

# National Nuclear Security Administration Act

Updated February 24, 2020

Source: Title XXXII of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-65, as amended by the Energy and Water Development Appropriations Act, 2001, Pub. L. 106-377; the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106-398; the National Defense Authorization Act for Fiscal Year 2002, Pub. L. 107-107; the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136; the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. 108-375; the Energy Policy Act of 2005, Pub. L. 109-58; the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109-364; the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110-181; the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. 110-417; National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84; the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. 111-383; the National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239; the National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113-66; the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113-291; the National Defense Authorization Act for Fiscal year 2016, Pub. L. 114-92; the National Defense Authorization Act for Fiscal Year 2017, Pub. L. 114-328; Title XXXI of the National Defense Authorization Act for Fiscal Year 2018, Pub. L. 115-91; Title XXXI

of the National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232; and Title XXXI of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92.

# **TITLE XXXII—NATIONAL NUCLEAR SECURITY ADMINISTRATION**

50 USC 2401 note

## **SEC. 3201. SHORT TITLE.**

This title may be cited as the “National Nuclear Security Administration Act”.

## **SEC. 3202. UNDER SECRETARY FOR NUCLEAR SECURITY OF DEPARTMENT OF ENERGY.**

42 USC 7132

Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by adding at the end the following new subsection:

“(c) (1) There shall be in the Department an Under Secretary for Nuclear Security, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(2) The Under Secretary for Nuclear Security shall be appointed from among persons who—

“(A) have extensive background in national security, organizational management, and appropriate technical fields; and

“(B) are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the National Nuclear Security Administration in a manner that advances and protects the national security of the United States.

“(3) The Under Secretary for Nuclear Security shall serve as the Administrator for Nuclear Security under section 3212 of the National Nuclear Security Administration Act. In carrying out the functions of the Administrator, the Under Secretary shall be subject to the authority, direction, and control of the Secretary. Such authority, direction, and control may be delegated only to the Deputy Secretary of Energy, without redelegation”.

## **SEC. 3203. ESTABLISHMENT OF POLICY FOR NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) ESTABLISHMENT OF POLICY FOR ADMINISTRATION.—The Department of Energy Organization Act is amended by adding at the end of title II (42 U.S.C. 7131 et seq.) the following new section:

“ESTABLISHMENT OF POLICY FOR NATIONAL NUCLEAR  
SECURITY ADMINISTRATION

42 USC 7144

“Sec. 213. (a) The Secretary shall be responsible for establishing policy for the National Nuclear Security Administration.

“(b) The Secretary may direct officials of the Department who are not within the National Nuclear Security Administration to review the programs and activities of the Administration and to make recommendations to the Secretary regarding administration of those programs and activities, including consistency with other similar programs and activities of the Department.

“(c) The Secretary shall have adequate staff to support the Secretary in carrying out the Secretary's responsibilities under this section.”

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Department of Energy Organization Act is amended by inserting after the item relating to section 212 the following new item:

“213. Establishment of policy for National Nuclear Security Administration.”

**SEC. 3204. ORGANIZATION OF DEPARTMENT OF ENERGY COUNTERINTELLIGENCE AND INTELLIGENCE PROGRAMS AND ACTIVITIES.<sup>1</sup>**

(a) ESTABLISHMENT OF OFFICES.—The Department of Energy Organization Act (42 U.S.C. 7101 et seq.) is amended by inserting after section 213, as added by section 3203(a), the following new sections:

“ESTABLISHMENT OF SECURITY, COUNTERINTELLIGENCE, AND  
INTELLIGENCE POLICIES

42 USC 7144a

“Sec. 214. (a) The Secretary shall be responsible for developing and promulgating the security, counterintelligence, and intelligence policies of the Department. The Secretary may use the immediate staff of the Secretary to assist in developing and promulgating those policies.

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<sup>1</sup> **Amendments** – 2006 – Sec. 214 (as added by Sec. 3204(a) of Pub. L. 106-65). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(g), designated existing provision as subsec. (a) and added subsecs. (b) and (c). Sec. 215(b) (1), Sec. 216(b) (1) (as added by Sec. 3204(a) of Pub. L. 106-65). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(f), struck out “which shall be a position in the Senior Executive Service” and inserted “who shall be an employee in the Senior Executive Service, the Senior Intelligence Service, the Senior National Intelligence Service, or any other Service that the Secretary, in coordination with the Director of National Intelligence, considers appropriate”.

“(b) (1) There is within the Department an Intelligence Executive Committee. The Committee shall consist of the Deputy Secretary of Energy, who shall chair the Committee, and each Under Secretary of Energy.

“(2) The Committee shall be staffed by the Director of the Office of Intelligence and the Director of the Office of Counterintelligence.

“(3) The Secretary shall use the Committee to assist in developing and promulgating the counterintelligence and intelligence policies, requirements, and priorities of the Department.

“(c) In the budget justification materials submitted to Congress in support of each budget submitted by the President to Congress under title 31, United States Code, the amounts requested for the Department for intelligence functions and the amounts requested for the Department for counterintelligence functions shall each be specified in appropriately classified individual, dedicated program elements. Within the amounts requested for counterintelligence functions, the amounts requested for the National Nuclear Security Administration shall be specified separately from the amounts requested for other elements of the Department.

#### “OFFICE OF COUNTERINTELLIGENCE

42 USC 7144b

“Sec. 215. (a) There is within the Department an Office of Counterintelligence.

“(b)(1) The head of the Office shall be the Director of the Office of Counterintelligence, who shall be an employee in the Senior Executive Service, the Senior Intelligence Service, the Senior National Intelligence Service, or any other Service that the Secretary, in coordination with the Director of National Intelligence, considers appropriate. The Director of the Office shall report directly to the Secretary.

“(2) The Secretary shall select the Director of the Office from among individuals who have substantial expertise in matters relating to counterintelligence.

“(3) The Director of the Federal Bureau of Investigation may detail, on a reimbursable basis, any employee of the Bureau to the Department for service as Director of the Office. The service of an employee of the Bureau as Director of the Office shall not result in any loss of status, right, or privilege by the employee within the Bureau.

“(c) (1) The Director of the Office shall be responsible for establishing policy for counterintelligence programs and activities at Department facilities in order to reduce the threat

of disclosure or loss of classified and other sensitive information at such facilities.

“(2) The Director of the Office shall be responsible for establishing policy for the personnel assurance programs of the Department.

“(3) The Director shall inform the Secretary, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation on a regular basis, and upon specific request by any such official, regarding the status and effectiveness of the counterintelligence programs and activities at Department facilities.

“(d) (1) Not later than March 1 each year, the Director of the Office shall submit a report on the status and effectiveness of the counterintelligence programs and activities at each Department facility during the preceding year. Each such report shall be submitted to the following:

“(A) The Secretary.

“(B) The Director of Central Intelligence.

“(C) The Director of the Federal Bureau of Investigation.

“(D) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

“(E) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

“(2) Each such report shall include for the year covered by the report the following:

“(A) A description of the status and effectiveness of the counterintelligence programs and activities at Department facilities.

“(B) A description of any violation of law or other requirement relating to intelligence, counterintelligence, or security at such facilities, including—

(i) the number of violations that were investigated; and

(ii) the number of violations that remain unresolved.

“(C) A description of the number of foreign visitors to Department facilities, including the locations of the visits of such visitors.

“(D) The adequacy of the Department's procedures and policies for protecting national security information, making such recommendations to Congress as may be appropriate.

“(E) A determination of whether each Department of Energy national laboratory is in full compliance with all departmental security requirements and, in the case of any such laboratory that is not, what measures are being taken to bring that laboratory into compliance.

