4111, shall not apply to training under this section.

(f) The provisions of this section shall not otherwise affect the authority of the Secretary to provide training under chapter 41 of this title or under any other provision of law.

(Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 142; amended Pub. L. 96–347, § 1(b), (c)(1), Sept. 12, 1980, 94 Stat. 1150; Pub. L. 97–258, § 3(a)(7), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 103–226, § 2(b)(1), Mar. 30, 1994, 108 Stat. 112.)

REFERENCES IN TEXT

For definition of Secretary, referred to in subsec. (a), see section 2109 of this title.

Subsecs. (a) and (b) of section 4107 of this title, referred to in subsec. (e), were struck out, and subsecs. (c) and (d) of section 4107 were redesignated (a) and (b), respectively, by Pub. L. 103–226, § 2(a)(5)(B), Mar. 30, 1994, 108 Stat. 112. Subsequently, section 4107 was amended generally by Pub. L. 107–296, title XIII, § 1331(a), Nov. 25, 2002, 116 Stat. 2298.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–226 substituted ''4105,'' for ''4105(a),''.

1982—Subsec. (d). Pub. L. 97–258 substituted ''section 3324(a) and (b)'' for ''section 529''.

1980—Subsec. (a). Pub. L. 96–347, § 1(b), substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (c)(1). Pub. L. 96–347, § 1(c)(1), substituted ''in the Executive agency in which the controller is employed'' for ''in the Department of Transportation''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 2(c) of Pub. L. 103–226 provided that: ''The amendments made by this section [amending this section and sections 4101, 4103, 4105, 4107, 4108, 4113, and 4118 of this title and repealing sections 4106 and 4114 of this title] shall become effective on the date of enactment of this Act [Mar. 30, 1994].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE

Section 10 of Pub. L. 92–297 provided that: ''This Act [enacting this subchapter and section 2109 of this title, amending sections 3307, 8332, 8334 to 8336, 8339, 8341, 8344 of this title, enacting provisions set out as notes under this section and section 8335 of this title, and repealing provisions set out as a note under section 3307 of this title] shall become effective at the beginning of the ninetieth day after the date of enactment of this Act [May 16, 1972].''

REPORT TO CONGRESS

Section 9 of Pub. L. 92–297 directed the Secretary of Transportation to report to Congress no later than 5 years after May 16, 1972, concerning his operations under the amendments made by Pub. L. 92–297, including a detailed statement of the effectiveness of Pub. L. 92–297 in meeting the needs of the Air Traffic Controller career program and of the air traffic control system plus recommendations for the management of the program or the system.

§ 3382. Involuntary separation for retirement

An air traffic controller who is eligible for immediate retirement under section 8336 of this title may be separated involuntarily from the service if the Secretary determines that the separation of the controller is necessary in the interest of—

(1) aviation safety;

(2) the efficient control of air traffic; or

(3) the preservation of the physical or mental health of the controller.

Chapter 75 of this title does not apply to a determination or action under this section. Separation under this section shall not become final, without the consent of the controller, until the last day of the second month following the day the controller receives a notification of the determination by the Secretary under this section, or, if a review is requested under section 3383 of this title, the last day of the month in which a final decision is issued by a board of review under section 3383(c) of this title, whichever is later. A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training.

(Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 142; amended Pub. L. 96–347, § 1(b), Sept. 12, 1980, 94 Stat. 1150.)

REFERENCES IN TEXT

For definition of Secretary, referred to in text, see section 2109 of this title.

AMENDMENTS

1980—Pub. L. 96–347 in provisions preceding par. (1) substituted ''Secretary determines'' for ''Secretary of Transportation determines''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

§ 3383. Determinations; review procedures

(a) An air traffic controller subject to a determination by the Secretary under section 3381(a) or section 3382 of this title, shall be furnished a written notice of the determination and the reasons therefor, and a notification that the controller has 15 days after the receipt of the notification within which to file a written request for reconsideration of the determination. Unless the controller files such a request within the 15 days, or unless the determination is rescinded by the Secretary within the 15 days, the determination shall be final.

