

Health Administration Compliance Assistance Authorization Act of 1998".

#### SHORT TITLE

Pub. L. 91-596, §1, Dec. 29, 1970, 84 Stat. 1590, provided: "That this Act [enacting this chapter and section 3142-1 of Title 42, The Public Health and Welfare, amending section 553 of this title, sections 5108, 5314, 5315, and 7902 of Title 5, Government Organization and Employees, sections 633 and 636 of Title 15, Commerce and Trade, section 1114 of Title 18, Crimes and Criminal Procedure, and section 1421 of former Title 49, Transportation, and enacting provisions set out as notes under this section and section 1114 of Title 18] may be cited as the 'Occupational Safety and Health Act of 1970'."

#### § 652. Definitions

For the purposes of this chapter—

(1) The term "Secretary" mean<sup>1</sup> the Secretary of Labor.

(2) The term "Commission" means the Occupational Safety and Health Review Commission established under this chapter.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

(4) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(5) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State.

(6) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(7) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(8) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1),<sup>2</sup> has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for

diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(10) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on December 29, 1970.

(11) The term "Committee" means the National Advisory Committee on Occupational Safety and Health established under this chapter.

(12) The term "Director" means the Director of the National Institute for Occupational Safety and Health.

(13) The term "Institute" means the National Institute for Occupational Safety and Health established under this chapter.

(14) The term "Workmen's Compensation Commission" means the National Commission on State Workmen's Compensation Laws established under this chapter.

(Pub. L. 91-596, §3, Dec. 29, 1970, 84 Stat. 1591; Pub. L. 105-241, §2(a), Sept. 28, 1998, 112 Stat. 1572.)

#### AMENDMENTS

1998—Par. (5). Pub. L. 105-241 inserted "(not including the United States Postal Service)" after "the United States".

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on January 5, 1973, to terminate not later than the expiration of the 2-year period following January 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. 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.

#### § 653. Geographic applicability; judicial enforcement; applicability to existing standards; report to Congress on duplication and coordination of Federal laws; workmen's compensation law or common law or statutory rights, duties, or liabilities of employers and employees unaffected

(a) This chapter shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Lake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this chapter by the courts established for areas in which there are no United States district courts having jurisdiction.

<sup>1</sup> So in original. Probably should be "means".

<sup>2</sup> So in original. The comma probably should not appear.

(b)(1) Nothing in this chapter shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 2021 of title 42, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act,<sup>1</sup> the Service Contract Act of 1965,<sup>1</sup> Public Law 91-54, Act of August 9, 1969, Public Law 85-742, Act of August 23, 1958, and the National Foundation on Arts and Humanities Act [20 U.S.C. 951 et seq.] are superseded on the effective date of corresponding standards, promulgated under this chapter, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this chapter shall be deemed to be occupational safety and health standards issued under this chapter, as well as under such other Acts.

(3) The Secretary shall, within three years after the effective date of this chapter, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this chapter and other Federal laws.

(4) Nothing in this chapter shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

(Pub. L. 91-596, § 4, Dec. 29, 1970, 84 Stat. 1592.)

#### REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (a), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Act of June 30, 1936, commonly known as the Walsh-Healey Act, referred to in subsec. (b)(2), is act June 30, 1936, ch. 881, 49 Stat. 2036, which was classified principally to sections 35 to 45 of former Title 41, Public Contracts, and was substantially repealed and restated as chapter 65 (§6501 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1936 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

The Service Contract Act of 1965, referred to in subsec. (b)(2), was Pub. L. 89-286, Oct. 22, 1965, 79 Stat. 1034, which was classified generally to chapter 6 (§351 et seq.) of former Title 41, Public Contracts, and was repealed and restated as chapter 67 (§6701 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

<sup>1</sup> See References in Text note below.

Public Law 91-54, Act of August 9, 1969, referred to in subsec. (b)(2), is Pub. L. 91-54, Aug. 9, 1969, 83 Stat. 96, which amended sections 1 and 2 and added section 107 of Pub. L. 87-581, Aug. 13, 1962, 76 Stat. 357. Sections 1 and 2 of Pub. L. 87-581 were set out as notes under section 327, and section 107 of Pub. L. 87-581 was classified to section 333, of former Title 40, Public Buildings, Property, and Works. Sections 1 and 2 of Pub. L. 87-581 were repealed, and section 107 of Pub. L. 87-581 was repealed and reenacted as sections 3704 and 3705 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

Public Law 85-742, Act of August 23, 1958, referred to in subsec. (b)(2), is Pub. L. 85-742, Aug. 23, 1958, 72 Stat. 835, which amended section 941 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as a note under section 941 of Title 33. For complete classification of this Act to the Code, see Tables.

The National Foundation on the Arts and the Humanities Act, referred to in subsec. (b)(2), is Pub. L. 89-209, Sept. 29, 1965, 79 Stat. 845, known as the National Foundation on the Arts and the Humanities Act of 1965, which is classified principally to subchapter I (§951 et seq.) of chapter 26 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 20 and Tables.

The effective date of this chapter, referred to in subsec. (b)(2), (3), is the effective date of Pub. L. 91-596, which is 120 days after Dec. 29, 1970, see section 34 of Pub. L. 91-596, set out as an Effective Date note under section 651 of this title.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### EPA ADMINISTRATOR NOT EXERCISING "STATUTORY AUTHORITY" UNDER THIS SECTION IN EXERCISING ANY AUTHORITY UNDER TOXIC SUBSTANCES CONTROL ACT

In exercising any authority under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) in connection with amendment made by section 15(a) of Pub. L. 101-637, the Administrator of the Environmental Protection Agency not, for purposes of subsection (b)(1) of this section, to be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health, see section 15(b) of Pub. L. 101-637, set out as a note under section 2646 of Title 15, Commerce and Trade.

### § 654. Duties of employers and employees

(a) Each employer—

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this chapter.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this chapter which are applicable to his own actions and conduct.

(Pub. L. 91-596, § 5, Dec. 29, 1970, 84 Stat. 1593.)

### § 655. Standards

(a) **Promulgation by Secretary of national consensus standards and established Federal standards; time for promulgation; conflicting standards**

Without regard to chapter 5 of title 5 or to the other subsections of this section, the Secretary