ferred to under section 5312, the degree of participation in each bureau, division, or other major administrative unit of that agency), including—

(i) the total number of employees in the agency;

(ii) the number and percent of employees in the agency who are eligible to telework; and

(iii) the number and percent of eligible employees in the agency who are teleworking—

(I) 3 or more days per pay period;

(II) 1 or 2 days per pay period;

(III) once per month; and

(IV) on an occasional, episodic, or short-term basis;

(B) the method for gathering telework data in each agency;

(C) if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency, the reasons for the positive or negative variation;

(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

(F) an assessment of the progress each agency has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to telework, such as the impact of telework on—

(i) emergency readiness;

(ii) energy use;

(iii) recruitment and retention;

(iv) performance;

(v) productivity; and

(vi) employee attitudes and opinions regarding telework; and

(G) the best practices in agency telework programs.

(c) COMPTROLLER GENERAL REPORTS.—

(1) REPORT ON GOVERNMENT ACCOUNTABILITY OFFICE TELEWORK PROGRAM.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this chapter and on an annual basis thereafter, the Comptroller General shall submit a report addressing the telework program of the Government Accountability Office to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives.

(B) CONTENTS.—Each report submitted by the Comptroller General shall include the same information as required under subsection (b) applicable to the Government Accountability Office.

(2) REPORT TO CONGRESS ON OFFICE OF PERSONNEL MANAGEMENT REPORT.—Not later than 6 months after the submission of the first report to Congress required under subsection (b), the Comptroller General shall review that report required under subsection (b) and submit a report to Congress on the progress each executive agency has made towards the goals established under section 6504(b)(2).

(d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each executive agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Officers Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Officers Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under subsection (b); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(Added Pub. L. 111–292, § 2(a), Dec. 9, 2010, 124 Stat. 3169.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsecs. (b)(1) and (c)(1)(A), is the date of enactment of Pub. L. 111–292, which was approved Dec. 9, 2010.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

Subpart F—Labor-Management and Employee Relations

CHAPTER 71—LABOR-MANAGEMENT RELATIONS

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Editorial Notes

AMENDMENTS

1978—Pub. L. 95–454, title VII, §§701, 703(a)(2), Oct. 13, 1978, 92 Stat. 1191, 1217, in heading for Subpart F inserted ''Labor-Management and'' before ''Employee'', in heading for chapter 71 substituted ''LABOR-MANAGEMENT RELATIONS'' for ''POLICIES'', in heading for subchapter I substituted ''GENERAL PROVISIONS'' for ''EMPLOYEE ORGANIZATIONS'', in item 7101 substituted ''Findings and purpose'' for ''Right to organize; postal employees'', in item 7102 substituted ''Employees' rights'' for ''Right to petition Congress; employees'', added items 7103 to 7106, and added subchapter II and items 7111 to 7120, subchapter III and items 7121 to 7123, and subchapter IV and items 7131 to 7135. Former subchapter II heading ''ANTIDISCRIMINATION IN EMPLOYMENT'' and items 7151 to 7154, ''Policy'', ''Marital status'', ''Physical handicap'', and ''Other prohibitions'', respectively, were transferred to subchapter I of chapter 72 and renumbered and amended.

SUBCHAPTER I—GENERAL PROVISIONS

§ 7101. Findings and purpose

(a) The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

(Added Pub. L. 95–454, title VII, §701, Oct. 13, 1978, 92 Stat. 1192.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7101, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 91–375, §6(c)(19), Aug. 12, 1970, 84 Stat. 776, related to right of postal employees to organize, prior to the general amendment of this chapter by Pub. L. 94–454.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SHORT TITLE

This chapter is popularly known as the ''Federal Service Labor-Management Relations Act''.

EMPLOYEE SURVEYS

Pub. L. 108–136, div. A, title XI, §1128, Nov. 24, 2003, 117 Stat. 1641, provided that:

''(a) IN GENERAL.—Each agency shall conduct an annual survey of its employees (including survey questions unique to the agency and questions prescribed under subsection (b)) to assess—

''(1) leadership and management practices that contribute to agency performance; and

''(2) employee satisfaction with—

''(A) leadership policies and practices;

''(B) work environment;

''(C) rewards and recognition for professional accomplishment and personal contributions to achieving organizational mission;

''(D) opportunity for professional development and growth; and

''(E) opportunity to contribute to achieving organizational mission.

''(b) REGULATIONS.—The Office of Personnel Management shall issue regulations prescribing survey questions that should appear on all agency surveys under subsection (a) in order to allow a comparison across agencies.

''(c) AVAILABILITY OF RESULTS.—The results of the agency surveys under subsection (a) shall be made available to the public and posted on the website of the agency involved, unless the head of such agency determines that doing so would jeopardize or negatively impact national security.

''(d) AGENCY DEFINED.—For purposes of this section, the term 'agency' means an Executive agency (as defined by section 105 of title 5, United States Code).''

Executive Documents

EXECUTIVE ORDER NO. 10988

Ex. Ord. No. 10988, Jan. 17, 1962, 27 F.R. 551, which related to employee-management cooperation in the Federal service, was revoked by Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, set out below.

EX. ORD. NO. 11491. LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, as amended by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex.

Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743; Ex. Ord. No. 11901, Jan. 30, 1976, 41 F.R. 4807; Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

GENERAL PROVISIONS

SECTION 1. *Policy*. (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

SEC. 2. *Definitions*. When used in this Order, the term—

(a) ''Agency'' means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office [now Government Accountability Office];

(b) ''Employee'' means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) ''Supervisor'' means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(e) ''Labor organization'' means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) ''Agency management'' means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) ''Authority'' means the Federal Labor Relations Authority;

(h) ''Panel'' means the Federal Service Impasses Panel;

(i) ''Assistant Secretary'' means the Assistant Secretary of Labor for Labor Management Relations; and

(j) ''General Counsel'' means the General Counsel of the Authority.

SEC. 3. *Application*. (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity, within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(5) The Foreign Service of the United States: Department of State, United States Information Agency and Agency for International Development and its successor agency or agencies.

(6) The Tennessee Valley Authority; or

(7) Personnel of the Federal Labor Relations Authority (including the Office of the General Counsel and the Federal Service Impasses Panel).

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order who are otherwise authorized by this Order to be represented by a labor organization shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

SEC. 4. *Powers and Duties of the Federal Labor Relations Authority*.

(a) [Revoked].

(b) The Authority shall administer and interpret this Order, decide major policy issues, and prescribe regulations.

(c) The Authority shall, subject to its regulations:

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for its considerations;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights;

(4) decide unfair labor practice complaints; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in Section 13(d) of this Order.

(d) The Authority may consider, subject to its regulations:

(1) appeals on negotiability issues as provided in Section 11(c) of this Order;

(2) exceptions to arbitration awards;

(3) appeals from decisions of the Assistant Secretary of Labor for Labor-Management Relations issued pursuant to Section 6(b) of this Order; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

(e) In any matters arising under subsection (c) and (d)(3) of this Section, the Authority may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as the Authority considers appropriate to effectuate the policies of this Order.

(f) In performing the duties imposed on it by this Section, the Authority may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686) [31 U.S.C. 1535].

