

substituted for “departments and agencies including Government-owned and controlled corporations” to avoid confusion with the definitions in sections 101–105.

In subsection (d) the word “appropriate” in the phrase “appropriate comment and recommendations” is omitted as unnecessary. The words “to the head of the agency concerned” are added for clarity.

In subsection (e), the substance of the definition of “physician” in former section 790 is substituted for the reference to that section.

In subsection (f)(2) and (3), the words “Canal Zone Government” and “Panama Canal Company” are substituted for “Panama Canal” and “Panama Railroad”, respectively, on the authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038.

The last proviso of the first sentence of the Act of Aug. 8, 1946, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 7901 to reflect 1966 Reorganization Plan No. 3, effective June 25, 1966, 80 Stat. 1610, section 1 of which transferred all functions of the Public Health Service to the Secretary of Health, Education, and Welfare.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–201 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The health programs conducted by the following agencies are not affected by this section—

- “(1) the Tennessee Valley Authority;
- “(2) the Canal Zone Government; and
- “(3) the Panama Canal Company.”

CHANGE OF NAME

Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508 of Title 20, Education.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–172, § 1(a), Dec. 2, 1993, 107 Stat. 1995, provided that: “This Act [enacting section 7905 of this title and provisions set out as notes under section 7905 of this title] may be cited as the ‘Federal Employees Clean Air Incentives Act.’”

DEMONSTRATION PROJECT: HEALTH PROTECTION; HEALTH PROMOTION; DISEASE PREVENTION; AND SECONDARY PREVENTION

Pub. L. 99–251, title I, § 110, Feb. 27, 1986, 100 Stat. 17, directed Director of Office of Personnel Management to conduct a demonstration project to determine most effective method of furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees, with Director to report to Congress no later than 60 days after termination of project on Feb. 27, 1988.

§ 7902. Safety programs

(a) For the purpose of this section—

(1) “employee” means an employee as defined by section 8101 of this title; and

(2) “agency” means an agency in any branch of the Government of the United States (not including the United States Postal Service), including an instrumentality wholly owned by the United States, and the government of the District of Columbia.

(b) The Secretary of Labor shall carry out a safety program under section 941(b)(1) of title 33 covering the employment of each employee of an agency.

(c) The President may—

(1) establish by Executive order a safety council composed of representatives of the agencies and of labor organizations representing employees to serve as an advisory body to the Secretary in furtherance of the safety program carried out by the Secretary under subsection (b) of this section; and

(2) undertake such other measures as he considers proper to prevent injuries and accidents to employees of the agencies.

(d) The head of each agency shall develop and support organized safety promotion to reduce accidents and injuries among employees of his agency, encourage safe practices, and eliminate work hazards and health risks.

(e) Each agency shall—

(1) keep a record of injuries and accidents to its employees whether or not they result in loss of time or in the payment or furnishing of benefits; and

(2) make such statistical or other reports on such forms as the Secretary may prescribe by regulation.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 530; Pub. L. 91–596, § 19(c), Dec. 29, 1970, 84 Stat. 1610; Pub. L. 105–241, § 2(b)(2), Sept. 28, 1998, 112 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 784 (less (a)).	Sept. 16, 1916, ch. 458, § 33 (less (a)); added Dec. 22, 1944, ch. 664, 58 Stat. 887. Oct. 14, 1949, ch. 691, § 209, 63 Stat. 865.

Subsection (a) is added on authority of former sections 790(b) and 794 (1st sentence), which are carried into section 8101.

The words “Secretary of Labor” and “Secretary” are substituted for “Administrator” on authority of section 1 of 1950 Reorg. Plan No. 19, eff. May 24, 1950, 64 Stat. 1271.

Subsection (b) is restated for clarity. The words “under section 941(b)(1) of title 33” are substituted for “The provisions of section 941 of title 33 shall, insofar as not inapplicable, apply” on authority of section 941(g)(2) of title 33. The reference to “a safety program” is based in part on the words “in furtherance of the safety program carried out by the Secretary pursuant to this section” in former section 784(c).

In subsection (d), the word “foster” is omitted as included in “develop and support”. The words “and reduce compensable injuries” are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–241 inserted “(not including the United States Postal Service)” after “Government of the United States”.

1970—Subsec. (c)(1). Pub. L. 91–596 included representatives of labor organizations representing employees.

EXECUTIVE ORDER NO. 10990

Ex. Ord. No. 10990, Feb. 5, 1962, 27 F.R. 1065, which provided for the establishment of a Federal Safety Council, was superseded by Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891, formerly set out below.

EXECUTIVE ORDER NO. 11612

Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891, which related to occupational safety and health programs for

federal employees, was superseded by Ex. Ord. 11807, Sept. 28, 1974, 39 F.R. 35559, formerly set out below.

