

shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 1, 2, 3, or 6 of the Act entitled “An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (commonly known as the “Architectural Barriers Act of 1968”) or section 501 of the Rehabilitation Act of 1973 that applies to agencies of the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

(i) would be equally effective for the implementation of the rights and protections under this section; and

(ii) would promote uniformity in the application of Federal law to agencies of the executive branch of the Federal Government.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c) shall take effect on the earlier of—

- (1) the effective date of regulations issued under subsection (d); or
- (2) October 1, 1998.

(Added Pub. L. 104-331, §2(a), Oct. 26, 1996, 110 Stat. 4061; amended Pub. L. 106-92, §2, Nov. 9, 1999, 113 Stat. 1309.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (a) to (c), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. Sections 201 to 204, 302, 303, 308, and 309 of the Act are classified to sections 12131 to 12134, 12182, 12183, 12188, and 12189, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Sections 1, 2, 3, and 6 of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in subsec. (d)(2)(B), are classified to sections 4151 to 4153 and 4156, respectively, of Title 42.

Section 501 of the Rehabilitation Act of 1973, referred to in subsec. (d)(2)(B), is classified to section 791 of Title 29, Labor.

AMENDMENTS

1999—Subsecs. (a), (c). Pub. L. 106-92 substituted “Dwight D. Eisenhower Executive Office Building” for “Old Executive Office Building”.

EFFECTIVE DATE

Subsec. (d) of this section effective Oct. 26, 1996, see section 471(b) of this title.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

§ 425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations

(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970.

(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

(A) the term “employer” as used in such Act means an employing office; and

(B) the term “employee” as used in such Act means a covered employee.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970.

(c) PROCEDURES.—

(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the Secretary of Labor shall have the authority to inspect and investigate places of employment under the jurisdiction of employing offices in accordance with subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970.

(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—The Secretary of Labor shall have the authority, in accordance with sections 9 and 10 of the Occupational Safety and Health Act of 1970, to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

(B) a notification to any employing office that the Secretary of Labor believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the Secretary of Labor determines that a violation has not been corrected—

(A) the citation and notification shall be deemed a final order (within the meaning of section 10(b) of the Occupational Safety and Health Act of 1970) if the employer fails to notify the Secretary of Labor within 15 days (excluding Saturdays, Sundays, and Federal holidays) after receipt of the notice that the employer intends to contest the citation or notification; or

(B) opportunity for a hearing before the Occupational Safety and Health Review Commission shall be afforded in accordance with section 10(c) of the Occupational Safety and Health Act of 1970, if the employer gives timely notice to the Secretary that he intends to contest the citation or notification.

(4) VARIANCE PROCEDURES.—An employing office may request from the Secretary of Labor an order granting a variance from a standard made applicable by this section, in accordance with sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970.

(5) JUDICIAL REVIEW.—Any person or employing office aggrieved by a final decision of the Occupational Safety and Health Review Commission under paragraph (3) or the Secretary of Labor under paragraph (4) may file a petition for review with the United States Court

of Appeals for the Federal Circuit under section 1296 of title 28.

(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)—

(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 19 of the Occupational Safety and Health Act of 1970 that applies to agencies or employees of the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

(i) would be equally effective for the implementation of the rights and protections under this section; and

(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) EFFECTIVE DATE.—Subsections (a) through (c) shall take effect on the earlier of—

(1) the effective date of regulations issued under subsection (d); or

(2) October 1, 1998.

(Added Pub. L. 104-331, §2(a), Oct. 26, 1996, 110 Stat. 4062.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsecs. (a) to (c)(4) and (d)(2)(B), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. Sections 5, 6, 8 to 10, 13, and 19 of the Act are classified to sections 654, 655, 657 to 659, 662, and 668, respectively, of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

EFFECTIVE DATE

Subsec. (d) of this section effective Oct. 26, 1996, see section 471(b) of this title.

PART D—LABOR-MANAGEMENT RELATIONS

§ 431. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations

(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), chapter 71 of title 5 shall apply to employing offices and to covered employees and representatives of those employees, except that covered employees shall not have a right to reinstatement pursuant to section 7118(a)(7)(C) or 7123 of title 5.

(b) DEFINITION.—For purposes of the application under this section of chapter 71 of title 5, the term ‘‘agency’’ as used in such chapter means an employing office.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Federal Labor Relations Authority shall issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Authority to implement the statutory provisions referred to in subsection (a), except—

(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Authority may determine that a modification of such regulations is necessary to avoid a conflict of interest or appearance of a conflict of interest.

(d) SPECIFIC REGULATIONS REGARDING APPLICATIONS TO CERTAIN EMPLOYING OFFICES.—

(1) REGULATIONS REQUIRED.—The Authority shall issue regulations on the manner and the extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as the substantive regulations issued by the Authority under such chapter, except—

(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Authority shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Authority determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) the President's or Vice President's constitutional responsibilities.

(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—