SEC. 5. *Powers and Duties of the Federal Service Impasses Panel*. (a) There is hereby established the Federal Service Impasses Panel as a distinct organizational entity within the Authority. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Authority shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

SEC. 6. *Powers and Duties of the Office of the General Counsel and the Assistant Secretary of Labor for Labor-Management Relations*.

(a) The General Counsel is authorized, upon direction by the Authority, to:

(1) investigate complaints of violations of Section 19 of this Order;

(2) make final decisions as to whether to issue unfair labor practice complaints and prosecute such complaints before the Authority;

(3) direct and supervise all employees in the Office of General Counsel, including employees of the General Counsel in the regional office of the Authority;

(4) perform such other duties as the Authority may prescribe; and

(5) prescribe regulations needed to administer his functions under this Order.

(b) The Assistant Secretary shall:

(1) decide alleged violations of the standards of conduct for labor organizations, established in Section 18 of this Order; and

(2) prescribe regulations needed to administer his functions under this Order.

(c) In any matter arising under paragraph (b) of this Section, the Assistant Secretary may require a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(d) In performing the duties imposed on them by this Section, the General Counsel and the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686) [31 U.S.C. 1535].

RECOGNITION

SEC. 7. *Recognition in general*. (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulation, or from choosing his own representative in a grievance or appellate action, except when the grievance is covered under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(f) Informal recognition or formal recognition shall not be accorded.

SEC. 8. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 9. *National consultation rights*. (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Authority as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide

an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may consult in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Authority for decision.

SEC. 10. *Exclusive recognition*. (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative; provided that this section shall not preclude an agency from according exclusive recognition to a labor organization, without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

(3) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit. Questions as to the appropriate unit and related issues may be referred to the Authority for decision.

(c) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(d) All elections shall be conducted under the supervision of the Authority, or persons designated by it, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or ''no union'', except as provided in subparagraph (4) of this paragraph. Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative;

(3) a labor organization should cease to be the exclusive representative; or

(4) a labor organization should be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

SEC. 11. *Negotiation of agreements*. (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Authority and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Authority for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this order, or are not otherwise applicable to bar negotiations under paragraph (a) of this section.

(d) [Revoked by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055.]

SEC. 12. *Basic provisions of agreements*. Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend,

demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions. The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

SEC. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedure exists and so long as it does not otherwise conflict with statute or this order. It shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Authority, under regulations prescribed by the Authority.

(c) [Revoked.]

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, shall be referred to the Authority for decision. Other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may by agreement of the parties be submitted to arbitration or may be referred to the Authority for decision.

(e) [Revoked.]

SEC. 14. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within forty-five days from the date of its execution if it conforms to applicable laws, the order, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within forty-five days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the order and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

SEC. 16. *Negotiation disputes.* The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

SEC. 17. *Negotiation impasses.* When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

SEC. 18. *Standards of conduct for labor organizations.*

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

SEC. 19. *Unfair labor practices.* (a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Authority.

MISCELLANEOUS PROVISIONS

SEC. 20. *Use of official time.* Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

SEC. 21. *Allotment of dues.* (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Office of Personnel Management, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

SEC. 22. *Adverse action appeals.* The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Office of Personnel Management, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511–7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Merit Systems Protection Board from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Merit Systems Protection Board submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

SEC. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations.

SEC. 24. *Savings clauses.* (a) This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

SEC. 25. *Guidance, training, review and information.* (a) The Office of Personnel Management, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management rela-

tions in the Federal service and shall periodically review the implementation of these policies. The Office of Personnel Management shall be responsible for the day-to-day policy guidance under that program. The Office of Personnel Management also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Authority on the state of the program with any recommendations for its improvement.

(b) The Office of Personnel Management shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

SEC. 26. *Effective date*. This Order is effective on January 1, 1970, except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Intercourse.]

EXECUTIVE ORDER NO. 12871

Ex. Ord. No. 12871, Oct. 1, 1993, 58 F.R. 52201, as amended by Ex. Ord. No. 12983, Dec. 21, 1995, 60 F.R. 66855; Ex. Ord. No. 13156, §1, May 17, 2000, 65 F.R. 31785, which established the National Partnership Council and required the head of certain Government agencies to implement labor-management partnerships to help reform Government, was revoked by Ex. Ord. No. 13203, Feb. 17, 2001, 66 F.R. 11227.

EXECUTIVE ORDER NO. 13522

Ex. Ord. No. 13522, Dec. 9, 2009, 74 F.R. 66203, which related to the establishment of the National Council on Federal Labor-Management Relations and implementation of labor-management forums, was revoked by Ex. Ord. No. 13812, Sept. 29, 2017, 82 F.R. 46367.

EXTENSION OF TERM OF NATIONAL COUNCIL ON FEDERAL LABOR-MANAGEMENT RELATIONS

Term of National Council on Federal Labor-Management Relations extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, formerly set out as a note under section 1013 of this title.

Previous extensions of term of National Council on Federal Labor-Management Relations 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. 13591, Nov. 23, 2011, 76 F.R. 74623, extended term until Sept. 30, 2013.

EXTENSION OF TERM OF U.S. GENERAL SERVICES ADMINISTRATION LABOR-MANAGEMENT RELATIONS COUNCIL

Term of U.S. General Services Administration Labor-Management Relations Council extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, formerly set out as a note under section 1013 of this title.

EXECUTIVE ORDER NO. 13836

Ex. Ord. No. 13836, May 25, 2018, 83 F.R. 25329, which related to Federal sector collective bargaining, was revoked by Ex. Ord. No. 14003, §3(a), Jan. 22, 2021, 86 F.R. 7231, set out in a note under section 3301 of this title.

EXECUTIVE ORDERS 13836, 13837, AND 13839

Memorandum of President of the United States, Oct. 11, 2019, 84 F.R. 56095, which related to adherence to certain collective bargaining agreements, was revoked by Ex. Ord. No. 14003, §3(d), Jan. 22, 2021, 86 F.R. 7231, set out in a note under section 3301 of this title.

§ 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

(Added Pub. L. 95–454, title VII, §701, Oct. 13, 1978, 92 Stat. 1192.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7102, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523, related to right of employees to petition Congress, prior to the general amendment of this chapter by Pub. L. 95–454. See section 7211 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Par. (2) of this section suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(b) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7103. Definitions; application

(a) For the purpose of this chapter—

(1) ''person'' means an individual, labor organization, or agency;

(2) ''employee'' means an individual—

(A) employed in an agency; or

(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

(i) an alien or noncitizen of the United States who occupies a position outside the United States;

(ii) a member of the uniformed services;

(iii) a supervisor or a management official;

(iv) an officer or employee in the Foreign Service of the United States employed in the

Department of State, the International Communication Agency, the Agency for International Development, the Department of Agriculture, or the Department of Commerce; or

(v) any person who participates in a strike in violation of section 7311 of this title;

(3) ''agency'' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Department of Veterans Affairs), the Library of Congress, the Government Publishing Office, and the Smithsonian Institution[1] but does not include—

(A) the Government Accountability Office;

(B) the Federal Bureau of Investigation;

(C) the Central Intelligence Agency;

(D) the National Security Agency;

(E) the Tennessee Valley Authority;

(F) the Federal Labor Relations Authority;

(G) the Federal Service Impasses Panel; or

(H) the United States Secret Service and the United States Secret Service Uniformed Division.

(4) ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by an agency; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(5) ''dues'' means dues, fees, and assessments;

(6) ''Authority'' means the Federal Labor Relations Authority described in section 7104(a) of this title;

(7) ''Panel'' means the Federal Service Impasses Panel described in section 7119(c) of this title;

(8) ''collective bargaining agreement'' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

(9) ''grievance'' means any complaint—

(A) by any employee concerning any matter relating to the employment of the employee;

(B) by any labor organization concerning any matter relating to the employment of any employee; or

(C) by any employee, labor organization, or agency concerning—

(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

(10) ''supervisor'' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term ''supervisor'' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

(11) ''management official'' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

(12) ''collective bargaining'' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

(13) ''confidential employee'' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(14) ''conditions of employment'' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;

(B) relating to the classification of any position; or

(C) to the extent such matters are specifically provided for by Federal statute;

(15) ''professional employee'' means—

(A) an employee engaged in the performance of work—

(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning

[1] So in original. Probably should be followed by a comma.

or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

(16) ''exclusive representative'' means any labor organization which—

(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

(i) on the basis of an election, or

(ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

(17) ''firefighter'' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

(18) ''United States'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1192; amended Pub. L. 96–465, title II, § 2314(g), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 102–54, § 13(b)(1), June 13, 1991, 105 Stat. 274; Pub. L. 103–359, title V, § 501(j), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104–201, div. A, title XVI, § 1634(a), Sept. 23, 1996, 110 Stat. 2752; Pub. L. 105–220, title III, § 341(e), Aug. 7, 1998, 112 Stat. 1092; Pub. L. 105–277, div. G, subdiv. A, title XIV, § 1422(b)(1), Oct. 21, 1998, 112 Stat. 2681–792; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 139], Dec. 21, 2000, 114 Stat. 2763, 2763A–235; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113–235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537.)

Editorial Notes

AMENDMENTS

2004—Subsec. (a)(3)(A). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2000—Subsec. (a)(3)(H). Pub. L. 106–554 added subpar. (H).

1998—Subsec. (a)(2)(B)(iv). Pub. L. 105–277 substituted ''Agency for International Development'' for ''United States International Development Cooperation Agency''.

Subsec. (a)(3). Pub. L. 105–220, in introductory provisions, struck out ''and'' after ''Library of Congress,'' and inserted ''and the Smithsonian Institution'' after ''Government Printing Office,''.

1996—Subsec. (a)(3)(F) to (H). Pub. L. 104–201 inserted ''or'' at end of subpar. (F), substituted a period for ''; or'' at end of subpar. (G), and struck out subpar. (H) which read as follows: ''the Central Imagery Office;''.

1994—Subsec. (a)(3)(H). Pub. L. 103–359 added subpar. (H).

1991—Subsec. (a)(3). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1980—Subsec. (a)(2)(iv). Pub. L. 96–465 struck out ''the Agency for International Development, or'' after ''Department of State,'' and inserted ''the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce'' after ''Communication Agency''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

International Communication Agency, referred to in subsec. (a)(2)(B)(iv), redesignated United States Information Agency and Director or any other official of International Communication Agency redesignated as Director or other official, as appropriate, of United States Information Agency by section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State by sections 6531 and 6532 of Title 22.

''Government Publishing Office'' substituted for ''Government Printing Office'' in subsec. (a)(3) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Executive Documents

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.

EX. ORD. NO. 12171. EXCLUSIONS FROM COVERAGE OF PROGRAM

Ex. Ord. No. 12171, Nov. 19, 1979, 44 F.R. 66565, as amended by Ex. Ord. No. 12338, Jan. 11, 1982, 47 F.R. 1369; Ex. Ord. No. 12410, Mar. 28, 1983, 48 F.R. 13143; Ex. Ord. No. 12559, May 20, 1986, 51 F.R. 18761; Ex. Ord. No. 12632, Mar. 23, 1988, 53 F.R. 9852; Ex. Ord. No. 12666, Jan. 12, 1989, 54 F.R. 1921; Ex. Ord. No. 12671, Mar. 14, 1989, 54 F.R. 11157; Ex. Ord. No. 12681, July 6, 1989, 54 F.R. 28997; Ex. Ord. No. 12693, Sept. 29, 1989, 54 F.R. 40629; Ex. Ord. No. 13039, Mar. 11, 1997, 62 F.R. 12529; Ex. Ord. No. 13252, Jan. 7, 2002, 67 F.R. 1601; Ex. Ord. No. 13381, § 5(b), June 27, 2005, 70 F.R. 37955; Ex. Ord. No. 13467, § 3(d), June 30, 2008, 73 F.R. 38107; Ex. Ord. No. 13480, §§ 2–6, Nov. 26, 2008, 73 F.R. 73991, 73992; Ex. Ord. No. 13741, § 3, Sept. 29, 2016, 81 F.R. 68291; Ex. Ord. No. 13760, § 2, Jan. 12, 2017, 82 F.R. 5325; Ex. Ord. No. 13869, § 3(b), Apr. 24, 2019, 84 F.R. 18130, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

1–1. DETERMINATIONS

1–101. The agencies or subdivisions thereof set forth in Section 1–2 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to those agencies or subdivisions in a manner consistent with national security requirements and considerations. The agencies or subdivisions thereof set forth in Section 1–2 of this Order are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

1–102. Having determined that it is necessary in the interest of national security, the provisions of Chapter 71 of Title 5 of the United States Code are suspended with respect to any agency, installation, or activity listed in Section 1–3 of this Order. However, such suspension shall be applicable only to that portion of the agency, installation, or activity which is located outside the 50 States and the District of Columbia.

1–2. EXCLUSIONS

1–201. The Information Security Oversight Office, General Services Administration.

1–202. The Federal Research Division, Research Services, the Library of Congress.

1–203. Agencies or subdivisions of the Department of the Treasury:

(a) The Office of Terrorism and Financial Intelligence.

(b) The Financial Crimes Enforcement Network.

(c) Criminal Investigation, Internal Revenue Service.

(d) The Trade Analysis and Enforcement Division, Alcohol and Tobacco Tax and Trade Bureau.

1–204. Agencies or subdivisions of the Department of the Army, Department of Defense:

(a) Office of the Deputy Chief of Staff, G–2 (Intelligence), and all G–2 Intelligence offices within Army Commands, Army Service Component Commands, and Direct Reporting Units.

(b) United States Army Intelligence and Security Command.

(c) The following subdivisions of the United States Army Cyber Command (ARCYBER) and Second Army:

(1) Headquarters, United States ARCYBER and Second Army.

(2) Joint Forces Headquarters—Cyber.

(3) Army Cyber Operations and Integration Center.

(d) United States Army Intelligence Center of Excellence (USAICoE), United States Army Training and Doctrine Command (TRADOC).

(e) United States Army Cyber Protection Brigade, United States Army Network Enterprise Technology Command.

(f) 114th Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

(g) 302nd Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

(h) United States Army Criminal Investigation Command (USACIDC).

(i) United States Army Special Operations Command (USASOC).

(j) Rapid Equipping Force (REF), United States Army Training and Doctrine Command (TRADOC).

(k) Asymmetric Warfare Group (AWG), United States Army Training and Doctrine Command (TRADOC).

1–205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

(a) Office of the Director of Naval Intelligence, and all Intelligence offices within Navy Commands, Navy Service Component Commands, and Direct Reporting Units, including the following:

(1) Naval Intelligence Activity.

(2) Office of Naval Intelligence.

(3) Farragut Technical Analysis Center.

(4) Nimitz Operational Intelligence Center.

(5) Hopper Information Services Center.

(6) Kennedy Irregular Warfare Center.

(7) Brooks Center for Maritime Engagement.

(b) Naval Criminal Investigative Service.

(c) United States Fleet Cyber Command.

(d) Headquarters, Marine Corps Intelligence Department and subordinate activities, United States Marine Corps.

(e) Marine Forces Cyber Command, United States Marine Corps.

(f) Naval Computer and Telecommunications Station, San Diego, Detachment, Naval Strategic Communications Unit, Tinker Air Force Base.

(g) Naval Information Force Reserve, Navy Reserve Force.

(h) Center for Information Warfare Training, Naval Education and Training Command.

(i) Naval Special Warfare Command (NSW).

(j) Marine Special Operations Command (MARSOC).

(k) Navy Information Operations Commands and Detachments.

(l) Naval Communications Security Material System.

1–206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

(a) Headquarters, 24th Air Force and Air Forces Cyber, Joint Force Headquarters, Air Force Space Com-

mand [now United States Space Force], and the following elements under its operational control:

(1) 67th Cyberspace Wing.

(2) 624th Operations Center.

(3) The following subdivisions of the 688th Cyberspace Operations Wing:

(A) 318th Cyberspace Operations Group.

(B) 688th Cyberspace Operations Group.

(4) 5th Combat Communications Group.

(b) Headquarters, 25th Air Force, Air Combat Command, and the following wings, groups, and elements under the operational control of the 25th Air Force:

(1) 70th Intelligence, Surveillance and Reconnaissance Wing.

(2) 363rd Intelligence, Surveillance and Reconnaissance Wing.

(3) 480th Intelligence, Surveillance and Reconnaissance Wing.

(4) 625th Operations Center.

(5) The following subdivisions of the 9th Reconnaissance Wing:

(A) 9th Operations Group.

(B) 69th Reconnaissance Group.

(6) 55th Operations Group, 55th Wing.

(c) Air Force Technical Applications Center (AFTAC), 25th Air Force, Air Combat Command.

(d) Office of the Deputy Chief of Staff, Intelligence, Surveillance and Reconnaissance (A2), Headquarters, United States Air Force, and all A2 staff within Air Force Commands, Air Force Service Component Commands, Field Operating Agencies, and Direct Reporting Units.

(e) National Air and Space Intelligence Center and all elements under its operational control.

(f) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

(1) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

(A) Mission Support Group.

(B) Medical Group.

(2) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

(A) Mission Support Group.

(B) Medical Group.

(g) Air Force Office of Special Investigations.

(h) 17th Training Wing, Air Education and Training Command, Goodfellow Air Force Base, Texas.

1–207. Defense Intelligence Agency, Department of Defense.

1–208. The Defense Counterintelligence and Security Agency, Department of Defense.

1–209. Agencies or subdivisions of the Department of Justice:

a. The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration.

b. The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in Offices of the United States Marshals in the United States Marshals Service.

(c) United States Attorneys' Offices.

(d) Criminal Division.

(e) INTERPOL—U.S. National Central Bureau.

(f) National Drug Intelligence Center.

(g) National Security Division.

(h) Bureau of Alcohol, Tobacco, Firearms, and Explosives.

1–210. Agencies or subdivisions of the Department of Energy:

(a) The National Nuclear Security Administration.

(b) The Office of Intelligence.

(c) The Office of Counterintelligence.

(d) The Office of Intelligence and Counterintelligence.

(e) The Savannah River Operations Office.

1–211. Offices within the Agency for International Development:

(a) The Immediate Office of the Auditor General.

(b) The Office of Inspections and Investigations.

(c) The Office of Security.

(d) The Office of the Area Auditor General/Washington.

1–212. Agencies or subdivisions under the authority of the Chairman of the Joint Chiefs of Staff and the Commanders of the Combatant Commands, Department of Defense.

(a) Office of the Chairman of the Joint Chiefs of Staff (OCJCS) and the Joint Staff.

(b) United States Africa Command (USAFRICOM).

(c) United States Central Command (USCENTCOM).

(d) United States European Command (USEUCOM).

(e) United States Pacific Command (USPACOM) [now United States Indo-Pacific Command].

(f) United States Southern Command (USSOUTHCOM).

(g) North American Aerospace Defense Command (NORAD).

(h) United States Northern Command (USNORTHCOM).

(i) Headquarters, United States Transportation Command (USTRANSCOM), and its subordinate command, the Joint Enabling Capabilities Command.

(j) United States Strategic Command (USSTRATCOM) and all components, centers, or sub-unified commands currently assigned to USSTRATCOM, including the following:

(1) United States Cyber Command (USCYBERCOM).

(2) Joint Functional Component Command—Global Strike (JFCC GS).

(3) Joint Functional Component Command—Space (JFCC Space).

(4) Joint Functional Component Command—Integrated Missile Defense (JFCC IMD).

(5) Joint Functional Component Command—Intelligence, Surveillance and Reconnaissance (JFCC ISR).

(6) USSTRATCOM Center for Combating Weapons of Mass Destruction (SCC WMD).

(7) Standing Joint Force Headquarters for Elimination (SJFHQ–E).

(8) Joint Warfare Analysis Center (JWAC).

(k) United States Special Operations Command (USSOCOM) and all components and sub-unified commands under its administrative and operational control, including the following:

(1) Components:

(A) Marine Special Operations Command (MARSOC).

(B) Naval Special Warfare Command (NSW).

(C) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

(i) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

(I) Mission Support Group.

(II) Medical Group.

(ii) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

(I) Mission Support Group.

(II) Medical Group.

(D) United States Army Special Operations Command (USASOC).

(2) Sub-unified Commands:

(A) Joint Special Operations Command (JSOC).

(B) Special Operations Command Korea (SOCKOR).

(C) Special Operations Command Europe (SOCEUR).

(D) Special Operations Command South (SOCSOUTH).

(E) Special Operations Command Pacific (SOCPAC).

(F) Special Operations Command Africa (SOCAFRICA).

(G) Special Operations Command Central (SOCCENT).

(H) Special Operations Command North (SOCNORTH).

1–213. The following subdivision of the Federal Aviation Administration (FAA), Department of Transpor-

tation: National Security Coordination Division, Office of Emergency Operations and Investigations, FAA Office of Security and Hazardous Materials.

1–214. Agencies or subdivisions of the Department of Homeland Security:

(a) Office of the Military Advisor.

(b) The following office within the Management Directorate:

(1) Office of Security.

(c) Office of Operations Coordination.

(d) Office of Counternarcotics Enforcement.

(e) Office of Intelligence and Analysis.

(f) Domestic Nuclear Detection Office [now Countering Weapons of Mass Destruction Office].

(g) The following offices and subdivisions within the United States Coast Guard:

(1) Maritime Intelligence Fusion Centers, Atlantic.

(2) Pacific Area Intelligence Division.

(3) Intelligence Coordination Center.

(4) Coast Guard Investigative Service.

(5) Coast Guard Security Center.

(h) The following offices and subdivisions within United States Immigration and Customs Enforcement:

(1) The Office of Investigations.

(2) The Office of International Affairs.

(3) The Office of Intelligence.

(4) The National Incident Response Unit.

