

(e) APPLICABILITY OF OTHER LAWS.—

(1) REORGANIZATION PLAN.—Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) applies to this chapter.

(2) SECTION 3145.—Section 3145 of this title applies to contractors and subcontractors referred to in section 3145 who are engaged in the performance of contracts subject to this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1170.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------------------|--|
| 3703(a) | 40:330(a) (1st sentence). | Pub. L. 87–581, title I, §104, Aug. 13, 1962, 76 Stat. 358; Pub. L. 97–164, title I, §160(a)(13), Apr. 2, 1982, 96 Stat. 48. |
| 3703(b) | 40:330(a) (2d, last sentences). | |
| 3703(c) | 40:330(b). | |
| 3703(d) | 40:330(c). | |
| 3703(e) | 40:330(d). | |

In subsection (a), the words “or possession” are omitted for consistency in this chapter. The words “or days” are omitted because of 1:1.

In subsection (c), the word “Mayor” is substituted for “Commissioners” [meaning the Board of Commissioners of the District of Columbia] [subsequently changed to “Commissioner” (meaning the Commissioner of the District of Columbia) because of section 401 of Reorganization Plan No. 3 of 1967 (eff. Nov. 3, 1967, 81 Stat. 951)] because of section 421 of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 789).

In subsection (d)(4), the words “United States Court of Federal Claims” are substituted for “United States Claims Court” because of section 902(b)(1) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (e)(1), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3704. Health and safety standards in building trades and construction industry

(a) CONDITION OF CONTRACTS.—

(1) IN GENERAL.—Each contract in an amount greater than \$100,000 that is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and is for construction, alteration, and repair, including painting and decorating, must provide that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the Secretary of Labor prescribes by regulation based on proceedings pursuant to section 553 of title 5, provided that the proceedings include a hearing similar in nature to that authorized by section 553 of title 5.

(2) CONSULTATION.—In formulating standards under this section, the Secretary shall consult with the Advisory Committee created by subsection (d).

(b) COMPLIANCE.—

(1) ACTIONS TO GAIN COMPLIANCE.—The Secretary may make inspections, hold hearings, issue orders, and make decisions based on findings of fact as the Secretary considers necessary to gain compliance with this section and any health and safety standard the Secretary prescribes under subsection (a). For those purposes the Secretary and the United States district courts have the authority and jurisdiction provided by sections 6506 and 6507 of title 41.

(2) REMEDY WHEN NONCOMPLIANCE FOUND.—When the Secretary, after an opportunity for an adjudicatory hearing by the Secretary, establishes noncompliance under this section of any condition of a contract described in—

(A) section 3701(b)(1)(B)(i) or (ii) of this title, the governmental agency for which the contract work is done may cancel the contract and make other contracts for the completion of the contract work, charging any additional cost to the original contractor; or

(B) section 3701(b)(1)(B)(iii) of this title, the governmental agency which is providing the financial guarantee, assistance, or insurance for the contract work may withhold the guarantee, assistance, or insurance attributable to the performance of the contract.

(3) NONAPPLICABILITY.—Section 3703 of this title does not apply to the enforcement of this section.

(c) REPEATED VIOLATIONS.—

(1) TRANSMITTAL OF NAMES OF REPEAT VIOLATORS TO COMPTROLLER GENERAL.—When the Secretary, after an opportunity for an agency hearing, decides on the record that, by repeated willful or grossly negligent violations of this chapter, a contractor or subcontractor has demonstrated that subsection (b) is not effective to protect the safety and health of the employees of the contractor or subcontractor, the Secretary shall make a finding to that effect and, not sooner than 30 days after giving notice of the finding to all interested persons, shall transmit the name of the contractor or subcontractor to the Comptroller General.

(2) BAN ON AWARDED CONTRACTS.—The Comptroller General shall distribute each name transmitted under paragraph (1) to all agencies of the Federal Government. Unless the Secretary otherwise recommends, the contractor, subcontractor, or any person in which the contractor or subcontractor has a substantial interest may not be awarded a contract subject to this section until three years have elapsed from the date the name is transmitted to the Comptroller General. The Secretary shall terminate the ban if, before the end of the three-year period, the Secretary, after affording interested persons due notice and an opportunity for a hearing, is satisfied that a contractor or subcontractor whose name was transmitted to the Comptroller General will comply responsibly with the requirements of this section. The Comptroller General shall inform all Government agencies after being informed of the Secretary’s action.

