of purpose

##### (a) Objectives

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.

##### (b) Necessity for reorganization

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) Creation of Federal Energy Administration

The sole purpose of this chapter 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 chapter, 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.

(Pub. L. 93-275, §2, May 7, 1974, 88 Stat. 97.)

#### EFFECTIVE AND TERMINATION DATES

Section 30 of Pub. L. 93-275, as amended by Pub. L. 94-332, June 30, 1976, 90 Stat. 784; Pub. L. 94-385, title I, §112(a), Aug. 14, 1976, 90 Stat. 1132; Pub. L. 95-70, §6, July 21, 1977, 91 Stat. 277, under which this chapter became effective sixty days after May 7, 1974, and was to terminate Sept. 30, 1978, was repealed by Pub. L. 95-91, title VII, §709(a)(1), Aug. 4, 1977, 91 Stat. 607.

#### SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-70, §1, July 21, 1977, 91 Stat. 275, provided that: "This Act [enacting sections 788 and 789 of this title and amending sections 766 and 792 of this title, sections 6246, 6309, and 6881 of Title 42, The Public Health and Welfare, and notes under this section] may be cited as the 'Federal Energy Administration Authorization Act of 1977'."

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-385, title I, §101, Aug. 14, 1976, 90 Stat. 1127, provided that: "This title [enacting sections 787, 790 to 790h of this title, amending sections 757, 764, 766, 772, 774, 777 and 784 of this title and sections 5818, 6211 and 6295 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 753, 757, and 790 of this title] may be cited as the 'Federal Energy Administration Act Amendments of 1976'."

#### SHORT TITLE

Pub. L. 93-275, §1, May 7, 1974, 88 Stat. 96, provided that: "This Act [enacting this chapter and provisions

set out as notes under this section] may be cited as the 'Federal Energy Administration Act of 1974'."

#### SEPARABILITY

Pub. L. 93-275, § 27, May 7, 1974, 88 Stat. 115, provided that: "If any provision of this Act [this chapter], or the application thereof to any person or circumstance, is held invalid, the remainder of this Act [this chapter], and the application of such provision to other persons or circumstances, shall not be affected thereby."

#### TRANSFER OF FUNCTIONS

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

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93-275, § 29, May 7, 1974, 88 Stat. 115, as amended by Pub. L. 94-385, title I, § 110, Aug. 14, 1976, 90 Stat. 1130; Pub. L. 95-70, § 2, July 21, 1977, 91 Stat. 275, provided that:

"(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 [section 6861 et seq. of Title 42, The Public Health and Welfare] and part D [section 6881 et seq. of Title 42] of title IV of the Energy Conservation and Production Act, parts B [section 6291 et seq. of Title 42] and C [section 6321 et seq. of Title 42] 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 [section 6801 et seq. of Title 42] and in paragraph (7) of this subsection)—

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

"(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 [section 787 of this title], not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(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.

"(d) Subject to the provisions of any other law enacted after the date of the enactment of this subsection [July 21, 1977], 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."

#### ADVICE AND CONSENT OF SENATE REQUIRED FOR APPOINTMENT OF DIRECTOR OF ENERGY POLICY OFFICE

Pub. L. 93-153, title IV, § 404, Nov. 16, 1973, 87 Stat. 590, directed that Director of Energy Policy Office be appointed by President, by and with advice and consent of Senate, but that if any individual serving in this office on Nov. 16, 1973, were nominated for such position, he may continue to act unless and until such nomination were disapproved by Senate.

#### EXECUTIVE ORDER NO. 11712

Ex. Ord. No. 11712, Apr. 18, 1973, 38 F.R. 9657, which related to the Special Committee on Energy and the National Energy Office, was superseded by Ex. Ord. No. 11726, June 29, 1973, 38 F.R. 17711, formerly set out as a note under section 791a of Title 16, Conservation.

#### EXECUTIVE ORDER NO. 11726

Ex. Ord. No. 11726, June 29, 1973, 38 F.R. 17711, formerly set out as a note under section 791a of Title 16, Conservation, which established the Energy Policy Office, was superseded by Ex. Ord. No. 11775, Mar. 26, 1974, 39 F.R. 11415, set out below.

#### EX. ORD. NO. 11775. ABOLITION OF ENERGY POLICY OFFICE

Ex. Ord. No. 11775, Mar. 26, 1974, 39 F.R. 11415, as amended by Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, provided:

Executive Order No. 11726 of June 29, 1973, established in the Executive Office of the President an Energy Policy Office. Executive Order No. 11748 of December 4, 1973 [set out as a note under section 754 of this title], established in the Executive Office of the President a Federal Energy Office. In order to permit an orderly transition, the Energy Policy Office was continued in being

on an interim basis. That transition has been successfully completed and the Energy Policy Office should now be abolished.

NOW, THEREFORE, by virtue of the authority vested in me as the President of the United States of America it is hereby ordered as follows:

SEC. 1. The Energy Policy Office is hereby abolished and Executive Order No. 11726 of June 29, 1973, is hereby superseded.

SEC. 2. [Revoked by Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185].

SEC. 3. The Administrator of General Services shall take such steps as may be necessary to wind up the affairs of the Energy Policy Office, and unobligated funds, if any, that may remain available to defray the expenses of that Office shall be returned to the Emergency Fund of the President.

RICHARD NIXON.

EX. ORD. NO. 11790. EFFECTUATION OF CHAPTER

Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, as amended by Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12919, §904(c), June 3, 1994, 59 F.R. 29534, provided:

Under and by virtue of the authority vested in me by the Federal Energy Administration Act of 1974 (Public Law 93-275) [this chapter], the Emergency Petroleum Allocation Act of 1973 (Public Law 93-159; 87 Stat. 627) [15 U.S.C. §751 et seq.], the Economic Stabilization Act of 1970, as amended [formerly 12 U.S.C. §1904 note], the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. Pursuant to the authority vested in me by section 30 of the Federal Energy Administration Act of 1974 [set out above], notice is hereby given that that act shall be effective as of June 27, 1974.

SEC. 2. (a) There is hereby delegated to the Secretary of Energy (hereinafter referred to as the "Secretary"), all authority vested in the President by the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. §751 et seq.].

(b) The Secretary shall submit to the Congress the reports required by section 4(c)(2) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. §753(c)(2)].

SEC. 3. (a) There is hereby delegated to the Secretary the authority vested in the President by section 203(a)(3) of the Economic Stabilization Act of 1970, as amended [formerly 12 U.S.C. §1904 note], to the extent such authority remains available under the provisions of section 218 of that act [formerly 12 U.S.C. §1904 note].

(b) The authority under the Economic Stabilization Act of 1970, as amended [formerly 12 U.S.C. §1904 note], that was delegated to the Administrator of the Federal Energy Office by the Chairman of the Cost of Living Council pursuant to section 4(b) of Executive Order No. 11748 of December 4, 1973 [set out as a note under section 754 of this title], is hereby transferred to the Secretary to the extent such authority remains available under the provisions of section 218 of that act [formerly 12 U.S.C. §1904 note].

SEC. 4. Notwithstanding the provisions of Executive Order No. 12919, as amended [formerly set out as a note under section 2153 of Title 50, Appendix, War and National Defense], the Secretary is authorized to exercise the authority vested in the President by the Defense Production Act of 1950, as amended [50 U.S.C. App. §2061 et seq.], except section 708 thereof [50 U.S.C. App. §2158], as it relates to the production, conservation, use, control, distribution, and allocation of energy, without approval, ratification, or other action of the President or any other official of the executive branch of the Government.

SEC. 5. (a) The Federal Energy Office established by Executive Order No. 11748 is hereby abolished, and that Executive order is hereby revoked.

(b) The authority vested in the Administrator of the Federal Energy Office to appoint a Deputy Adminis-

trator of that Office and to compensate that officer at the rate prescribed for officers and positions at level III of the Executive Schedule (5 U.S.C. 5314) is hereby revoked.

(c) All orders, regulations, circulars, or other directives issued and all other actions taken pursuant to any authority delegated or transferred to the Secretary by this order prior to and in effect on the date of this order are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless or until altered, amended, or revoked by the Secretary or by such competent authority as he may specify.

(d) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions of the Administrator of the Federal Energy Office, as Administrator of that Office or as Chairman of the Oil Policy Committee, are hereby transferred to the Secretary.

SEC. 6. All authority delegated or transferred to the Secretary by this order may be further delegated, in whole or in part, by the Secretary to any other office or any department or agency of the United States, or, if authorized by law, to any State or officer thereof.

SECS. 7 to 10. [Deleted.]

EXECUTIVE ORDER NO. 11930

Ex. Ord. No. 11930, July 30, 1976, 41 F.R. 32399, which related to the establishment of the Federal Energy Office and the performance by the Office of the energy functions of the Federal Energy Administration, was revoked by Ex. Ord. No. 11933, Aug. 25, 1976, 41 F.R. 36641, set out below.

EX. ORD. NO. 11933. TERMINATION OF FEDERAL ENERGY OFFICE

Ex. Ord. No. 11933, Aug. 25, 1976, 41 F.R. 36641, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Executive Order No. 11930 of July 30, 1976, which established the Federal Energy Office, is, consistent with the Federal Energy Administration Act Amendments of 1976 (Title I of Public Law 94-385) [for classification, see Short Title of 1976 Amendment note set out above], hereby revoked as of the date of its issuance.

SEC. 2. All orders, rules, regulations, rulings, interpretations, and other directives issued or pending, all rule making, judicial and administrative proceedings commenced or pending, all voluntary agreements, plans of action, and all other actions of whatever nature taken, continued, confirmed, ratified or made effective under Executive Order 11930, shall, in accordance with the Federal Energy Administration Act Amendments of 1976 [for classification, see Short Title of 1976 Amendment note set out above], be deemed to have been actions of the Federal Energy Administration and shall continue and remain in full force and effect, unless amended or revoked by the Federal Energy Administration.

SEC. 3. All authority and responsibility vested in the Federal Energy Administration by Executive order or proclamation prior to July 31, 1976 was not revoked by Executive Order No. 11930, subsists in the Federal Energy Administration, and shall be deemed to have been continuously vested in the Federal Energy Administration, whose existence has been retroactively extended by the Federal Energy Administration Act Amendments of 1976 [for classification, see Short Title of 1976 Amendment note set out above].

GERALD R. FORD.

§ 762. Establishment

There is hereby established an independent agency in the executive branch to be known as