(i) The following office within the Transportation Security Administration:

(1) The Office of Law Enforcement/Federal Air Marshal Service.

(j) The following office within United States Customs and Border Protection:

(1) The Office of Intelligence and Operations Coordination.

(k) The following offices and subdivisions within the Federal Emergency Management Agency:

(1) The following offices and subdivisions within the Office of National Continuity Programs:

(A) The Office of the Assistant Administrator.

(B) The Operations Division.

(C) The Continuity of Operations Division.

(D) The Readiness Division.

(E) The Integrated Public Alert and Warning Systems Division.

(2) The following subdivisions within the Disaster Operations Directorate:

(A) The Mobile Emergency Response Support Operations, including Mobile Emergency Response Support Detachments.

(B) The FEMA Operations Center.

(C) The Alternate FEMA Operations Center.

Sec. 1–215. National Geospatial-Intelligence Agency (NGA), Department of Defense.

1–216. Agencies or subdivisions of the Office of Personnel Management:

(a) The Federal Investigative Services.

(b) The National Background Investigations Bureau.

(c) Units with a primary Suitability Executive Agent mission, including adjudicating suitability investigations and conducting related policy, advisory services, operations support, and agency oversight.

(d) Units with a primary mission of engineering, information technology, and cybersecurity support for personnel background investigations and adjudications.

1–217. Defense Advanced Research Projects Agency, Department of Defense.

1–218. National Reconnaissance Office, Department of Defense.

1–219. Office of the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security], Department of Defense.

1–220. Field Detachment, Defense Contract Audit Agency, Department of Defense.

1–221. Special Programs Directorate, Defense Contract Management Agency, Department of Defense.

1–222. The following subdivisions of the Defense Information Systems Agency, Department of Defense:

(a) Joint Force Headquarters—Department of Defense Information Networks.

(b) White House Communications Agency.

1–223. The following subdivisions of the Defense Logistics Agency, Department of Defense:

(a) Defense Logistics Agency Intelligence.

(b) Joint Logistics Operations Center.

(c) Computer Emergency Response Team and Incident Response Branch.

1–224. Strategic Capabilities Office, Department of Defense.

1–3. Units Outside the 50 States and the District of Columbia

1–301. The Drug Enforcement Administration, Department of Justice.

[Ex. Ord. No. 13741, § 3, which directed amendment of section 1–216 of Ex. Ord. No. 12171, set out above, by substituting ''Agencies or subdivisions of the Office of Personnel Management:'' and subsections (a) to (d) for ''The Federal Investigative Services Division'', was executed by making the substitution for ''The Federal Investigative Services Division., Office of Personnel Management.'']

Ex. Ord. No. 12391. Partial Suspension of Federal Service Labor-Management Relations

Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b)(2) of Title 5 and Section 301 of Title 3 of the United States Code, and having determined that it is necessary in the interest of national security to suspend certain labor-management relations provisions with respect to overseas activities of the Department of Defense, it is hereby ordered as follows:

Section 1. *Suspensions*. With regard to United States citizen employees of the Department of Defense, including the Military Departments, who are employed outside the United States as defined in 5 U.S.C. 7103(a)(18), with the exception of those employed in the Republic of Panama:

(a) The provisions of 5 U.S.C. 7105(a)(2)(D), (E), (G), and (H) and of 5 U.S.C. 7123(b) are suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(b) The provisions of 5 U.S.C. 7102(2), 7114(a)(1), 7114(a)(4), 7116(a)(5), and 7117(c) are suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(c) The provisions of 5 U.S.C. 7116(a)(7) and 7117(b) are suspended with regard to any regulation governing the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nations; and

(d) The provisions of 5 U.S.C. 7121(b)(3)(C) are suspended with respect to any grievance involving the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation.

Sec. 2. *Disputes*. Disputes between a labor organization and the United States Forces as to whether a particular matter is covered by one or more of the suspensions set forth in this Order shall be referred to the Secretary of Defense. The decision of the Secretary in such disputes shall be made after consultation with the Secretary of State and shall be final. The Secretary of Defense may delegate this authority, but only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. The functions assigned to the Secretary of State may not be

delegated or assigned to anyone below the rank of an Assistant Secretary of State.

RONALD REAGAN.

EX. ORD. NO. 12632. EXCLUSIONS FROM FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 12632, Mar. 23, 1988, 53 F.R. 9852, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations*. The agencies or subdivisions thereof set forth in Section 3 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to these agencies or subdivisions in a manner consistent with national security requirements and considerations. These agencies or subdivisions thereof are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

SEC. 2. *Relationship to Executive Order No. 12559*. The determinations set forth in Section 1 of this Order are the same determinations that I made at the time of and as a predicate to my issuance on May 20, 1986, of Executive Order No. 12559 [amending Ex. Ord. No. 12171, set out as a note above], which was issued for the same purpose as this Order. On July 10, 1987, Executive Order No. 12559 was held by a United States District Court to be incomplete as a matter of form, and therefore invalid, because it did not expressly set forth these determinations. *AFGE v. Reagan*, Civil No. 86–1587 (D.D.C.). These determinations were not expressly set forth in the text of Executive Order No. 12559 because all that Order did was amend Executive Order No. 12171 [set out as a note above] by adding the agencies or subdivisions referred to in Section 1 of this Order to the list in Executive Order No. 12171 of entities excluded from coverage of the Federal Labor-Management Relations Program, and these determinations were already expressly set forth in the text of Executive Order No. 12171, which remains in effect (as amended). This Order is not intended to reflect any belief that the form of Executive Order No. 12559 was invalid, but is intended solely to accomplish the purpose of that Order.

SEC. 3. *Amendment of Executive Order No. 12171*. Executive Order No. 12171 is amended by deleting Section 1–209 and inserting in its place:

SEC. 1–209. *Agencies or subdivisions of the Department of Justice*. (a) The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration.

(b) The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in Offices of the United States Marshals in the United States Marshals Service.

RONALD REAGAN.

EX. ORD. NO. 13252. EXCLUSIONS FROM THE FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 13252, Jan. 7, 2002, 67 F.R. 1601, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7103(b)(1) of title 5, United States Code, and in order to exempt certain subdivisions of the Department of Justice from coverage under the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations*. The subdivisions of the Department of Justice set forth in section 2 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is further determined that chapter 71 of title 5, United States Code, cannot be applied to these subdivisions in a manner consistent with national security requirements and considerations.

SEC. 2. *Amendment of Executive Order 12171*. Executive Order 12171 of November 19, 1979, as amended, [set out above] is further amended by adding to the end of section 1–209 the following new subsections:

''(c) United States Attorneys' Offices.

[''](d) Criminal Division.

[''](e) INTERPOL—U.S. National Central Bureau.

[''](f) National Drug Intelligence Center.

[''](g) Office of Intelligence Policy and Review.''

GEORGE W. BUSH.

EX. ORD. NO. 13760. EXCLUSIONS FROM THE FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 13760, Jan. 12, 2017, 82 F.R. 5325, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7103(b)(1) of title 5, United States Code, and in order to reflect the effects of the reorganization and restructuring of the Department of Defense on its agencies and subdivisions exempted from coverage under the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations*. The agencies and subdivisions of the Department of Defense set forth in section 2 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is further determined that chapter 71 of title 5, United States Code, cannot be applied to these subdivisions in a manner consistent with national security requirements and considerations.

SEC. 2. *Department of Defense*. Executive Order 12171 of November 19, 1979, as amended, is further amended by:

(a) revising section 1–204 to read as follows:

''1–204. Agencies or subdivisions of the Department of the Army, Department of Defense:

[''](a) Office of the Deputy Chief of Staff, G–2 (Intelligence), and all G–2 Intelligence offices within Army Commands, Army Service Component Commands, and Direct Reporting Units.

[''](b) United States Army Intelligence and Security Command.

[''](c) The following subdivisions of the United States Army Cyber Command (ARCYBER) and Second Army:

[''](1) Headquarters, United States ARCYBER and Second Army.

[''](2) Joint Forces Headquarters—Cyber.

[''](3) Army Cyber Operations and Integration Center.

[''](d) United States Army Intelligence Center of Excellence (USAICoE), United States Army Training and Doctrine Command (TRADOC).

[''](e) United States Army Cyber Protection Brigade, United States Army Network Enterprise Technology Command.

[''](f) 114th Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

[''](g) 302nd Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

[''](h) United States Army Criminal Investigation Command (USACIDC).

[''](i) United States Army Special Operations Command (USASOC).

[''](j) Rapid Equipping Force (REF), United States Army Training and Doctrine Command (TRADOC).

[''](k) Asymmetric Warfare Group (AWG), United States Army Training and Doctrine Command (TRADOC).'';

(b) revising section 1–205 to read as follows:

''1–205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

[''](a) Office of the Director of Naval Intelligence, and all Intelligence offices within Navy Commands, Navy

Service Component Commands, and Direct Reporting Units, including the following:

[''](1) Naval Intelligence Activity.

[''](2) Office of Naval Intelligence.

[''](3) Farragut Technical Analysis Center.

[''](4) Nimitz Operational Intelligence Center.

[''](5) Hopper Information Services Center.

[''](6) Kennedy Irregular Warfare Center.

[''](7) Brooks Center for Maritime Engagement.

[''](b) Naval Criminal Investigative Service.

[''](c) United States Fleet Cyber Command.

[''](d) Headquarters, Marine Corps Intelligence Department and subordinate activities, United States Marine Corps.

[''](e) Marine Forces Cyber Command, United States Marine Corps.

[''](f) Naval Computer and Telecommunications Station, San Diego, Detachment, Naval Strategic Communications Unit, Tinker Air Force Base.

[''](g) Naval Information Force Reserve, Navy Reserve Force.

[''](h) Center for Information Warfare Training, Naval Education and Training Command.

[''](i) Naval Special Warfare Command (NSW).

[''](j) Marine Special Operations Command (MARSOC).

[''](k) Navy Information Operations Commands and Detachments.

[''](l) Naval Communications Security Material System.'';

(c) revising section 1–206 to read as follows:

''1–206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

[''](a) Headquarters, 24th Air Force and Air Forces Cyber, Joint Force Headquarters, Air Force Space Command [now United States Space Force], and the following elements under its operational control:

[''](1) 67th Cyberspace Wing.

[''](2) 624th Operations Center.

[''](3) The following subdivisions of the 688th Cyberspace Operations Wing:

[''](A) 318th Cyberspace Operations Group.

[''](B) 688th Cyberspace Operations Group.

[''](4) 5th Combat Communications Group.

[''](b) Headquarters, 25th Air Force, Air Combat Command, and the following wings, groups, and elements under the operational control of the 25th Air Force:

[''](1) 70th Intelligence, Surveillance and Reconnaissance Wing.

[''](2) 363rd Intelligence, Surveillance and Reconnaissance Wing.

[''](3) 480th Intelligence, Surveillance and Reconnaissance Wing.

[''](4) 625th Operations Center.

[''](5) The following subdivisions of the 9th Reconnaissance Wing:

[''](A) 9th Operations Group.

[''](B) 69th Reconnaissance Group.

[''](6) 55th Operations Group, 55th Wing.

[''](c) Air Force Technical Applications Center (AFTAC), 25th Air Force, Air Combat Command.

[''](d) Office of the Deputy Chief of Staff, Intelligence, Surveillance and Reconnaissance (A2), Headquarters, United States Air Force, and all A2 staff within Air Force Commands, Air Force Service Component Commands, Field Operating Agencies, and Direct Reporting Units.

[''](e) National Air and Space Intelligence Center and all elements under its operational control.

[''](f) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

[''](1) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

[''](A) Mission Support Group.

[''](B) Medical Group.

[''](2) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

[''](A) Mission Support Group.

[''](B) Medical Group.

[''](g) Air Force Office of Special Investigations.

[''](h) 17th Training Wing, Air Education and Training Command, Goodfellow Air Force Base, Texas.'';

(d) revising section 1–207 to read as follows:

''1–207. Defense Intelligence Agency, Department of Defense.'';

(e) revising section 1–208 to read as follows:

''1–208. Defense Security Service, Department of Defense.'';

(f) revising section 1–212 to read as follows:

''1–212. Agencies or subdivisions under the authority of the Chairman of the Joint Chiefs of Staff and the Commanders of the Combatant Commands, Department of Defense.

[''](a) Office of the Chairman of the Joint Chiefs of Staff (OCJCS) and the Joint Staff.

[''](b) United States Africa Command (USAFRICOM).

[''](c) United States Central Command (USCENTCOM).

[''](d) United States European Command (USEUCOM).

[''](e) United States Pacific Command (USPACOM) [now United States Indo-Pacific Command].

[''](f) United States Southern Command (USSOUTHCOM).

[''](g) North American Aerospace Defense Command (NORAD).

[''](h) United States Northern Command (USNORTHCOM).

[''](i) Headquarters, United States Transportation Command (USTRANSCOM), and its subordinate command, the Joint Enabling Capabilities Command.

[''](j) United States Strategic Command (USSTRATCOM) and all components, centers, or sub-unified commands currently assigned to USSTRATCOM, including the following:

[''](1) United States Cyber Command (USCYBERCOM).

[''](2) Joint Functional Component Command—Global Strike (JFCC GS).

[''](3) Joint Functional Component Command—Space (JFCC Space).

[''](4) Joint Functional Component Command—Integrated Missile Defense (JFCC IMD).

[''](5) Joint Functional Component Command—Intelligence, Surveillance and Reconnaissance (JFCC ISR).

[''](6) USSTRATCOM Center for Combating Weapons of Mass Destruction (SCC WMD).

[''](7) Standing Joint Force Headquarters for Elimination (SJFHQ–E).

[''](8) Joint Warfare Analysis Center (JWAC).

[''](k) United States Special Operations Command (USSOCOM) and all components and sub-unified commands under its administrative and operational control, including the following:

[''](1) Components:

[''](A) Marine Special Operations Command (MARSOC).

[''](B) Naval Special Warfare Command (NSW).

[''](C) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

[''](i) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

[''](I) Mission Support Group.

[''](II) Medical Group.

[''](ii) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

[''](I) Mission Support Group.

[''](II) Medical Group.

[''](D) United States Army Special Operations Command (USASOC).

[''](2) Sub-unified Commands:

[''](A) Joint Special Operations Command (JSOC).

[''](B) Special Operations Command Korea (SOCKOR).

[''](C) Special Operations Command Europe (SOCEUR).

[''](D) Special Operations Command South (SOCSOUTH).

[''](E) Special Operations Command Pacific (SOCPAC).

[''](F) Special Operations Command Africa (SOCAFRICA).

[''](G) Special Operations Command Central (SOCCENT).

[''](H) Special Operations Command North (SOCNORTH).'';

(g) revising section 1–215 to read as follows:

''Sec. 1–215. National Geospatial-Intelligence Agency (NGA), Department of Defense.''; and

(h) inserting after section 1–216 the following new sections:

''1–217. Defense Advanced Research Projects Agency, Department of Defense.

['']1–218. National Reconnaissance Office, Department of Defense.

['']1–219. Office of the Under Secretary of Defense for Intelligence, Department of Defense.

['']1–220. Field Detachment, Defense Contract Audit Agency, Department of Defense.

['']1–221. Special Programs Directorate, Defense Contract Management Agency, Department of Defense.

['']1–222. The following subdivisions of the Defense Information Systems Agency, Department of Defense:

[''](a) Joint Force Headquarters—Department of Defense Information Networks.

[''](b) White House Communications Agency.

['']1–223. The following subdivisions of the Defense Logistics Agency, Department of Defense:

[''](a) Defense Logistics Agency Intelligence.

[''](b) Joint Logistics Operations Center.

[''](c) Computer Emergency Response Team and Incident Response Branch.

['']1–224. Strategic Capabilities Office, Department of Defense.''.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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.

BARACK OBAMA.

DELEGATION OF CERTAIN AUTHORITY UNDER THE FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

Memorandum of President of the United States, Jan. 29, 2020, 85 F.R. 10033, which delegated to the Secretary of Defense authority under subsec. (b)(1) and (2) of this section to issue orders excluding Department of Defense agencies or subdivisions thereof from Federal Service Labor-Management Relations Act coverage, was revoked by Ex. Ord. No. 14018, §1, Feb. 24, 2021, 86 F.R. 11855.

§ 7104. Federal Labor Relations Authority

(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.

(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of—

(1) the date on which the member's successor takes office, or

(2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may—

(A) investigate alleged unfair labor practices under this chapter,

(B) file and prosecute complaints under this chapter, and

(C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

(Added Pub. L. 95–454, title VII, §701, Oct. 13, 1978, 92 Stat. 1196; amended Pub. L. 98–224, §3, Mar. 2, 1984, 98 Stat. 47.)

Editorial Notes

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–224, §3(a), inserted provision directing that Chairman be chief executive and administrative officer.

Subsec. (c). Pub. L. 98–224, §3(b), substituted provision that a member of Authority be appointed for a term of 5 years and an individual chosen to fill a vacancy be appointed for unexpired term of member replaced for provision that one original member of Authority be appointed for a term of 1 year, one for a term of 3 years, and Chairman for a term of 5 years, and thereafter each member be appointed for a term of 5 years.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsection (e) of this section relating to transmittal to Congress of an annual report on cases heard and decisions rendered, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 171 of House Document No. 103–7.

Executive Documents

DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74935, provided:

Memorandum for the Chairman of the Federal Labor Relations Authority

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to the member who has been designated by the President as Chairman the functions conferred upon the President by 5 U.S.C. 7104(e) to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 7105. Powers and duties of the Authority

(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;

(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

(b) The Authority shall adopt an official seal which shall be judicially noticed.

(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.

(e)(1) The Authority may delegate to any regional director its authority under this chapter—

(A) to determine whether a group of employees is an appropriate unit;

(B) to conduct investigations and to provide for hearings;

(C) to determine whether a question of representation exists and to direct an election; and

(D) to supervise or conduct secret ballot elections and certify the results thereof.

(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

(1) the date of the action; or

(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

(g) In order to carry out its functions under this chapter, the Authority may—

(1) hold hearings;

(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court,

attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1196.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (a)(2)(D), (E), (G), and (H) of this section suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(a) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws—

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from—

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1198.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

§ 7111. Exclusive recognition of labor organizations

(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

(b) If a petition is filed with the Authority—

(1) by any person alleging—

(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

(c) A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and

shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose—

(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

(A) the collective bargaining agreement has been in effect for more than 3 years, or

(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1199.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7112. Determination of appropriate units for labor organization representation

(a) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of the agency involved.

(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

(2) a confidential employee;

(3) an employee engaged in personnel work in other than a purely clerical capacity;

(4) an employee engaged in administering the provisions of this chapter;

(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

(1) which represents other individuals to whom such provision applies; or

(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1200; amended Pub. L. 102–378, § 2(54), Oct. 2, 1992, 106 Stat. 1354.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–378 struck out ''(1)'' after subsec. (a) designation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7113. National consultation rights

(a) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) be permitted reasonable time to present its views and recommendations regarding the changes.

(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1201; amended Pub. L. 102–378, § 2(55), Oct. 2, 1992, 106 Stat. 1354.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–378 struck out ''(1)'' after subsec. (a) designation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7114. Representation rights and duties

(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from—

(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

(B) exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under this chapter.

(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

(A) which is normally maintained by the agency in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1202.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (a)(1) and (4) of this section suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(b) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7115. Allotments to representatives

(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1203.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7116. Unfair labor practices

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121(e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

(e) The expression of any personal view, argument, opinion or the making of any statement which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

(2) corrects the record with respect to any false or misleading statement made by any person, or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1204.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (a)(5) of this section suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces, and subsec. (a)(7) of this section suspended with regard to any regulation governing the implementation by the United States Forces, of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(b), (c) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7117. Duty to bargain in good faith; compelling need; duty to consult

(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative

represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

(B) the Authority determines that a compelling need for a rule or regulation does not exist.

(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

(A) filing a petition with the Authority; and

(B) furnishing a copy of the petition to the head of the agency.

(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

(A) file with the Authority a statement—

(i) withdrawing the allegation; or

(ii) setting forth in full its reasons supporting the allegation; and

(B) furnish a copy of such statement to the exclusive representative.

(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1205.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (b) of this section suspended with regard to any regulation governing the implementation by the United States Forces, and subsec. (c) of this section suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces, of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(b), (c) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7118. Prevention of unfair labor practices

(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and

may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

(A) of the charge;

(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and

(C) of the time and place fixed for the hearing.

(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

(C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1207.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7119. Negotiation impasses; Federal Service Impasses Panel

(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

(1) either party may request the Federal Service Impasses Panel to consider the matter, or

(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

(i) recommend to the parties procedures for the resolution of the impasse; or

(ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

(i) hold hearings;

(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1208.)

Editorial Notes

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c)(4), is set out under section 5332 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

Executive Documents

DELEGATION OF REMOVAL AUTHORITY OVER THE FEDERAL SERVICE IMPASSES PANEL

Memorandum of President of the United States, Nov. 12, 2019, 84 F.R. 63789, provided:

Memorandum for the Federal Labor Relations Authority

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Delegation of Removal Authority*. (a) The Federal Labor Relations Authority (FLRA) is delegated the authority under 5 U.S.C. 7119(c)(3) to remove the Chairman and any other member of the Federal Service Impasses Panel (FSIP) appointed by the President under 5 U.S.C. 7119(c)(2).

(b) In exercising the authority delegated by this section, the FLRA shall consider the extent to which decisions of members of the FSIP are consistent with the requirements of Chapter 71 of title 5, United States Code, with particular attention to whether the decisions are consistent with the requirement of an effective and efficient Government, as those terms are used in 5 U.S.C. 7101(b), in addition to any other factors that the FLRA may consider appropriate.

(c) Within 10 days of exercising the authority delegated by this section, the FLRA shall submit a report to the President, through the Assistant to the President for Domestic Policy, explaining the reasons for its action, with particular emphasis on explaining how such action promotes an effective and efficient Government under 5 U.S.C. 7101(b).

(d) The authority delegated by this section may not be redelegated.

SEC. 2. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) 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.

(d) The FLRA is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 7120. Standards of conduct for labor organizations

(a) An agency shall only accord recognition to a labor organization that is free from corrupt in-

fluences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1210.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

Editorial Notes

AMENDMENTS

1979—Pub. L. 96–54, § 2(a)(42), Aug. 14, 1979, 93 Stat. 383, inserted ", APPEALS, AND REVIEW" after "GRIEVANCES".

§ 7121. Grievance procedures

(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d), (e), and (g) of this section, the procedures shall be the exclusive administrative procedures for resolving grievances which fall within its coverage.

(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

(b)(1) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

(A) be fair and simple,

(B) provide for expeditious processing, and

(C) include procedures that—

(i) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

(ii) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

(iii) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.

(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

(2) retirement, life insurance, or health insurance;

(3) a suspension or removal under section 7532 of this title;

(4) any examination, certification, or appointment; or

(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

(3) The remedies described in this paragraph are as follows:

(A) An appeal to the Merit Systems Protection Board under section 7701.

(B) A negotiated grievance procedure under this section.

(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

(4) For the purpose of this subsection, a person shall be considered to have elected—

(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).

(h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1211; amended Pub. L. 103–424, § 9, Oct. 29, 1994, 108 Stat. 4365; Pub. L. 105–261, div. A, title XI, § 1104(b), Oct. 17, 1998, 112 Stat. 2142.)

Editorial Notes

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–261 added subsec. (h).

1994—Subsec. (a)(1). Pub. L. 103–424, § 9(c), substituted ''(d), (e), and (g)'' for ''(d) and (e)'' and inserted ''administrative'' after ''exclusive''.

Subsec. (b). Pub. L. 103–424, § 9(a), designated existing provisions as par. (1) and redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and subpars. (A) to (C) of former par. (3) as cls. (i) to (iii) of subpar. (a)(1)(C), respectively, and added par. (2).

Subsec. (g). Pub. L. 103–424, § 9(b), added subsec. (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (b)(3)(C) of this section suspended with respect to any grievance involving the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(d) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

§ 7122. Exceptions to arbitral awards

(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient—

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1212; amended Pub. L. 98–224, § 4, Mar. 2, 1984, 98 Stat. 48.)

Editorial Notes

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–224 amended subsec. (b) generally, substituting ''beginning on the date the award is served on the party'' for ''beginning on the date of such award''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7123. Judicial review; enforcement

(a) Any person aggrieved by any final order of the Authority other than an order under—

(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if sup-

ported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1213.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (b) of this section suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(a) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

§ 7131. Official time

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section—

(1) any employee representing an exclusive representative, or

(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1214.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

Executive Documents

EXECUTIVE ORDER NO. 13837

Ex. Ord. No. 13837, May 25, 2018, 83 F.R. 25335, which limited the use of taxpayer-funded union time by Federal employees in representing labor organizations and performing other non-agency business, was revoked by Ex. Ord. No. 14003, § 3(b), Jan. 22, 2021, 86 F.R. 7231, set out in a note under section 3301 of this title.

[Ex. Ord. No. 13837, formerly set out above, construed to be amended to the extent necessary, by Memorandum of President of the United States, Oct. 11, 2019, 84 F.R. 56095, set out as a note under section 7101 of this title.]

§ 7132. Subpenas

(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1214.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7133. Compilation and publication of data

(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1215.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7134. Regulations

The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1215.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7135. Continuation of existing laws, recognitions, agreements, and procedures

(a) Nothing contained in this chapter shall preclude—

(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.

(Added Pub. L. 95–454, title VII, § 701, Oct. 13, 1978, 92 Stat. 1215.)

Editorial Notes

REFERENCES IN TEXT

For the effective date of this chapter, referred to in text, as 90 days after the date of the enactment of Pub. L. 95–454, which was approved Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

Executive Orders 11491, 11616, 11636, and 11838, referred to in subsec. (b), are set out as notes under section 7101 of this title.

Executive Order 11787, referred to in subsec. (b), which was set out as a note under section 7701 of this title, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

[§§ 7151 to 7154. Transferred]

Editorial Notes

CODIFICATION

Section 7151, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523, which related to antidiscrimination policy of United States with respect to employment, was renumbered section 7201 of this title by Pub. L. 95–454, title VII, § 703(a)(1), Oct. 13, 1978, 92 Stat. 1216.

Section 7152, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 92–187, § 3, Dec. 15, 1971, 85 Stat. 644, which re-

lated to prohibition respecting employment discrimination because of marital status, was renumbered section 7202 of this title by Pub. L. 95–454, title VII, § 703(a)(1), Oct. 13, 1978, 92 Stat. 1216.

Section 7153, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523, which related to prohibition respecting employment discrimination because of physical handicap, was renumbered section 7203 of this title by Pub. L. 95–454, title VII, 703(a)(1), Oct. 13, 1978, 92 Stat. 1216.

Section 7154, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 90–83, § 1(44), Sept. 11, 1967, 81 Stat. 208; Pub. L. 92–392, § 8, Aug. 19, 1972, 86 Stat. 573, which related to prohibition respecting discrimination because of race, color, creed, sex, or marital status in administration of chapter 51, subchapter III and IV of chapter 53, and sections 305 and 3324 of this title, was renumbered section 7204 of this title by Pub. L. 95–454, title VII, § 703(a)(1), Oct. 13, 1978, 92 Stat. 1216.

CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

Sec.
7201. Antidiscrimination policy; minority recruitment program.
7202. Marital status.
7203. Handicapping condition.
7204. Other prohibitions.

SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

7211. Employees' right to petition Congress

Editorial Notes

AMENDMENTS

1978—Pub. L. 95–454, title VII, § 703(a)(2), Oct. 13, 1978, 92 Stat. 1217, struck out heading ''SUBCHAPTER II—ANTIDISCRIMINATION IN EMPLOYMENT'' and substituted therefor a chapter heading ''CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS'' together with the analysis of chapter 72 containing subchapters I, consisting of items 7201 to 7204, and subchapter II, consisting of item 7211.

SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

Editorial Notes

AMENDMENTS

1979—Pub. L. 96–54, § 2(a)(43), Aug. 14, 1979, 93 Stat. 383, added heading for subchapter I.

§ 7201. Antidiscrimination policy; minority recruitment program

(a) For the purpose of this section—

(1) ''underrepresentation'' means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

(2) ''category of civil service employment'' means—

(A) each grade of the General Schedule described in section 5104 of this title;

(B) each position subject to subchapter IV of chapter 53 of this title;

(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.

(b) It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. The President shall use his existing authority to carry out this policy.

(c) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extent practicable—

(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

(2) that the Office conduct a continuing program of—

(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

(B) evaluation and oversight and such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall—

(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and

(2) make determinations of underrepresentation which are proposed to be used initially under such program; and

(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection.

(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.