(3) JUDICIAL REVIEW.—A person aggrieved by the Secretary’s action under this subsection or

subsection (b) may file with the appropriate United States court of appeals a petition for review of the Secretary's action within 60 days after receiving notice of the Secretary's action. The clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary then shall file with the court the record on which the action is based. The findings of fact by the Secretary, if supported by substantial evidence, are final. The court may enter a decree enforcing, modifying, modifying and enforcing, or setting aside any part of, the order of the Secretary or the appropriate Government agency. The judgment of the court may be reviewed by the Supreme Court as provided in section 1254 of title 28.

(d) **ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.**—

(1) **ESTABLISHMENT.**—There is an Advisory Committee on Construction Safety and Health in the Department of Labor.

(2) **COMPOSITION.**—The Committee is composed of nine members appointed by the Secretary, without regard to chapter 33 of title 5, as follows:

(A) Three members shall be individuals representative of contractors to whom this section applies.

(B) Three members shall be individuals representative of employees primarily in the building trades and construction industry engaged in carrying out contracts to which this section applies.

(C) Three members shall be public representatives who shall be selected on the basis of their professional and technical competence and experience in the construction health and safety field.

(3) **CHAIRMAN.**—The Secretary shall appoint one member as Chairman.

(4) **DUTIES.**—The Committee shall advise the Secretary—

(A) in formulating construction safety and health standards and other regulations; and

(B) on policy matters arising in carrying out this section.

(5) **EXPERTS AND CONSULTANTS.**—The Secretary may appoint special advisory and technical experts or consultants as may be necessary to carry out the functions of the Committee.

(6) **COMPENSATION AND EXPENSES.**—Committee members are entitled to receive compensation at rates the Secretary fixes, but not more than \$100 a day, including traveltime, when performing Committee business, and expenses under section 5703 of title 5.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1172; Pub. L. 109–284, §6(16), (17), Sept. 27, 2006, 120 Stat. 1213; Pub. L. 111–350, §5(l)(20), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 3704(a) | 40:333(a). | Pub. L. 87–581, title I, §107(a)–(e), as added Pub. L. 91–54, §1, Aug. 9, 1969, 83 Stat. 96; Pub. L. 103–355, title IV, §4104(c)(2), Oct. 13, 1994, 108 Stat. 3342. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 3704(b) | 40:333(b), (c). | |
| 3704(c) | 40:333(d). | |
| 3704(d) | 40:333(e). | |

In subsection (a)(1), the words “in an amount greater than \$100,000” are substituted for “(other than a contract referred to in section 329(c) of this title)” for clarity.

In subsection (b), the text of 40:333(c) is omitted as unnecessary because the district courts have jurisdiction on all civil actions involving a federal question since the requirement of a threshold amount in controversy was deleted. In paragraph (2)(B), the words “guarantee” and “insurance” are added for consistency in this section and with section 3701(b)(1)(B)(iii) of the revised title.

In subsection (c)(2), the words “The Secretary shall end the ban” are substituted for “he [sic] shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest)” for clarity and to eliminate unnecessary words. The word “thereafter” is omitted as unnecessary.

In subsection (c)(3), the words “as provided in section 2112 of title 28”, “make and”, and “upon certiorari or certification” are omitted as unnecessary.

In subsection (d)(2), before clause (A), the words “chapter 33 of title 5” are substituted for “the civil service laws” because of section 7(b) of the Act of September 6, 1966 (Public Law 89–554, 80 Stat. 631), the first section of which enacted Title 5, United States Code.

In subsection (d)(6), the words “expenses under section 5703 of title 5” are substituted for 40:333(e)(3)(words after semicolon) to eliminate unnecessary words.

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(1), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111–350 substituted “sections 6506 and 6507 of title 41” for “sections 4 and 5 of the Walsh-Healey Act (41 U.S.C. 38, 39)”.

2006—Subsec. (a)(1). Pub. L. 109–284, §6(16), inserted “of title 5” after “authorized by section 553”.

Subsec. (a)(2). Pub. L. 109–284, §6(17), struck out “of this section” after “subsection (d)”.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3705. Safety programs

The Secretary of Labor shall—