“(3) Not less than 30 days before the date that the report required by paragraph (1) is submitted, the director of each Department of Energy national laboratory shall certify in writing to the Director of the Office whether that laboratory is in full compliance with all departmental security requirements and, if not, what measures are being taken to bring that laboratory into compliance and a schedule for implementing those measures.

“(4) Each report under this subsection as submitted to the committees referred to in subparagraphs (D) and (E) of paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

“OFFICE OF INTELLIGENCE

42 USC 7144c

“Sec. 216. (a) There is within the Department an Office of Intelligence.

“(b)(1) The head of the Office shall be the Director of the Office of Intelligence, who shall be an employee in the Senior Executive Service, the Senior Intelligence Service, the Senior National Intelligence Service, or any other Service that the Secretary, in coordination with the Director of National Intelligence, considers appropriate. The Director of the Office shall report directly to the Secretary.

“(2) The Secretary shall select the Director of the Office from among individuals who have substantial expertise in matters relating to foreign intelligence.

“(c) Subject to the authority, direction, and control of the Secretary, the Director of the Office shall perform such duties and exercise such powers as the Secretary may prescribe.”

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Department of Energy Organization Act is amended by inserting after the item relating to section 213, as added by section 3203(b), the following new items:

“214. Establishment of security, counterintelligence, and intelligence policies.

“215. Office of Counterintelligence.

“216. Office of Intelligence.”

## Subtitle A—Establishment and Organization

50 USC 2401

### SEC. 3211. ESTABLISHMENT AND MISSION.

(a) ESTABLISHMENT.—There is established within the Department of Energy a separately organized agency to be known as the National Nuclear Security Administration (in this title referred to as the “Administration”).

(b) MISSION.—The mission of the Administration shall be the following:

- (1) To enhance United States national security through the military application of nuclear energy.
- (2) To maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile, including the ability to design, produce, and test, in order to meet national security requirements.
- (3) To provide the United States Navy with safe, militarily effective nuclear propulsion plants and to ensure the safe and reliable operation of those plants.
- (4) To promote international nuclear safety and nonproliferation.
- (5) To reduce global danger from weapons of mass destruction.
- (6) To support United States leadership in science and technology.

(c) OPERATIONS AND ACTIVITIES TO BE CARRIED OUT CONSISTENT WITH CERTAIN PRINCIPLES.—In carrying out the mission of the Administration, the Administrator shall ensure that all operations and activities of the Administration are consistent with the principles of

- (1) Protecting the environment;
- (2) Safeguarding the safety and health of the public and of the workforce of the Administration; and
- (3) Ensuring the Security of the nuclear weapons, nuclear material, and classified information in the custody of the Administration.<sup>2</sup>

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<sup>2</sup> **Amendment-2014-** Pub. L. 113-66, Div. C, Title XXXI, Sec. 3111 amended Sec 3211(c) by striking “protecting the environment and safeguarding the safety and health of the public and of the workforce of the Administration” and added subsections (1), (2), and (3).



**SEC. 3212. ADMINISTRATOR FOR NUCLEAR SECURITY.**<sup>3</sup>**(a) IN GENERAL.—**

(1) There is at the head of the Administration an Administrator for Nuclear Security (in this title referred to as the “Administrator”).

(2) Pursuant to subsection (c) of section 202 of the Department of Energy Organization Act (42 U.S.C. 7132), the Under Secretary for Nuclear Security of the Department of Energy serves as the Administrator.

**(b) FUNCTIONS.—**The Administrator has authority over, and is responsible for, all programs and activities of the Administration (except for the functions of the Deputy Administrator for Naval Reactors specified in the Executive order referred to in section 3216(b)), including the following:

- (1) Strategic management.
- (2) Policy development and guidance.
- (3) Budget formulation, guidance, and execution, and other financial matters.
- (4) Resource requirements determination and allocation.
- (5) Program management and direction.
- (6) Safeguards and security.
- (7) Emergency management.
- (8) Integrated safety management.
- (9) Environment, safety, and health operations.
- (10) Administration of contracts, including the management and operations of the nuclear weapons production facilities and the national security laboratories.

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<sup>3</sup> **Amendments** – 2014- Subsec. (a), Pub. L. 113-66, Div. C, Title XXXI, Sec. 3145 amended Sec 3212(c) by striking “section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))” after “for the purposes of” and inserting “section 1702(c) of title 41, United States Code.”

2013—Subsec. (d)(1), Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) struck out “as added by section 3202 of this Act,” before “(42 U.S.C. 7132)” in the text of subsection (a) (2).

2008 – Subsec. (b), Pub. L. 110-417, (Div. C, Title XXXI, Sec. 3111) redesignated paragraph (18) as (19) and added new paragraph (18) relating to functions of the Administrator and elimination of surplus fissile materials.

2004 – Subsec. (e), Pub. L. 108-375 (div. A, title IX, sec. 902(e)) struck out “JOINT” before “NUCLEAR WEAPONS COUNCIL” in the subsection heading and struck out “Joint” before “Nuclear Weapons Council” in the text of subsection (e).

2001 – Subsecs. (e), (f), Pub. L. 107-107 redesignated subsec. (e), relating to reorganization authority, as (f).

2000 – Subsec. (e), Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3159(a)), added subsec. (e) relating to reorganization authority. Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3152(b)), added subsec. (e) relating to membership on Joint Nuclear Weapons Council.

- (11) Intelligence.
- (12) Counterintelligence.
- (13) Personnel, including the selection, appointment, distribution, supervision, establishing of compensation, and separation of personnel in accordance with subtitle C of this title.
- (14) Procurement of services of experts and consultants in accordance with section 3109 of title 5, United States Code.
- (15) Legal matters.
- (16) Legislative affairs.
- (17) Public affairs.
- (18) Eliminating inventories of surplus fissile materials usable for nuclear weapons.
- (19) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

(c) **PROCUREMENT AUTHORITY.**—The Administrator is the senior procurement executive for the Administration for the purposes of section 1702(c) of title 41, United States Code.

(d) **POLICY AUTHORITY.**—The Administrator may establish Administration-specific policies, unless disapproved by the Secretary of Energy.

(e) **MEMBERSHIP ON NUCLEAR WEAPONS COUNCIL.**—The Administrator serves as a member of the Nuclear Weapons Council under section 179 of title 10, United States Code.

(f) **REORGANIZATION AUTHORITY.**—Except as provided by subsections (b) and (c) of section 3291:

- (1) The Administrator may establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the Administration, or transfer any function of the Administration.
- (2) Such authority does not apply to the abolition of organizational units or components established by law or the transfer of functions vested by law in any organizational unit or component.

**SEC. 3213. PRINCIPAL DEPUTY ADMINISTRATOR FOR NUCLEAR SECURITY.<sup>4</sup>****(a) IN GENERAL.—**

(1) There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.

(2) The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

**(b) DUTIES.—**Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.

**SEC. 3214. DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.<sup>5</sup>**

**(a) IN GENERAL.—**There is in the Administration a Deputy Administrator for Defense Programs, who is appointed by the President, by and with the advice and consent of the Senate.

**(b) DUTIES.—**Subject to the authority, direction, and control of the Administrator, the Deputy Administrator for Defense Programs shall perform such duties and exercise such powers as the Administrator may prescribe, including the following:

(1) Maintaining and enhancing the safety, reliability, and performance of the United States nuclear weapons stockpile, including the ability to design, produce, and test, in order to

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<sup>4</sup> **Source** – Pub. L. 106-65, div. C, title XXXII, Sec. 3213, as added Pub. L. 107-107, div. C, title XXXI, Sec. 3141(a) (2), Dec. 28, 2001, 115 Stat. 1370.

**Prior Provisions** – A prior section 2403, Pub. L. 106-65, div. C, title XXXII, Sec. 3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3157), Oct. 30, 2000, 114 Stat. 1654, 1654A-468, which related to status of Administration and contractor personnel within Department of Energy, was renumbered section 3220 of Pub. L. 106-65, by Pub. L. 107-107, div. C, title XXXI, Sec. 3141(a) (1), Dec. 28, 2001, 115 Stat. 1369, and transferred to 50 USC 2410.

<sup>5</sup> **Amendments** – 2001 – Subsec. (c). Pub. L. 107-107 struck out heading and text of subsec. (c). Text read as follows: "The head of each national security laboratory and nuclear weapons production facility shall, consistent with applicable contractual obligations, report to the Deputy Administrator for Defense Programs."

meet national security requirements.

(2) Directing, managing, and overseeing the nuclear weapons production facilities and the national security laboratories.

(3) Directing, managing, and overseeing assets to respond to incidents involving nuclear weapons and materials.

50 USC 2405

**SEC. 3215. DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION.**

(a) IN GENERAL.—There is in the Administration a Deputy Administrator for Defense Nuclear Nonproliferation, who is appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—Subject to the authority, direction, and control of the Administrator, the Deputy Administrator for Defense Nuclear Nonproliferation shall perform such duties and exercise such powers as the Administrator may prescribe, including the following:

(1) Preventing the spread of materials, technology, and expertise relating to weapons of mass destruction.

(2) Detecting the proliferation of weapons of mass destruction worldwide.

(3) Eliminating inventories of surplus fissile materials usable for nuclear weapons.

(4) Providing for international nuclear safety.

50 USC 2406

**SEC. 3216. DEPUTY ADMINISTRATOR FOR NAVAL REACTORS.**

(a) IN GENERAL.—

(1) There is in the Administration a Deputy Administrator for Naval Reactors. The director of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order shall serve as the Deputy Administrator for Naval Reactors.

(2) Within the Department of Energy, the Deputy Administrator shall report to the Secretary of Energy through the Administrator and shall have direct access to the Secretary and other senior officials in the Department.

(b) DUTIES.—The Deputy Administrator shall be assigned the responsibilities, authorities, and accountability for all functions of the Office of Naval Reactors under the Naval Nuclear Propulsion Executive Order.

(c) EFFECT ON EXECUTIVE ORDER.—Except as otherwise specified in this section and notwithstanding any other provision of this title, the provisions of the Naval Nuclear Propulsion Executive Order remain in full force and effect until changed by law.

(d) NAVAL NUCLEAR PROPULSION EXECUTIVE ORDER.—As used in this section, the Naval Nuclear Propulsion Executive Order is

Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note) (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 42 U.S.C. 7158 note)).

50 USC 2407

**SEC. 3217. GENERAL COUNSEL.**

There is a General Counsel of the Administration. The General Counsel is the chief legal officer of the Administration.

50 USC 2408

**SEC. 3218. STAFF OF ADMINISTRATION.<sup>6</sup>**

(a) **IN GENERAL.**—The Administrator shall maintain within the Administration sufficient staff to assist the Administrator in carrying out the duties and responsibilities of the Administrator.

(b) **RESPONSIBILITIES.**—The staff of the Administration shall perform, in accordance with applicable law, such of the functions of the Administrator as the Administrator shall prescribe. The Administrator shall assign to the staff responsibility for the following functions:

- (1) Personnel.
- (2) Legislative affairs.
- (3) Public affairs.
- (4) Liaison with the Department of Energy's Office of Intelligence and Counterintelligence.
- (5) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

50 USC 2409

**SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF ENERGY TO MODIFY ORGANIZATION OF ADMINISTRATION.<sup>7</sup>**

Notwithstanding the authority granted by section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) or any other provision of law, the Secretary of Energy may not establish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 3291.

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<sup>6</sup> **Amendments** – 2006 – Subsec. (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(e), added par. (4), and redesignated former par. (4) as (5).

