

chapter 23 of title 42, or the requirement in section 2201(d) of title 42 that adequate provision be made for administrative review of a determination to dismiss an employee of the Atomic Energy Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

#### HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| .....             | 5 U.S.C. 22-2.   | Aug. 26, 1950, ch. 803, § 2, 64 Stat. 477.    |

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

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

#### SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

### § 7541. Definitions

For the purpose of this subchapter—

(1) “employee” means a career appointee in the Senior Executive Service who—

(A) has completed the probationary period prescribed under section 3393(d) of this title; or

(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

(2) “suspension” has the meaning set forth in section 7501(2) of this title.

(Added Pub. L. 95-454, title IV, § 411(2), Oct. 13, 1978, 92 Stat. 1174; amended Pub. L. 114-92, div. A, title XI, § 1105(c)(5), Nov. 25, 2015, 129 Stat. 1024; Pub. L. 117-81, div. A, title XI, § 1106(b)(2)(E), Dec. 27, 2021, 135 Stat. 1950.)

#### Editorial Notes

##### AMENDMENTS

2021—Par. (1)(A). Pub. L. 117-81 struck out “or section 1599e of title 10” after “section 3393(d) of this title”.

2015—Par. (1)(A). Pub. L. 114-92 inserted “or section 1599e of title 10” after “this title”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applied as if effective Dec. 31, 2022, to correspond to the effective date of the repeal of section 1599e of Title 10, Armed Forces, to reflect the probable intent of Congress. See Effective Date of Repeal note under section 1599e of Title 10.

##### EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as a note under section 3131 of this title.

### § 7542. Actions covered

This subchapter applies to a removal from the civil service or suspension for more than 14

days, but does not apply to an action initiated under section 1215 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 or 3595 of this title.

(Added Pub. L. 95-454, title IV, § 411(2), Oct. 13, 1978, 92 Stat. 1174; amended Pub. L. 97-35, title XVII, § 1704(d)(1), Aug. 13, 1981, 95 Stat. 758; Pub. L. 101-12, § 9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

#### Editorial Notes

##### AMENDMENTS

1989—Pub. L. 101-12 substituted “1215” for “1206”.

1981—Pub. L. 97-35 inserted reference to section 3595 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective June 1, 1981, with certain exceptions and conditions, see section 1704(e) of Pub. L. 97-35, set out as an Effective Date note under section 3595 of this title.

##### EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as a note under section 3131 of this title.

### § 7543. Cause and procedure

(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

(1) at least 30 days’ advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) be represented by an attorney or other representative; and

(4) a written decision and specific reasons therefor at the earliest practicable date.

(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice