

and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 460III-46. Compliance with environmental laws

(a) Documentation of existing conditions

(1) In general

Not later than 60 days after the date of transfer pursuant to section 460III-41 of this title, the Chairman and the Administrator shall provide the Secretary all documentation and information that exists on the environmental condition of the land and waters comprising the Recreation Area property.

(2) Additional documentation

The Chairman and the Administrator shall provide the Secretary with any additional documentation and information regarding the environmental condition of the Recreation Area property as such documentation and information becomes available.

(b) Action required

(1) Assessment

Not later than 120 days after the date of transfer pursuant to section 460III-41 of this title, the Chairman shall provide to the Secretary an assessment indicating what action, if any, is required under any environmental law on Recreation Area property.

(2) Memorandum of understanding

If the assessment concludes action is required under any environmental law with respect to any portion of the Recreation Area property, the Secretary and the Chairman shall enter into a memorandum of understanding that—

(A) provides for the performance by the Chairman of the required actions identified in the assessment; and

(B) includes a schedule providing for the prompt completion of the required actions to the satisfaction of the Secretary.

(c) Documentation demonstrating action

On the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary, the Chairman shall provide the Secretary with documentation demonstrating that all actions required under any environmental law have been taken, including all response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that are necessary to protect human health and the environment with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on Recreation Area property.

(d) Continuation of responsibilities and liabilities

(1) In general

The transfer of the Recreation Area property under this subchapter, and the requirements of this section, shall not in any way affect the responsibilities and liabilities of the Tennessee Valley Authority at the Recreation Area under the Comprehensive Environmental Re-

sponse, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other environmental law.

(2) Access

After transfer of the Recreation Area property, the Chairman shall be accorded any access to the property that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) No liability

The Secretary shall not be liable under any environmental law for matters that are related directly or indirectly to present or past activities of the Tennessee Valley Authority on the Recreation Area property, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at or related to the Recreation Area; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Recreation Area or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Recreation Area, including contamination resulting from migration.

(4) No effect on responsibilities or liabilities

Except as provided in paragraph (3), nothing in this subchapter affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under any environmental law with respect to the Secretary.

(e) Other Federal agencies

Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Recreation Area resulting in the release or threatened release of a hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product for which that agency would be liable under any environmental law shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or their derivatives.

(Pub. L. 105-277, div. A, §101(e) [title V, §546], Oct. 21, 1998, 112 Stat. 2681-231, 2681-320.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsecs. (c) and (d)(1), (3)(A), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

§ 460III-47. Personnel

(a) In general

(1) Hiring

Notwithstanding section 3503 of title 5, and subject to paragraph (2), the Secretary may—

(A) appoint, hire, and discharge officers and employees to administer the Recreation Area; and

(B) pay the officers and employees at levels that are commensurate with levels at other units of the National Forest System.

(2) Interim retention of eligible employees

(A) In general

For a period of not less than 5 months after the effective date of transfer to the Forest Service—

(i) all eligible employees shall be retained in the employment of the Tennessee Valley Authority;

(ii) those eligible employees shall be considered to be placed on detail to the Secretary and shall be subject to the direction of the Secretary; and

(iii) the Secretary shall reimburse the Tennessee Valley Authority for the amount of the basic pay and all other compensation of those eligible employees.

(B) Notice to employees

The Secretary shall provide eligible employees a written notice of not less than 60 days before termination.

(C) Termination for cause

Subparagraph (A) does not preclude a termination for cause during the period described in subparagraph (A).

(b) Applications for transfer and appointment

An eligible employee shall have the right to apply for employment by the Secretary under procedures for transfer and appointment of Federal employees outside the Department of Agriculture.

(c) Hiring by Secretary

(1) In general

Subject to subsection (b) of this section, in filling personnel positions within the Recreation Area, the Secretary shall follow all laws (including regulations) and policies applicable to the Department of Agriculture.

(2) Notification and hiring

Notwithstanding paragraph (1), the Secretary—

(A) shall notify all eligible employees of all openings for positions with the Forest Service at the Recreation Area before notifying other individuals or considering applications by other individuals for the positions; and

(B) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(3) Noncompetitive appointments

Notwithstanding any other placement of career transition programs authorized by the Office of Personnel Management of the United States Department of Agriculture, the Secretary may noncompetitively appoint eligible employees to positions in the Recreation Area.

(4) Period of service

Except to the extent that an eligible employee that is appointed by the Secretary may

be otherwise compensated for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the Secretary for the purposes of probation, career tenure, time-in-grade, and leave.

(d) Transfer to positions in other units of Tennessee Valley Authority

The Tennessee Valley Authority—

(1) shall notify all eligible employees of all openings for positions in other units of the Tennessee Valley Authority before notifying other individuals or considering applications by other individuals for the positions; and

(2) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(e) Employee benefit transition

(1) Memorandum of understanding

(A) In general

The Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall enter into a memorandum of understanding providing for the transition for all eligible employees of compensation made available through the Tennessee Valley Authority Retirement System.

(B) Employee participation

In deciding on the terms of the memorandum of understanding, the Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall meet and consult with and give full consideration to the views of employees and representatives of the employees of the Tennessee Valley Authority.

(2) Eligible employees that are transferred to other units of TVA

An eligible employee that is transferred to another unit of the Tennessee Valley Authority shall experience no interruption in coverage for or reduction of any retirement, health, leave, or other employee benefit.

(3) Eligible employees that are hired by the Secretary

(A) Level of benefits

The Secretary shall provide to an eligible employee that is hired by the Forest Service a level of retirement and health benefits that is equivalent to the level to which the eligible employee would have been entitled if the eligible employee had remained an employee of the Tennessee Valley Authority.

(B) Transfer of retirement benefits

(i) In general

Eligible employees hired by the Forest Service shall become members of the Civil Service Retirement System (CSRS) Offset Plan and shall have the option to transfer into the Federal Employees Retirement System (FERS) within six months of their date of transfer. Such employees shall

have the option at any time to receive credit in CSRS Offset or FERS for all of their TVA service in accordance with applicable procedures. Any deposits necessary to receive credit for such service shall be considered transfers to a qualified plan for purposes of favorable tax treatment of such amount under title 26.

(ii) Funding shortfall

(I) In general

For all eligible employees that are not part of the Civil Service Retirement System, the Tennessee Valley Authority shall meet any funding shortfall resulting from the transfer of retirement benefits.

(II) Notification

The Secretary shall notify the Tennessee Valley Authority Board of the cost associated with the transfer of retirement benefits.

(III) Payment

The Tennessee Valley Authority shall fully compensate the Secretary for the costs associated with the transfer of retirement benefits.

(IV) No interruption

An eligible employee that is hired by the Forest Service and is eligible for Civil Service Retirement shall not experience any interruption in retirement benefits.

(C) No interruption

An eligible employee that is hired by the Secretary—

- (i) shall experience no interruption in coverage for any health, leave, or other employee benefit; and
- (ii) shall be entitled to carry over any leave time accumulated during employment by the Tennessee Valley Authority.

(D) Period of service

Notwithstanding section 8411(b)(3) of title 5, except to the extent that an eligible employee may be otherwise compensated (including the provision of retirement benefits in accordance with the memorandum of understanding) for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the U.S. Department of Agriculture for all purposes relating to the Federal employment of the eligible employee.

(4) Eligible employees that are discharged not for cause

(A) Level of benefits

The parties to the memorandum of understanding shall have authority to deem any applicable requirement to be met, to make payments to an employee, or take any other action necessary to provide to an eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause and that does not accept an offer of employment

from the Secretary, an optimum level of retirement and health benefits that is equivalent to the level that has been afforded employees discharged in previous reductions in force by the Tennessee Valley Authority.

(B) Minimum benefits

An eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause shall, at a minimum be entitled to—

(i) at the option of the eligible employee—

(I) a lump-sum equal to \$1,000, multiplied by the number of years of service of the eligible employee (but not less than \$15,000 nor more than \$25,000);

(II) a lump-sum payment equal to the amount of pay earned by the eligible employee for the last 26 weeks of the eligible employee's service; or

(III) the deemed addition of 5 years to the age and the years of service of an eligible employee;

(ii) 15 months of health benefits for employees and dependents at the same level provided as of the date of transfer pursuant to section 460III-41 of this title;

(iii) 1 week of pay per year of service as provided by the Tennessee Valley Authority Retirement System;

(iv) a lump-sum payment of all accumulated annual leave;

(v) unemployment compensation in accordance with State law;

(vi) eligible pension benefits as provided by the Tennessee Valley Authority Retirement System; and

(vii) retraining assistance provided by the Tennessee Valley Authority.

(C) Shortfall

If the board of directors of the Tennessee Valley Authority Retirement System determines that the cost of providing the benefits described in subparagraphs (A) and (B) would have a negative impact on the overall retirement system, the Tennessee Valley Authority shall be required to meet any funding shortfalls.

(Pub. L. 105-277, div. A, §101(e) [title V, §547], Oct. 21, 1998, 112 Stat. 2681-231, 2681-321.)

§ 460III-48. Tennessee Valley Authority transfer costs

Any costs incurred by Tennessee Valley Authority associated with the transfer under this part shall be derived from funding described in section 460III-49 of this title.

(Pub. L. 105-277, div. A, §101(e) [title V, §548], Oct. 21, 1998, 112 Stat. 2681-231, 2681-325.)

§ 460III-49. Tennessee Valley Authority transfer funding

(a) In general

The funding described in this section is funding derived from only 1 or more of the following sources: