

latory Programs on October 21, 1998, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 21, 1998 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103-354, title II, §285, as added Pub. L. 105-277, div. A, §101(a) [title X, §1001(3)], Oct. 21, 1998, 112 Stat. 2681, 2681-41.)

#### CODIFICATION

Section is comprised of section 285 of Pub. L. 103-354, as added by Pub. L. 105-277. Subsec. (e) of section 285 of Pub. L. 103-354 amended section 5314 of Title 5, Government Organization and Employees.

### SUBCHAPTER IX—MISCELLANEOUS REORGANIZATION PROVISIONS

#### § 7011. Successorship provisions relating to bargaining units and exclusive representatives

##### (a) Voluntary agreement

###### (1) In general

If the exercise of the Secretary's authority under this chapter results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

###### (2) Criteria

In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, relating to determining an exclusive representative; and

(B) section 7112 of title 5 (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

##### (b) Effect of an agreement

###### (1) In general

If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a) of this section, the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

###### (2) Restrictions

###### (A) Conditions requiring noncertification

The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) of this section (disregarding section 7112(a) of title 5) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section

7111(b) of title 5 is held covering any employees who would be included in the unit proposed for certification.

##### (B) Temporary waiver of provision that would bar an election after a collective bargaining agreement is reached

Nothing in section 7111(f)(3) of title 5 shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

##### (C) Clarification

The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5 or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

##### (3) Delegation

###### (A) In general

The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5) its authority under the preceding provisions of this subsection.

###### (B) Review

Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5 in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

##### (c) "Affected party" defined

For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this chapter, any labor organization affected thereby; and

(2) the Department of Agriculture.

(Pub. L. 103-354, title II, §291, Oct. 13, 1994, 108 Stat. 3235.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), was in the original "this title", meaning title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

#### § 7012. Purchase of American-made equipment and products

##### (a) Sense of Congress

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this chapter should be American-made.