(b) If the Secretary does not rescind his determination within 15 days after his receipt of the written request filed by the controller under subsection (a) of this section, the Secretary shall immediately convene a board of review, consisting of—

(1) a person designated by the controller;

(2) a representative of the Executive agency in which the controller is employed designated by the Secretary; and

(3) a representative of the Merit Systems Protection Board, designated by the Chairman, who shall serve as chairman of the board of review.

(c) The board of review shall review evidence supporting and inconsistent with the determination of the Secretary and, within a period of 30 days after being convened, shall issue its findings and furnish copies thereof to the Secretary and the controller. The board may approve or rescind the determination of the Secretary. A decision by the board under this subsection is final. The Secretary shall take such action as may be necessary to carry out the decision of the board.

(d) Except as provided under section 3382 of this title, the review procedure of this section is in addition to any other review or appeal procedures provided under any other provision of law, but is the sole and exclusive administrative remedy available to a controller within the Executive agency in which such controller is employed.

(Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143; amended Pub. L. 95–454, title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225; Pub. L. 96–347, § 1(b), (c)(2), (3), Sept. 12, 1980, 94 Stat. 1150.)

REFERENCES IN TEXT

For definition of Secretary, referred to in text, see section 2109 of this title.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–347, § 1(b), substituted ''Secretary under'' for ''Secretary of Transportation under''.

Subsec. (b)(2). Pub. L. 96–347, § 1(c)(2), substituted ''the Executive agency in which the controller is employed'' for ''the Department of Transportation''.

Subsec. (d). Pub. L. 96–347, § 1(c)(3), substituted ''within the Executive agency in which such controller is employed'' for ''within the Department of Transportation''.

1978—Subsec. (b)(3). Pub. L. 95–454 substituted ''Merit Systems Protection Board'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

§ 3384. Regulations

The Secretary is authorized to issue regulations to carry out the provisions of this subchapter.

(Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143; amended Pub. L. 96–347, § 1(b), Sept. 12, 1980, 94 Stat. 1150.)

REFERENCES IN TEXT

For definition of Secretary, referred to in text, see section 2109 of this title.

AMENDMENTS

1980—Pub. L. 96–347 substituted ''Secretary'' for ''Secretary of Transportation''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

§ 3385. Effect on other authority

This subchapter shall not limit the authority of the Secretary to reassign temporarily an air traffic controller to other duties with or without notice, in the interest of the safe or efficient separation and control of air traffic or the physical or mental health of a controller; or to reassign permanently or separate a controller under any other provision of law.

(Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143; amended Pub. L. 96–347, § 1(b), Sept. 12, 1980, 94 Stat. 1150.)

REFERENCES IN TEXT

For definition of Secretary, referred to in text, see section 2109 of this title.

AMENDMENTS

1980—Pub. L. 96–347 substituted ''Secretary'' for ''Secretary of Transportation''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

PRIOR PROVISIONS

A prior subchapter VIII, added Pub. L. 95–437, § 3(a), Oct. 10, 1978, 92 Stat. 1056, which related to part-time career employment opportunities, was redesignated as chapter 34 of this title by Pub. L. 95–454, title IX, § 906(c)(1)(A), Oct. 13, 1978, 92 Stat. 1226.

§ 3391. Definitions

For the purpose of this subchapter, ''agency'', ''Senior Executive Service position'', ''senior executive'', ''career appointee'', ''limited term appointee'', ''limited emergency appointee'', ''noncareer appointee'', and ''general position'' have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95–454, title IV, § 403(a), Oct. 13, 1978, 92 Stat. 1161.)

PRIOR PROVISIONS

A prior section 3391, added Pub. L. 95–437, § 3(a), Oct. 10, 1978, 92 Stat. 1056, which related to definitions for part-time career employment opportunities, was renumbered as section 3401 of this title by Pub. L. 95–454, title IX, § 906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

EFFECTIVE DATE

Subchapter effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401