<sup>7</sup> **Source** – Pub. L. 106-65, div. C, title XXXII, Sec. 3219, as added Pub. L. 106-377, Sec. 1(a) (2) (title III, Sec. 314(a)), Oct. 27, 2000, 114 Stat. 1441, 1441A-81.

**SEC. 3220. STATUS OF ADMINISTRATION AND CONTRACTOR PERSONNEL WITHIN DEPARTMENT OF ENERGY.<sup>8</sup>**

(a) STATUS OF ADMINISTRATION PERSONNEL.—Each officer or employee of the Administration –

(1) shall be responsible to and subject to the authority, direction, and control of—

(A) the Secretary acting through the Administrator and consistent with section 202(c) (3) of the Department of Energy Organization Act (42 U.S.C. 7132(c)(3));

(B) the Administrator; or

(C) the Administrator's designee within the Administration; and

(2) shall not be responsible to, or subject to the authority, direction, or control of, any other officer, employee, or agent of the Department of Energy.

(b) STATUS OF CONTRACTOR PERSONNEL.—Each officer or employee of a contractor of the Administration shall not be responsible to, or subject to the authority, direction, or control of, any officer, employee, or agent of the Department of Energy who is not an employee of the Administration, except for the Secretary of Energy consistent with section 202(c) (3) of the Department of Energy Organization Act (42 U.S.C. 7132(c)(3)).

(c) CONSTRUCTION OF SECTION.—Subsections (a) and (b) may not be interpreted to in any way preclude or interfere with the communication of technical findings derived from, and in accord with, duly authorized activities between —

(1) the head, or any contractor employee, of a national security laboratory or of a nuclear weapons production facility; and

(2) the Department of Energy, the President, or Congress.

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<sup>8</sup> **Amendments** – 2014- Subsec (b), Pub. L. 113-66, Div. C, title XXXI, Sec. 3145 amended Sec 3220(a) and (b) by inserting “(42 U.S.C. 7132(c) (3))” after “Department of Energy Organization Act.”

2009-Subsec. (e). Pub. L. 111-84, div. C, title XXXI, Sec. 3121, repealed sunset provision for consolidation of counterintelligence programs created by Pub. L. 109-364, div. C, title XXXI, Sec. 3117(a) (2) (B).

2006 – Subsec. (e). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(d), added subsec. (e) relating to status of Intelligence and Counterintelligence personnel.

Subsec. (e). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(a) (2) (B), imposed sunset provision effective September 30, 2010 stating: “(B) subsection (e) of section 3220 of the National Nuclear Security Administration Act (50 U.S.C. 2410), as added by this section, is repealed.”

2000 – Subsec. (a). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3157(1)), struck out "Administration, in carrying out any function of the" after "employee of the" in introductory provisions. Subsec. (b). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3157(2)), struck out ", in carrying out any function of the Administration," after "contractor of the Administration".

Subsec. (d). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3157(3)), added subsec. (d).

2014 – Subsec. (a). Pub. L. 113-391, (Div. C, Title XXXI, Sec. 3143) made technical amendments to subsection (c).

(d) PROHIBITION ON DUAL OFFICE HOLDING.—Except in accordance with sections 3212(a) (2) and 3216(a) (1):

(1) An individual may not concurrently hold or carry out the responsibilities of—

(A) a position within the Administration; and

(B) a position within the Department of Energy not within the Administration.

(2) No funds appropriated or otherwise made available for any fiscal year may be used to pay, to an individual who concurrently holds or carries out the responsibilities of a position specified in paragraph (1) (A) and a position specified in paragraph (1) (B), the basic pay, salary, or other compensation relating to any such position.

(e) STATUS OF INTELLIGENCE AND COUNTERINTELLIGENCE

PERSONNEL.—Notwithstanding the restrictions of subsections (a) and (b), each officer or employee of the Administration, or of a contractor of the Administration, who is carrying out activities related to intelligence or counterintelligence shall, in carrying out those activities, be subject to the authority, direction, and control of the Secretary of Energy or the Secretary's delegate.

