

in the State, and provides that no advance notice of an inspection will be provided anyone;

(6) provides such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the States under this section;

(7) provides that the designated agency will make such reports to the Secretary in such form and containing such information as the Secretary may from time to time require;

(8) contains assurances that grants provided under this section will supplement, not supplant, existing State coal or other mine health and safety programs; and

(9) meets additional conditions which the Secretary may prescribe in furtherance of, and consistent with, the purposes of this section.

(c) Approval by Secretary; notice and hearing

The Secretary shall not finally disapprove any State application or modification thereof without first affording the State agency reasonable notice and opportunity for a public hearing.

(d) Review by Court of Appeals; conclusiveness of findings of Secretary; filing of petition

Any State aggrieved by a decision of the Secretary under subsection (b) or (c) of this section may file within thirty days from the date of such decision with the United States Court of Appeals for the District of Columbia a petition praying that such action be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs. The filing of a petition under this subsection shall not stay the application of the decision of the Secretary, unless the court so orders. The provisions of section 816(a), (b), and (c) of this title shall not be applicable to this section.

(e) Programs to train State inspectors

Any State application or modification thereof submitted to the Secretary under this section may include a program to train State inspectors.

(f) Cooperation in implementation of programs; exchange of reports between States

The Secretary shall cooperate with such State in carrying out the application or modification thereof and shall, as appropriate, develop and, where appropriate, construct facilities for, and finance a program of, training of Federal and State inspectors jointly. The Secretary shall also cooperate with such State in establishing a system by which State and Federal inspection reports of coal or other mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

(g) Limitation on grants

The amount granted to any coal or other mining State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out such application.

(h) Authorization of appropriations

There is authorized to be appropriated \$3,000,000 for fiscal year 1970, and \$10,000,000 annually in each succeeding fiscal year to carry out the provisions of this section, which shall remain available until expended. The Secretary shall provide for an equitable distribution of sums appropriated for grants under this section to the States where there is an approved application, except that no less than one-half of such sum shall be allocated to coal-producing States. (Pub. L. 91-173, title V, § 503, Dec. 30, 1969, 83 Stat. 800; Pub. L. 95-164, title III, § 303(c), Nov. 9, 1977, 91 Stat. 1320; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164, § 303(c)(1), inserted reference to mines and mining other than coal mines and coal mining and substituted "Secretary of the Interior" for "Secretary of Labor".

Subsecs. (b), (f), (g). Pub. L. 95-164, § 303(c)(1), inserted references to mines and mining other than coal mines and coal mining.

Subsec. (h). Pub. L. 95-164, § 303(c)(2), substituted "\$10,000,000" for "\$5,000,000" and inserted requirement that no less than one-half of sums appropriated for grants be allocated to coal-producing States.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

§ 954. Appointment of administrative personnel and inspectors; qualifications; training programs

The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this chapter and prescribe their duties. Persons appointed as authorized representatives of the Secretary shall be qualified by practical experience in mining or by experience as a practical mining engineer or by education: *Provided, however,* That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to the extent possible to their previous experience in the particular type of mining operation where such inspections are to be made. Persons appointed to assist such representatives in the taking of samples of respirable dust for the purpose of enforcing subchapter II of this chapter shall be qualified by training, experience, or education. The provisions of section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270) shall not apply with respect to the appointment of such authorized representatives of the Secretary or to persons ap-

pointed to assist such representatives and to carry out the provisions of this chapter, and, in applying the provisions of such section to other agencies under the Secretary and to other agencies of the Government, such appointed persons shall not be taken into account. Such persons shall be adequately trained by the Secretary. The Secretary shall develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this chapter. In selecting persons and training and retraining persons to carry out the provisions of this chapter, the Secretary shall work with appropriate educational institutions, operators, and representatives of miners in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and where appropriate, the Secretary shall cooperate with such institutions in carrying out the provisions of this section by providing financial and technical assistance to such institutions.

(Pub. L. 91-173, title V, §505, Dec. 30, 1969, 83 Stat. 802; Pub. L. 95-164, title III, §303(d), Nov. 9, 1977, 91 Stat. 1320.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

Section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270), referred to in text, is section 201 of Pub. L. 90-364, title II, June 28, 1968, 82 Stat. 270, which was set out as a note under section 3101 of Title 5 and was repealed by Pub. L. 91-47, title V, §503, July 22, 1969, 83 Stat. 83.

AMENDMENTS

1977—Pub. L. 95-164 substituted "practical experience in mining" for "practical experience in the mining of coal" and inserted provision requiring that mine inspectors, to the maximum feasible extent, be persons with at least five years practical mining experience and that in assigning inspectors due consideration be given to previous experience in the particular type mining operations where inspections are to be made.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

NUMBER OF INSPECTORS

Pub. L. 95-164, title III, §304, Nov. 9, 1977, 91 Stat. 1320, provided that: "Nothing contained in this Act [see Short Title of 1977 Amendment note under section 801 of this title] or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcement of the Federal Coal Mine Health and Safety Act of 1969 [this chapter] and the Federal Metal and Nonmetallic Mine Safety Act [section 721 et seq. of this title] as in effect prior to the effective date of this Act [120 days after Nov. 9, 1977] or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970 [section 651 et seq. of Title 29, Labor]."

§ 955. State laws

(a) No State law in effect on December 30, 1969 or which may become effective thereafter shall

be superseded by any provision of this chapter or order issued or any mandatory health or safety standard, except insofar as such State law is in conflict with this chapter or with any order issued or any mandatory health or safety standard.

(b) The provisions of any State law or regulation in effect upon the operative date of this chapter, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal or other mines than do the provisions of this chapter or any order issued or any mandatory health or safety standard shall not thereby be construed or held to be in conflict with this chapter. The provisions of any State law or regulation in effect December 30, 1969, or which may become effective thereafter, which provide for health and safety standards applicable to coal or other mines for which no provision is contained in this chapter or in any order issued or any mandatory health or safety standard, shall not be held to be in conflict with this chapter.

(Pub. L. 91-173, title V, §506, Dec. 30, 1969, 83 Stat. 803; Pub. L. 95-164, title III, §303(e), Nov. 9, 1977, 91 Stat. 1321.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

For the operative date of this chapter, referred to in subsec. (b), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-164 inserted reference to mines other than coal mines.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

§ 956. Applicability of administrative procedure provisions

Except as otherwise provided in this chapter, the provisions of sections 551 to 559 and sections 701 to 706 of title 5 shall not apply to the making of any order, notice, or decision made pursuant to this chapter, or to any proceeding for the review thereof.

(Pub. L. 91-173, title V, §507, Dec. 30, 1969, 83 Stat. 803.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

§ 957. Promulgation of regulations

The Secretary, the Secretary of Health and Human Services, the Commissioner of Social Se-