

retary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this subchapter.

(July 1, 1944, ch. 373, title XIV, §1450, as added Pub. L. 93-523, §2(a), Dec. 16, 1974, 88 Stat. 1691; amended Pub. L. 98-620, title IV, §402(38), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 103-437, §15(a)(2), Nov. 2, 1994, 108 Stat. 4591.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees.

Part G of subchapter II of this chapter, referred to in subsec. (g), is classified to section 264 et seq. of this title.

CODIFICATION

In subsec. (e), "sections 3141-3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a-276a(5))" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1994—Subsec. (h). Pub. L. 103-437 substituted "Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House" for "Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House".

1984—Subsec. (i)(4). Pub. L. 98-620 struck out provision which required civil actions filed under par. (4) to be heard and decided expeditiously.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of title 28, Judiciary and Judicial Procedure.

APPLICABILITY OF LABOR STANDARDS TO DRINKING WATER TREATMENT CONSTRUCTION PROJECTS

Pub. L. 112-74, div. E, title II, Dec. 23, 2011, 125 Stat. 1020, provided in part: "For fiscal year 2012 and each fiscal year thereafter, the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12)."

§ 300j-10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the

compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5.

(Pub. L. 95-190, §11(b), Nov. 16, 1977, 91 Stat. 1398.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Public Health Service Act is classified generally to this subchapter (§300f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Safe Drinking Water Amendments of 1977, and not as part of the Public Health Service Act which comprises this chapter.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 300j-11. Indian Tribes

(a) In general

Subject to the provisions of subsection (b), the Administrator—

- (1) is authorized to treat Indian Tribes as States under this subchapter,
- (2) may delegate to such Tribes primary enforcement responsibility for public water systems and for underground injection control, and
- (3) may provide such Tribes grant and contract assistance to carry out functions provided by this subchapter.

(b) EPA regulations

(1) Specific provisions

The Administrator shall, within 18 months after June 19, 1986, promulgate final regulations specifying those provisions of this subchapter for which it is appropriate to treat Indian Tribes as States. Such treatment shall be authorized only if:

- (A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;
- (B) the functions to be exercised by the Indian Tribe are within the area of the Tribal Government's jurisdiction; and
- (C) the Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this subchapter and of all applicable regulations.

(2) Provisions where treatment as State inappropriate

For any provision of this subchapter where treatment of Indian Tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this subchapter, the Administrator

may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of the provision. Nothing in this section shall be construed to allow Indian Tribes to assume or maintain primary enforcement responsibility for public water systems or for underground injection control in a manner less protective of the health of persons than such responsibility may be assumed or maintained by a State. An Indian tribe¹ shall not be required to exercise criminal enforcement jurisdiction for purposes of complying with the preceding sentence.

(July 1, 1944, ch. 373, title XIV, §1451, as added Pub. L. 99-339, title III, §302(a), June 19, 1986, 100 Stat. 665; amended Pub. L. 104-182, title V, §501(f)(6), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104-182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j-12. State revolving loan funds

(a) General authority

(1) Grants to States to establish State loan funds

(A) In general

The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this subchapter, promote the efficient use of fund resources, and for other purposes as are specified in this subchapter.

(B) Establishment of fund

To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a "State loan fund") and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this subchapter. No funds authorized by other provisions of this subchapter to be used for other purposes specified in this subchapter shall be deposited in any State loan fund.

(C) Extended period

The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

(D) Allotment formula

Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this

¹ So in original. Probably should be capitalized.