

order or preliminary injunction restraining the enforcement of such standard pending a determination of such issue on its merits.

(Pub. L. 91-173, title V, §513, Dec. 30, 1969, 83 Stat. 804.)

**§ 961. Functions transferred under 1977 amendments**

**(a) Transfer of functions to Secretary of Labor**

Except with respect to the functions assigned to the Secretary of the Interior pursuant to section 501 of the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 951], the functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, as amended [30 U.S.C. 801 et seq.], and the Federal Metal and Nonmetallic Mine Safety Act [30 U.S.C. 721 et seq.] are transferred to the Secretary of Labor, except those which are expressly transferred to the Commission by this Act. Effective on the date of enactment of this Act, Health<sup>1</sup> and Safety Academy is transferred to the Secretary of Labor.

**(b) Existing mandatory standards; review by advisory committee; recommendations**

(1) The mandatory standards relating to mines, issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act [30 U.S.C. 721 et seq.] and standards and regulations under the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 801 et seq.] which are in effect on November 9, 1977, shall remain in effect as mandatory health or safety standards applicable to metal and nonmetallic mines and to coal mines respectively under the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 801 et seq.] until such time as the Secretary of Labor shall issue new or revised mandatory health or safety standards applicable to metal and nonmetallic mines and new or revised mandatory health or safety standards applicable to coal mines.

(2) Within 60 days after November 9, 1977, the Secretary of Labor in consultation with the Secretary of the Interior shall establish an advisory committee under section 102 of the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 812] which shall, within 180 days after the date of the establishment of such advisory committee, review the advisory health and safety standards issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and recommend to the Secretary of Labor which of those standards (or any modifications of such standards which do not substantially diminish the health and safety of miners) should be promulgated as mandatory health or safety standards. The Secretary of Labor shall publish, within 60 days after any recommendations of the advisory committee under this paragraph, each of the standards so recommended for adoption with or without modifications as a proposed mandatory health or safety standard under this section by publication of such standard in the Federal Register, and afford interested persons a period of 25 days after publication to submit written data or comment. Within 30 days after the close

of the comment period specified in the preceding sentence, the Secretary of Labor shall promulgate by publication in the Federal Register mandatory health or safety standards based upon the advisory committee recommendation with or without modification, and the data and comments received thereon, unless the Secretary of Labor determines that such standards will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register.

**(c) Unexpended appropriations; personnel; property; records; obligations; commitments; savings provisions; pending proceedings and suits**

(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any functions transferred under the provisions of subsection (a) to the Secretary of Labor shall be transferred to the Department of Labor or the Commission, as appropriate. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission or other authorized officials, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department, agency, or component thereof, functions of which are transferred by this section, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor or the Federal Mine Safety and Health Review Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this section had not been enacted.

(4) The provisions of this section shall not affect suits commenced prior to the date this sec-

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

tion takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary of Labor. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

**(d) "Function" defined**

For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer<sup>2</sup> or officer of such agency or department.

**(e) Determinations by Director of Office of Management and Budget**

The Director of the Office of Management and Budget in consultation with the Secretary of Labor and the Secretary of the Interior is authorized and directed to make such determinations as may be necessary with regard to the dispositions of personnel, personnel positions, property, records, assets, liabilities, contracts, obligations, commitments, unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

(Pub. L. 95-164, title III, §301, Nov. 9, 1977, 91 Stat. 1317; Pub. L. 96-38, title I, §100, July 25, 1979, 93 Stat. 111.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Federal Coal Mine Health and Safety Act of 1969, referred to in subsecs. (a) and (b)(1), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, §101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to this chapter (§801 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Federal Metal and Nonmetallic Mine Safety Act, referred to in subsecs. (a) and (b), is Pub. L. 89-577, Sept. 16, 1966, 80 Stat. 772, which was classified generally to chapter 21 (§721 et seq.) of this title and was repealed by Pub. L. 95-164, title III, §306(a), Nov. 9, 1977, 91 Stat. 1322.

<sup>2</sup> So in original. Probably should be "office".

This Act, referred to in subsecs. (a), (c)(1), and (e), means Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290, known as the Federal Mine Safety and Health Amendments Act of 1977, which enacted sections 822 to 825 and 961 of this title and section 557a of Title 29, Labor, amended sections 801 to 804, 811 to 821, 842, 861, 878, 951 to 955, 958, and 959 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, repealed sections 721 to 740 of this title and section 1456a of Title 43, Public Lands, and enacted provisions set out as notes under sections 801 and 954 of this title and section 11 of former Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 801 of this title and Tables.

The date of enactment of this Act, referred to in subsec. (a), is the date of enactment of Pub. L. 95-164, which was approved Nov. 9, 1977.

The Health and Safety Academy, referred to in subsec. (a), probably means the National Mine Health and Safety Academy. See section 952(c) of this title.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(1), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95-164, title I, §101, Nov. 9, 1977, 91 Stat. 1290, which is classified principally to this chapter (§801 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

For the time this section takes effect, referred to in subsec. (c)(2) and (4), see Effective Date of 1977 Amendment note set out under section 801 of this title.

**CODIFICATION**

Section was enacted as part of Pub. L. 95-164, known as the Federal Mine Safety and Health Amendments Act of 1977, and not as part of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977 which comprises this chapter.

**AMENDMENTS**

1979—Subsec. (a). Pub. L. 96-38 inserted provision transferring the Health and Safety Academy to the Secretary of Labor.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

For the effective date of this section, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

**§ 962. Acceptance of contributions and prosecution of projects; cooperative programs to promote health and safety education and training; recognition and funding of Joseph A. Holmes Safety Association; use of funds for costs of mine rescue and survival operations**

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization: