

and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 319b, 319c of this title.

§ 319a. Termination of easements; notice to grantees, successors or assignees; effective date

The instrument granting any such easement may provide for termination of the easement in whole or in part if there has been—

- (a) a failure to comply with any term or condition of the grant, or
- (b) a nonuse of the easement for a consecutive two-year period for the purpose for which granted, or
- (c) an abandonment of the easement.

If such a provision is included, it shall require that written notice of such termination shall be given to the grantee, or its successors or assigns. The termination shall be effective as of the date of such notice.

(Pub. L. 87-852, § 2, Oct. 23, 1962, 76 Stat. 1129.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 319, 319b, 319c of this title.

§ 319b. Additional easement authority

The authority conferred by sections 319 to 319c of this title shall be in addition to, and shall not affect or be subject to, any other law under which an executive agency may grant easements.

(Pub. L. 87-852, § 3, Oct. 23, 1962, 76 Stat. 1129.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as termi-

nating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 319, 319c of this title.

§ 319c. Definitions for easement provisions

As used in sections 319 to 319c of this title—

(a) The term “State” means the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(b) The term “executive agency” means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(c) The term “person” includes any corporation, partnership, firm, association, trust, estate, or other entity.

(d) The term “real property of the United States” excludes the public lands (including minerals, vegetative, and other resources) in the United States, including lands reserved or dedicated for national forest purposes, lands administered or supervised by the Secretary of the Interior in accordance with sections 1, 2, 3, and 4 of title 16, as amended and supplemented, Indian-owned trust and restricted lands, and lands acquired by the United States primarily for fish and wildlife conservation purposes and administered by the Secretary of the Interior, lands withdrawn from the public domain primarily under the jurisdiction of the Secretary of the Interior, and lands acquired for national forest purposes.

(Pub. L. 87-852, § 4, Oct. 23, 1962, 76 Stat. 1129.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 319, 319b of this title.

CHAPTER 5—HOURS OF LABOR AND SAFETY ON PUBLIC WORKS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

321 to 326. Repealed or Omitted.

SUBCHAPTER II—CONTRACT WORK HOURS AND SAFETY STANDARDS

327. “Secretary” defined.

328. Forty hour week; overtime compensation; contractual conditions; liability of employers for violation; withholding funds to satisfy liabilities of employers.

- Sec.
329. Contracts subject to this subchapter; workers covered; exceptions.
 (a) Contracts involving employment of laborers or mechanics.
 (b) Exceptions.
 (c) Inapplicability to small contracts.
330. Report of violations and withholding of funds for unpaid wages and liquidated damages.
 (a) Reports of inspectors; determination of amount of unpaid wages and liquidated damages; authorization for direct payments by Comptroller General.
 (b) Rights of action and intervention against contractors and sureties.
 (c) Right of contractors to appeal; limitations; administrative determination; review by Secretary and issuance of final decision; filing claim in United States Court of Federal Claims.
 (d) Applicability of other laws.
331. Limitations, variations, tolerances, and exemptions.
332. Violations; penalties.
333. Health and safety standards in building trades and construction industry.
 (a) Condition of contracts; proceedings for promulgation of regulations; hearing, consultation with Advisory Committee.
 (b) Compliance with section and regulations: inspections, hearings, orders, findings of fact, and decisions; application of sections 38 and 39 of title 41; opportunity for hearing; consequences of noncompliance: cancellation of contracts, completion contracts, additional costs, and withholding of assistance; non-application of section 330 of this title.
 (c) Jurisdiction; cause shown; enforcement of compliance.
 (d) Finding of ineffective protection against violations; transmission of names of violators to Comptroller General; contract awards prohibition; termination of restriction and notification of Comptroller General and Government agencies; judicial review.
 (e) Advisory Committee on Construction Safety and Health; establishment; membership; appointment; representation of interests; advice in formulation of standards, regulations, and policy matters; appointment of experts or consultants; compensation, travel expenses, etc.
 (f) Safety programs: promotion; prevention of injuries through reports, data, and consultations with employers.
334. Contractor certification or contract clause in acquisition of commercial items.

SUBCHAPTER I—GENERAL PROVISIONS

§§ 321, 322. Repealed. Pub. L. 87-581, title II, § 203, Aug. 13, 1962, 76 Stat. 360

Section 321, acts Aug. 1, 1892, ch. 352, § 1, 27 Stat. 340; Mar. 3, 1913, ch. 106, 37 Stat. 726, related to an eight-hour day on public works or dredging or rock excavation performed for the United States or the District of Columbia. See section 328 of this title.

Section 322, acts Aug. 1, 1892, ch. 352, § 2, 27 Stat. 340; Mar. 3, 1913, ch. 106, 37 Stat. 726, related to violation of

these provisions and the penalties thereof. See section 332 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 60 days after Aug. 13, 1962, but shall not affect contracts existing or thereafter entered into pursuant to invitations for bids outstanding on Aug. 13, 1962, see section 204 of Pub. L. 87-581, set out as an Effective Date note under section 327 of this title.

SAVINGS PROVISION

Section 203 of Pub. L. 87-581 provided in part that: "The provisions of such statutes [sections 321, 322, and 324 to 326 of this title] shall, notwithstanding, continue to apply with respect to contracts existing on the effective date of this Act [see Effective Date note set out under section 327 of this title] or entered into pursuant to invitations for bids that are outstanding at the time of the enactment of this Act [Aug. 13, 1962]."

§ 323. Omitted

CODIFICATION

Section, acts Aug. 1, 1892, ch. 352, § 3, 27 Stat. 340; Mar. 3, 1913, ch. 106, 37 Stat. 727, provided that sections 321 and 322 of this title should not affect contracts entered into prior to Aug. 1, 1892.

§§ 324 to 326. Repealed. Pub. L. 87-581, title II, § 203, Aug. 13, 1962, 76 Stat. 360

Section 324, acts June 19, 1912, ch. 174, § 1, 37 Stat. 137; June 25, 1948, ch. 646, § 19, 62 Stat. 989, required public contracts to provide for an eight-hour day and stipulate penalties for violations, inspectors were to report violations, penalties were to be withheld by payor of moneys under contract, administrative appeals were available to parties aggrieved by penalties, and provided that final administrative decisions could be taken to Court of Claims. See section 330 of this title.

Section 325, act June 19, 1912, ch. 174, § 2, 37 Stat. 138, related to excepted contracts, work which was included, waiver by President in time of war, conditions whereby penalties would not be imposed, and provided that it should be construed so as not to affect eight-hour law. See section 329 of this title.

Section 325a, act Sept. 9, 1940, ch. 717, title III, § 303, 54 Stat. 884, related to computation of wages on basic day rate of eight hours, and at one and one-half times basic rate for overtime compensation. See section 328 of this title.

Section 326, act Mar. 4, 1917, ch. 180, 39 Stat. 1192, related to suspension of eight-hour law in case of national emergency, and provided that overtime rates be paid at not less than time and one-half for work exceeding eight hours. See section 331 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 60 days after Aug. 13, 1962, but not affecting contracts existing or thereafter entered into pursuant to invitations for bids outstanding on Aug. 13, 1962, see section 204 of Pub. L. 87-581, set out as an Effective Date note under section 327 of this title.

SAVINGS PROVISION

The provisions of sections 321, 322, and 324 to 326 of this title applicable with respect to certain contracts, see section 203 of Pub. L. 87-581, set out as a note under section 321 of this title.

SUBCHAPTER II—CONTRACT WORK HOURS AND SAFETY STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 28 section 1499; title 39 section 410.

§ 327. "Secretary" defined

As used herein, the term "Secretary" means the Secretary of Labor, United States Department of Labor.

(Pub. L. 87-581, title I, §101, Aug. 13, 1962, 76 Stat. 357.)

REFERENCES IN TEXT

Herein, referred to in text, means title I of Pub. L. 87-581, Aug. 13, 1962, 76 Stat. 357, as amended, which enacted sections 327 to 333 of this title. For complete classification of title I to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Section 204 of Pub. L. 87-581 provided that: "This Act [see Short Title note below] shall take effect sixty days after its enactment, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the enactment of this Act [Aug. 13, 1962]."

SHORT TITLE

Section 1 of Pub. L. 87-581, as amended by Pub. L. 91-54, §2, Aug. 9, 1969, 83 Stat. 98, provided: "That this Act [enacting this section and sections 328 to 333 of this title, amending section 673c of former Title 5, Executive Departments and Government Officers and Employees, and section 1499 of Title 28, Judiciary and Judicial Procedure, repealing sections 321, 322, and 324 to 326 of this title, and enacting provisions set out as notes under this section, section 321 of this title, and section 1499 of Title 28] may be cited as the 'Work Hours and Safety Act of 1962' and title I [enacting this section and sections 328 to 333 of this title] may be cited as the 'Contract Work Hours and Safety Standards Act'."

DEFINITION OF "THIS ACT"

Section 2 of Pub. L. 87-581, as amended by Pub. L. 91-54, §2, Aug. 9, 1969, 83 Stat. 98, provided that: "As used in this Act [see Short Title note above], the term 'this Act' means the Work Hours and Safety Act of 1962 except in title I [this section and sections 328 to 333 of this title] where it means the Contract Work Hours and Safety Standards Act."

§ 328. Forty hour week; overtime compensation; contractual conditions; liability of employers for violation; withholding funds to satisfy liabilities of employers

(a) Notwithstanding any other provision of law, the wages of every laborer and mechanic employed by any contractor or subcontractor in his performance of work on any contract of the character specified in section 329 of this title shall be computed on the basis of a standard workweek of forty hours, and work in excess of such standard workweek shall be permitted subject to provisions of this section. For each workweek in which any such laborer or mechanic is so employed such wages shall include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of forty hours in the workweek.

(b) The following provisions shall be a condition of every contract of the character specified in section 329 of this title and of any obligation of the United States, any territory, or the District of Columbia in connection therewith:

(1) No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic, in any workweek in which he is employed on such work, to work in excess of forty hours in such workweek except in accordance with the provisions of this subchapter; and

(2) In the event of violation of the provisions of paragraph (1), the contractor and any subcontractor responsible therefor shall be liable to such affected employee for his unpaid wages and shall, in addition, be liable to the United States (or, in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages as provided therein. Such liquidated damages shall be computed, with respect to each individual employed as a laborer or mechanic in violation of any provision of this subchapter, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this subchapter. The governmental agency for which the contract work is done or by which financial assistance for the work is provided may withhold, or cause to be withheld, subject to the provisions of section 330 of this title, from any moneys payable on account of work performed by a contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as herein provided.

(Pub. L. 87-581, title I, §102, Aug. 13, 1962, 76 Stat. 357; Pub. L. 99-145, title XII, §1241(a), Nov. 8, 1985, 99 Stat. 734.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-145, §1241(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Notwithstanding any other provision of law, the wages of every laborer and mechanic employed by any contractor or subcontractor in his performance of work on any contract of the character specified in section 329 of this title shall be computed on the basis of a standard workday of eight hours and a standard workweek of forty hours, and work in excess of such standard workday or workweek shall be permitted subject to the provisions of this section. For each workweek in which any such laborer or mechanic is so employed, such wages shall include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of forty hours in the workweek, as the case may be."

Subsec. (b)(1). Pub. L. 99-145, §1241(a)(2)(A), struck out "eight hours in any calendar day or in excess of" before "forty hours in such workweek".

Subsec. (b)(2). Pub. L. 99-145, §1241(a)(2)(B), struck out "eight hours or in excess of" before "the standard workweek".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Jan. 1, 1986, see section 1241(c) of Pub. L. 99-145, set out as a note under section 35 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 329 of this title.

§ 329. Contracts subject to this subchapter; workers covered; exceptions

(a) Contracts involving employment of laborers or mechanics

The provisions of this subchapter shall apply, except as otherwise provided, to any contract which may require or involve the employment of laborers or mechanics upon a public work of the United States, of any territory, or of the Dis-

tract of Columbia, and to any other contract which may require or involve the employment of laborers or mechanics if such contract is one (1) to which the United States or any agency or instrumentality thereof, any territory, or the District of Columbia is a party, or (2) which is made for or on behalf of the United States, any agency or instrumentality thereof, any territory, or the District of Columbia, or (3) which is a contract for work financed in whole or in part by loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof under any statute of the United States providing wage standards for such work: *Provided*, That the provisions of section 328 of this title, shall not apply to work where the assistance from the United States or any agency or instrumentality as set forth above is only in that nature of a loan guarantee, or insurance. Except as otherwise expressly provided, the provisions of this subchapter shall apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor in the performance of any part of the work contemplated by any such contract, and for purposes of this subchapter, laborers and mechanics shall include workmen performing services in connection with dredging or rock excavation in any river or harbor of the United States or of any territory or of the District of Columbia, but shall not include any employee employed as a seaman.

(b) Exceptions

This subchapter shall not apply to contracts for transportation by land, air, or water, or for the transmission of intelligence, or for the purchase of supplies or materials or articles ordinarily available in the open market. This subchapter shall not apply with respect to any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act.

(c) Inapplicability to small contracts

This subchapter does not apply to a contract in an amount that is not greater than \$100,000.

(Pub. L. 87-581, title I, §103, Aug. 13, 1962, 76 Stat. 358; Pub. L. 103-355, title IV, §4104(c)(1), Oct. 13, 1994, 108 Stat. 3342.)

REFERENCES IN TEXT

The Walsh-Healey Public Contracts Act, referred to in subsec. (b), probably means act June 30, 1936, ch. 881, 49 Stat. 2036, as amended, known as the Walsh-Healey Act, which is classified generally to sections 35 to 45 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 35 of Title 41 and Tables. See also section 262 of Title 29, Labor.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-355 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 330, 333 of this title.

§ 330. Report of violations and withholding of funds for unpaid wages and liquidated damages

(a) Reports of inspectors; determination of amount of unpaid wages and liquidated damages; authorization for direct payments by Comptroller General

Any officer or person designated as inspector of the work to be performed under any contract of the character specified in section 329 of this title, or to aid in the enforcement or fulfillment thereof shall, upon observation or investigation, forthwith report to the proper officer of the United States, of any territory or possession, or of the District of Columbia, all violations of the provisions of this subchapter occurring in the performance of such work, together with the name of each laborer or mechanic who was required or permitted to work in violation of such provisions and the day or days of such violation. The amount of unpaid wages and liquidated damages owing under the provisions of this subchapter shall be administratively determined and the officer or person whose duty it is to approve the payment of moneys by the United States, the territory, or the District of Columbia in connection with the performance of the contract work shall direct the amount of such liquidated damages to be withheld for the use and benefit of the United States, said territory, or said District, and shall direct the amount of such unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under the provisions of this subchapter. The Comptroller General of the United States is authorized and directed to pay directly to such laborers and mechanics, from the sums withheld on account of underpayments of wages, the respective amounts administratively determined to be due, if the funds withheld are adequate, and, if not, an equitable proportion of such amounts.

(b) Rights of action and intervention against contractors and sureties

If the accrued payments withheld under the terms of the contracts, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to this subchapter, such laborers and mechanics shall, in the case of a department or agency of the Federal Government, have the rights of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(c) Right of contractors to appeal; limitations; administrative determination; review by Secretary and issuance of final decision; filing claim in United States Court of Federal Claims

Any contractor or subcontractor aggrieved by the withholding of a sum as liquidated damages as provided in this subchapter shall have the right, within sixty days thereafter, to appeal to the head of the agency of the United States or

of the territory for which the contract work is done or by which financial assistance for the work is provided, or to the Mayor of the District of Columbia in the case of liquidated damages withheld for the use and benefit of said District. Such agency head or Mayor, as the case may be, shall have authority to review the administrative determination of liquidated damages and to issue a final order affirming such determination; or, if it is found that the sum determined is incorrect or that the contractor or subcontractor violated the provisions of this subchapter inadvertently notwithstanding the exercise of due care on his part and that of his agents, recommendations may be made to the Secretary that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for such liquidated damages. The Secretary shall review all pertinent facts in the matter and may conduct such investigations as he deems necessary, so as to affirm or reject the recommendation. The decision of the Secretary shall be final. In all such cases in which a contractor or subcontractor may be aggrieved by a final order for the withholding of liquidated damages as hereinbefore provided, such contractor or subcontractor may, within sixty days after such final order, file a claim in the United States Court of Federal Claims: *Provided, however*, That final orders of the agency head, the Mayor of the District of Columbia or the Secretary, as the case may be, shall be conclusive with respect to findings of fact if such findings are supported by substantial evidence.

(d) Applicability of other laws

Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) shall be applicable with respect to the provisions of this subchapter, and section 276c of this title, shall be applicable with respect to those contractors and subcontractors referred to therein who are engaged in the performance of contracts subject to the provisions of this subchapter.

(Pub. L. 87-581, title I, §104, Aug. 13, 1962, 76 Stat. 358; 1967 Reorg. Plan No. 3, §401, eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 951; Pub. L. 93-198, title IV, §421, Dec. 24, 1973, 87 Stat. 789; Pub. L. 97-164, title I, §160(a)(13), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (d), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (c). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93-198. Accordingly, “Mayor” substituted in subsec. (c) for “commissioners”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 333 of this title; title 28 section 1499.

§ 331. Limitations, variations, tolerances, and exemptions

The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this subchapter as he may find necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business.

(Pub. L. 87-581, title I, §105, Aug. 13, 1962, 76 Stat. 359.)

§ 332. Violations; penalties

Any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed in the performance of any work contemplated by any contract to which this subchapter applies, who shall intentionally violate any provision of this subchapter, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine of not to exceed \$1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

(Pub. L. 87-581, title I, §106, Aug. 13, 1962, 76 Stat. 359.)

§ 333. Health and safety standards in building trades and construction industry

(a) Condition of contracts; proceedings for promulgation of regulations; hearing, consultation with Advisory Committee

It shall be a condition of each contract (other than a contract referred to in section 329(c) of this title) which is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and is for construction, alteration, and/or repair, including painting and decorating, that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which

are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary by regulation based on proceedings pursuant to section 553 of title 5, provided that such proceedings include a hearing of the nature authorized by said section. In formulating such standards, the Secretary shall consult with the Advisory Committee created by subsection (e) of this section.

(b) Compliance with section and regulations: inspections, hearings, orders, findings of fact, and decisions; application of sections 38 and 39 of title 41; opportunity for hearing; consequences of noncompliance: cancellation of contracts, completion contracts, additional costs, and withholding of assistance; non-application of section 330 of this title

The Secretary is authorized to make such inspections, hold such hearings, issue such orders, and make such decisions based on finding of fact, as are deemed necessary to gain compliance with this section and any health and safety standard promulgated by the Secretary under subsection (a) of this section, and for such purposes the Secretary and the United States district courts shall have the authority and jurisdiction provided by sections 38 and 39 of title 41. In the event that the Secretary of Labor determines noncompliance under the provisions of this section after an opportunity for an adjudicatory hearing by the Secretary of any condition of a contract of a type described in clause (1) or (2) of section 329(a) of this title, the governmental agency for which the contract work is done shall have the right to cancel the contract, and to enter into other contracts for the completion of the contract work, charging any additional cost to the original contractor. In the event of noncompliance, as determined by the Secretary after an opportunity for an adjudicatory hearing by the Secretary, of any condition of a contract of a type described in clause (3) of section 329(a) of this title, the governmental agency by which financial guarantee, assistance, or insurance for the contract work is provided shall have the right to withhold any such assistance attributable to the performance of the contract. Section 330 of this title shall not apply to the enforcement of this section.

(c) Jurisdiction; cause shown; enforcement of compliance

The United States district courts shall have jurisdiction for cause shown, in any actions brought by the Secretary, to enforce compliance with the construction safety and health standard promulgated by the Secretary under subsection (a) of this section.

(d) Finding of ineffective protection against violations; transmission of names of violators to Comptroller General; contract awards prohibition; termination of restriction and notification of Comptroller General and Government agencies; judicial review

(1) If the Secretary determines on the record after an opportunity for an agency hearing that, by repeated willful or grossly negligent violations of this subchapter, a contractor or subcontractor has demonstrated that the provisions

of subsections (b) and (c) of this section are not effective to protect the safety and health of his employees, the Secretary shall make a finding to that effect and shall, not sooner than thirty days after giving notice of the findings to all interested persons, transmit the name of such contractor or subcontractor to the Comptroller General.

(2) The Comptroller General shall distribute each name so transmitted to him to all agencies of the Government. Unless the Secretary otherwise recommends, no contract subject to this section shall be awarded to such contractor or subcontractor or to any person in which such contractor or subcontractor has a substantial interest until three years have elapsed from the date the name is transmitted to the Comptroller General. If, before the end of such three-year period, the Secretary, after affording interested persons due notice and opportunity for hearing, is satisfied that a contractor or subcontractor whose name he has transmitted to the Comptroller General will thereafter comply responsibly with the requirements of this section, he shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest); and when the Comptroller General is informed of the Secretary's action he shall inform all agencies of the Government thereof.

(3) Any person aggrieved by the Secretary's action under subsections (b) or (d) of this section may, within sixty days after receiving notice thereof, file with the appropriate United States court of appeals a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, who shall thereupon file in the court the record upon which he based his action, as provided in section 2112 of title 28. The findings of fact by the Secretary, if supported by substantial evidence, shall be final. The court shall have power to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Secretary or the appropriate Government agency. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(e) Advisory Committee on Construction Safety and Health; establishment; membership; appointment; representation of interests; advice in formulation of standards, regulations, and policy matters; appointment of experts or consultants; compensation, travel expenses, etc.

(1) The Secretary shall establish in the Department of Labor an Advisory Committee on Construction Safety and Health (hereinafter referred to as the "Advisory Committee") consisting of nine members appointed, without regard to the civil service laws, by the Secretary. The Secretary shall appoint one such member as Chairman. Three members of the Advisory Committee shall be persons representative of contractors to whom this section applies, three members shall be persons representative of employees primarily in the building trades and

construction industry engaged in carrying out contracts to which this section applies, and three public representatives who shall be selected on the basis of their professional and technical competence and experience in the construction health and safety field.

(2) The Advisory Committee shall advise the Secretary in the formulation of construction safety and health standards and other regulations, and with respect to policy matters arising in the administration of this section. The Secretary may appoint such special advisory and technical experts or consultants as may be necessary to carry out the functions of the Advisory Committee.

(3) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(f) Safety programs: promotion; prevention of injuries through reports, data, and consultations with employers

The Secretary shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employments covered by this subchapter, and to collect such reports and data and to consult with and advise employers as to the best means of preventing injuries.

(Pub. L. 87-581, title I, §107, as added Pub. L. 91-54, §1, Aug. 9, 1969, 83 Stat. 96; amended Pub. L. 103-355, title IV, §4104(c)(2), Oct. 13, 1994, 108 Stat. 3342.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

The civil service laws, referred to in subsec. (e)(1), are set forth in Title 5. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-355 inserted “(other than a contract referred to in section 329(c) of this title)” after “It shall be a condition of each contract”.

EFFECTIVE DATE 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established

by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 24312.

§ 334. Contractor certification or contract clause in acquisition of commercial items

(a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this subchapter.

(b) In subsection (a) of this section, the term “commercial item” has the meaning given such term in section 403(12) of Title 41.

(Pub. L. 87-581, title I, §108, as added Pub. L. 103-355, title VIII, §8301(b), Oct. 13, 1994, 108 Stat. 3396.)

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

CHAPTER 6—ACQUISITION OF SITES FOR AND CONSTRUCTION OF PUBLIC BUILDINGS

Sec.

341 to 345a. Repealed or Omitted.

345b. Disposition of obsolete buildings and sites; purchase price.

345c. Conveyance or transfer of Federal property to States or political subdivisions.

(a) Widening of public highways, streets, or alleys; determination by executive agency head.

(b) “Executive agency” defined.

(c) Highway purposes.

346 to 355. Repealed or Transferred.

356. Lease purchase contracts.

(a) Authority to procure space; terms; limitation on amount.

(b) Utilization of existing property.

(c) Agreements to effectuate purposes; development and improvement of land.

(d) Contract provisions; limitations on amount of payments.

(e) Omitted.

(f) Utilization of funds for payments; conditions.

(g) Postal purposes.

(h) State and local taxes.

(i) Separability.

(j) Applicability of other sections.

356a. Exercise of lease purchase contract authority.

(a) Southwestern portion of District of Columbia; conformance to Redevelopment Act; terms of contracts.

(b) Authority to exchange lands.

(c) Demolition of temporary buildings.

(d) Authority to negotiate purchase contracts.

357. Effect on Federal construction programs.