EXECUTIVE ORDER NO. 11807

Ex. Ord. No. 11807, Sept. 28, 1974, 39 F.R. 35559, which related to occupational safety and health programs for federal employees and continued the Federal Advisory Council on Occupational Safety and Health, was revoked by Ex. Ord. No. 12196, Feb. 26, 1980, 45 F.R. 12769, set out below.

EX. ORD. NO. 12196. OCCUPATIONAL SAFETY AND HEALTH PROGRAMS FOR FEDERAL EMPLOYEES

Ex. Ord. No. 12196, Feb. 26, 1980, 45 F.R. 12769, as amended by Ex. Ord. No. 12223, June 30, 1980, 45 F.R. 45235; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7902(c) of Title 5 of the United States Code and in accord with Section 19 of the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 668), it is ordered:

1-1. SCOPE OF THIS ORDER

1-101. This order applies to all agencies of the Executive Branch except military personnel and uniquely military equipment, systems, and operations.

1-102. For the purposes of this order, the term "agency" means an Executive department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Federal government, other than those of the judicial and legislative branches. Since section 19 [29 U.S.C. 668] of the Occupational Safety and Health Act ("the Act") [29 U.S.C. 651 et seq.] covers all Federal employees, however, the Secretary of Labor ("the Secretary") shall cooperate and consult with the heads of agencies in the legislative and judicial branches of the government to help them adopt safety and health programs.

1-2. HEADS OF AGENCIES

1-201. The head of each agency shall:

(a) Furnish to employees places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm.

(b) Operate an occupational safety and health program in accordance with the requirements of this order and basic program elements promulgated by the Secretary.

(c) Designate an agency official with sufficient authority to represent the interest and support of the agency head to be responsible for the management and administration of the agency occupational safety and health program.

(d) Comply with all standards issued under section 6 of the Act [29 U.S.C. 655], except where the Secretary approves compliance with alternative standards. When an agency head determines it necessary to apply a different standard, that agency head shall, after consultation with appropriate occupational safety and health committees where established, notify the Secretary and provide justification that equivalent or greater protection will be assured by the alternate standard.

(e) Assure prompt abatement of unsafe or unhealthy working conditions. Whenever an agency cannot promptly abate such conditions, it shall develop an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to the conditions shall be informed of the provisions of the plan. When a hazard cannot be abated without assistance of the General Services Administration or other Federal lessor agency, an agency shall act with the lessor agency to secure abatement.

(f) Establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthy working condition, or other participation in

agency occupational safety and health program activities.

(g) Assure that periodic inspections of all agency workplaces are performed by personnel with equipment and competence to recognize hazards.

(h) Assure response to employee reports of hazardous conditions and require inspections within twenty-four hours for imminent dangers, three working days for potential serious conditions, and twenty working days for other conditions. Assure the right to anonymity of those making the reports.

(i) Assure that employee representatives accompany inspections of agency workplaces.

(j) Operate an occupational safety and health management information system, which shall include the maintenance of such records as the Secretary may require.

(k) Provide safety and health training for supervisory employees, employees responsible for conducting occupational safety and health inspections, all members of occupational safety and health committees where established, and other employees.

(l) Submit to the Secretary an annual report on the agency occupational safety and health program that includes information the Secretary prescribes.

1-3. OCCUPATIONAL SAFETY AND HEALTH COMMITTEES

1-301. Agency heads may establish occupational safety and health committees. If committees are established, they shall be established at both the national level and, for agencies with field or regional offices, other appropriate levels. The committees shall be composed of representatives of management and an equal number of nonmanagement employees or their representatives. Where there are exclusive bargaining representatives for employees at the national or other level in an agency, such representatives shall select the appropriate nonmanagement members of the committee.

1-302. The committees shall, except where prohibited by law,

(a) Have access to agency information relevant to their duties, including information on the nature and hazardousness of substances in agency workplaces.

(b) Monitor performance, including agency inspections, of the agency safety and health programs at the level they are established.

(c) Consult and advise the agency on the operation of the program.

1-303. A Committee may request the Secretary of Labor to conduct an evaluation or inspection pursuant to this order if half of a Committee is not substantially satisfied with an agency's response to a report of hazardous working conditions.

1-4. DEPARTMENT OF LABOR

1-401. The Secretary of Labor shall:

(a) Provide leadership and guidance to the heads of agencies to assist them with their occupational safety and health responsibilities.

(b) Maintain liaison with the Office of Management and Budget in matters relating to this order and coordinate the activities of the Department with those of other agencies that have responsibilities or functions related to Federal employee safety and health, including the Office of Personnel Management, the Department of Health and Human Services, and the General Services Administration.

(c) Issue, subject to the approval of the Director of the Office of Management and Budget, and in consultation with the Federal Advisory Council on Occupational Safety and Health, a set of basic program elements. The program elements shall help agency heads establish occupational safety and health committees and operate effective occupational safety and health programs, and shall provide flexibility to each agency head to implement a program consistent with its mission, size and organization. Upon request of an agency head, and after consultation with the Federal Advisory

Council on Occupational Safety and Health, the Secretary may approve alternate program elements.

(d) Prescribe recordkeeping and reporting requirements.

(e) Assist agencies by providing training materials, and by conducting training programs upon request and with reimbursement.

(f) Facilitate the exchange of ideas and information throughout the government about occupational safety and health.

(g) Provide technical services to agencies upon request, where the Secretary deems necessary, and with reimbursement. These services may include studies of accidents, causes of injury and illness, identification of unsafe and unhealthful working conditions, and means to abate hazards.

(h) Evaluate the occupational safety and health programs of agencies and promptly submit reports to the agency heads. The evaluations shall be conducted through such scheduled headquarters or field reviews, studies or inspections as the Secretary deems necessary, at least annually for the larger or more hazardous agencies or operations, and as the Secretary deems appropriate for the smaller or less hazardous agencies.

(i) Conduct unannounced inspections of agency workplaces when the Secretary determines necessary if an agency does not have occupational safety and health committees; or in response to reports of unsafe or unhealthful working conditions, upon request of occupational safety and health committees under Section 1-3; or, in the case of a report of an imminent danger, when such a committee has not responded to an employee who has alleged to it that the agency has not adequately responded to a report as required in 1-201(h). When the Secretary or his designee performs an inspection and discovers unsafe or unhealthy conditions, a violation of any provisions of this order, or any safety or health standards adopted by an agency pursuant to this order, or any program element approved by the Secretary, he shall promptly issue a report to the head of the agency and to the appropriate occupational safety and health committee, if any. The report shall describe the nature of the findings and may make recommendations for correcting the violation.

(j) Submit to the President each year a summary report of the status of the occupational safety and health of Federal employees, and, together with agency responses, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

(k) Submit to the President unresolved disagreements between the Secretary and agency heads, with recommendations.

(l) Enter into agreements or other arrangements as necessary or appropriate with the National Institute for Occupational Safety and Health and delegate to it the inspection and investigation authority provided under this section.

1-5. THE FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

1-501. The Federal Advisory Council on Occupational Safety and Health, established pursuant to Executive Order No. 11612, is continued. It shall advise the Secretary in carrying out responsibilities under this order. The Council shall consist of sixteen members appointed by the Secretary, of whom eight shall be representatives of Federal agencies and eight shall be representatives of labor organizations representing Federal employees. The members shall serve three-year terms with the terms of five or six members expiring each year, provided this Council is renewed every two years in accordance with the Federal Advisory Committee Act [5 U.S.C. App.]. The members currently serving on the Council shall be deemed to be its initial members under this order and their terms shall expire in accordance with the terms of their appointment.

1-502. The Secretary, or a designee, shall serve as the Chairman of the Council, and shall prescribe rules for the conduct of its business.

1-503. The Secretary shall make available necessary office space and furnish the Council necessary equipment, supplies, and staff services, and shall perform such functions with respect to the Council as may be required by the Federal Advisory Committee Act, as amended (5 U.S.C. App.).

1-6. GENERAL SERVICES ADMINISTRATION

1-601. Within six months of the effective date of this order the Secretary of Labor and the Administrator of the General Services Administration shall initiate a study of conflicts that may exist in their standards and other requirements affecting Federal employee safety and health, and shall establish a procedure for resolving conflicting standards for space leased by the General Services Administration.

1-602. In order to assist the agencies in carrying out their duties under Section 19 of the Act [29 U.S.C. 668] and this order the Administrator shall:

(a) Upon request, require personnel of the General Services Administration to accompany the Secretary or an agency head on any inspection or investigation conducted pursuant to this order of a facility subject to the authority of the General Services Administration.

(b) Assure prompt attention to reports from agencies of unsafe or unhealthy conditions of facilities subject to the authority of the General Services Administration; where abatement cannot be promptly effected, submit to the agency head a timetable for action to correct the conditions; and give priority in the allocation of resources available to the Administrator for prompt abatement of the conditions.

(c) Procure and provide safe supplies, devices, and equipment, and establish and maintain a product safety program for those supplies, devices, equipment and services furnished to agencies, including the issuance of Material Safety Data Sheets when hazardous substances are furnished them.

1-7. GENERAL PROVISIONS

1-701. Employees shall be authorized official time to participate in the activities provided for by this order.

1-702. Nothing in this order shall be construed to impair or alter the powers and duties of the Secretary or heads of other Federal agencies pursuant to Section 19 of the Occupational Safety and Health Act of 1970 [29 U.S.C. 668]. Chapter 71 of Title 5 of the United States Code, Sections 7901, 7902, and 7903 of Title 5 of the United States Code, nor shall it be construed to alter any other provisions of law or Executive Order providing for collective bargaining agreements and related procedures, or affect the responsibilities of the Director of Central Intelligence to protect intelligence sources and methods ([former] 50 U.S.C. 403(d)(3)).

1-703. Executive Order No. 11807 of September 28, 1974, is revoked.

1-704. This order is effective October 1, 1980.

EXECUTIVE ORDER NO. 12566

Ex. Ord. No. 12566, Sept. 26, 1986, 51 F.R. 34575, which related to safety belt use by Federal employees, was revoked by Ex. Ord. No. 13043, § 5, formerly § 6, Apr. 16, 1997, 62 F.R. 19218, as renumbered by Ex. Ord. No. 13652, § 5, Sept. 30, 2013, 78 F.R. 61818, set out as a note under section 402 of Title 23, Highways.

EXTENSION OF TERM OF FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Term of Federal Advisory Council on Occupational Safety and Health extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to this title.

Previous extensions of term of Federal Advisory Council on Occupational Safety and Health were contained in the following prior Executive Orders:

Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.

Ex. Ord. No. 13585, Sept. 30, 2011, 76 F.R. 62281, extended term until Sept. 30, 2013.

- Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, extended term until Sept. 30, 2011.
- Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, extended term until Sept. 30, 2009.
- Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.
- Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, extended term until Sept. 30, 2005.
- Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, extended term until Sept. 30, 2003.
- Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, extended term until Sept. 30, 2001.
- Ex. Ord. No. 13062, §1(b), Sept. 29, 1997, 62 F.R. 51755, extended term until Sept. 30, 1999.
- Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, extended term until Sept. 30, 1997.
- Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, extended term until Sept. 30, 1995.
- Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, extended term until Sept. 30, 1993.
- Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, extended term until Sept. 30, 1991.
- Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, extended term until Sept. 30, 1989.
- Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, extended term until Sept. 30, 1987.
- Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, extended term until Sept. 30, 1985.
- Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, extended term until Sept. 30, 1984.
- Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, extended term until Dec. 31, 1982.
- Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, extended term until Dec. 31, 1980.
- Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, extended term until Dec. 31, 1978.

THE PRESIDENTIAL POWER INITIATIVE: PROTECTING OUR WORKERS AND ENSURING REEMPLOYMENT

Memorandum of President of the United States, July 19, 2010, 75 F.R. 43029, provided:

Memorandum for the Heads of Executive Departments and Agencies

Each year Federal civilian employees are injured or fall ill on the job in significant numbers. Although the Federal Government has made progress in reducing workplace injuries and illnesses in recent years, its workers (excluding those employed by the U.S. Postal Service) still filed more than 79,000 new claims and received over \$1.6 billion in workers' compensation payments in fiscal year 2009. Many of these work-related injuries and illnesses are preventable, and executive departments and agencies can and should do even more to improve workplace safety and health, reduce the financial burden of injury on taxpayers, and relieve unnecessary suffering by workers and their families.

Therefore, I am establishing a 4-year Protecting Our Workers and Ensuring Reemployment (POWER) Initiative, covering fiscal years 2011 through 2014. The POWER Initiative will extend prior workplace safety and health efforts of the Federal Government by setting more aggressive performance targets, encouraging the collection and analysis of data on the causes and consequences of frequent or severe injury and illness, and prioritizing safety and health management programs that have proven effective in the past.

Under the POWER Initiative, each executive department and agency will be expected to improve its performance in seven areas:

- (i) reducing total injury and illness case rates;
- (ii) reducing lost time injury and illness case rates;
- (iii) analyzing lost time injury and illness data;
- (iv) increasing the timely filing of workers' compensation claims;
- (v) increasing the timely filing of wage-loss claims;
- (vi) reducing lost production day rates; and
- (vii) speeding employees' return to work in cases of serious injury or illness.

Executive departments and agencies (except the U.S. Postal Service) shall coordinate with the Department

of Labor's Occupational Safety and Health Administration and Office of Workers' Compensation Programs to establish performance targets in each category. The Secretary of Labor shall lead the POWER Initiative by measuring both Government-wide and agency-level performance and reporting to me annually.

Each executive department and agency shall bear its own costs for participating in the POWER Initiative, and nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Labor is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 7903. Protective clothing and equipment

Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. For the purpose of this section, "appropriations" includes funds made available by statute under section 9104 of title 31.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 531; Pub. L. 97-258, §3(a)(16), Sept. 13, 1982, 96 Stat. 1063.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118g.	Aug. 2, 1946, ch. 744, §13, 60 Stat. 809.

The definition of the word "appropriations" is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1982—Pub. L. 97-258 substituted "section 9104" for "section 849".

§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.

(Added Pub. L. 99-570, title VI, §6004(a), Oct. 27, 1986, 100 Stat. 3207-159.)