50 USC 2411

## SEC. 3221. DIRECTOR FOR COST ESTIMATING AND PROGRAM EVALUATION<sup>9</sup>

(a) ESTABLISHMENT.—(1) There is in the Administration a Director for Cost Estimating and Program Evaluation (in this section referred to as the ‘Director’).

(2) The position of the Director shall be a Senior Executive Service position (as defined in section 3132(a) of title 5, United States Code).

(b) DUTIES.—(1) The Director shall be the principal advisor to the Administrator, the Deputy Secretary of Energy, and the Secretary of Energy with respect to cost estimation and program evaluation for the Administration. The Director shall report directly to the Administrator.

(2) The Administrator may not delegate responsibility for receiving or acting on communications from the Director with respect to cost estimation and program evaluation for the Administration.

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<sup>9</sup> **Added** -2014- Pub. L. 113-66, Div. C, Title XXXI Sec. 3112 added section 3221.

**Amendment** – 2015 - Pub. L. 113-391, (Div. C., Title XXXI, Sec. 3117) amended subsection (h) to renumber paragraphs (1) and (2) and paragraphs (2) and (3) respectively and to include a new paragraph (1).

**2018** – Pub. L. 115-232, (Subtitle B, Div. C, Title XXXI, Sec. 3113) redesignated subsection (h) as subsection (i) and inserted new subsection (h). Eliminated Exclusion of Capital Assets Acquisition Projects Section. **All amendments under this Section do not become effective until December 13, 2019.**

2020 – Pub. L. 116-92 added “The Director shall report directly to the Administrator” to Sec. 3221(b)(1).

(c) **ACTIVITIES FOR COST ESTIMATION.**—(1) The Director shall be the responsible for the following activities relating to cost estimation:

(A) Advising the Administrator on policies and procedures for cost analysis and estimation by the Administration, including the determination of confidence levels with respect to cost estimates.

(B) Reviewing cost estimates and evaluating the performance baseline for each major atomic energy defense acquisition program.

(C) Advising the Administrator on policies and procedures for developing technology readiness assessments for major atomic energy defense acquisition programs that are consistent with the guidelines of the Department of Energy for technology readiness assessments.

(D) Reviewing technology readiness assessments for such programs to ensure that such programs are meeting levels of confidence associated with appropriate overall system performance.

(E) As directed by the Administrator, conducting independent cost estimates for such programs.

(2) A review, evaluation, or cost estimate conducted under subparagraph (B), (D), or (E) of paragraph (1) shall be considered an inherently governmental function, but the Director may use data collected by a national security laboratory or a management and operating contractor of the Administration in conducting such a review, evaluation, or cost estimate.

(3) The Director shall submit in writing to the Administrator the following:

(A) The certification of the Director with respect to each review, evaluation, and cost estimate conducted under subparagraph (B), (D), or (E) of paragraph (1).

(B) A statement of the confidence level of the Director with respect to each such review, evaluation, and cost estimate, including an identification of areas of uncertainty, risk, and opportunity discovered in conducting each such review, evaluation, and cost estimate.

(d) **ACTIVITIES FOR PROGRAM EVALUATION.**—(1) The Director shall be responsible for the following activities relating to program evaluation:

(A) Reviewing and commenting on policies and procedures for setting requirements for the future-years nuclear security program under section 3253 and for



prioritizing and estimating the funding required by the Administration for that program.

(B) Reviewing the future-years nuclear security program on an annual basis to ensure that the program is accurate and thorough.

(C) Advising the Administrator on policies and procedures for analyses of alternatives for major atomic energy defense acquisition programs.

(D) As part of the planning, programming, and budgeting process of the Administration under sections 3251 and 3252, analyzing the planning phase of that process, advising on programmatic and fiscal year guidance, and managing the program review phase of that process.

(E) Developing and managing the submittal of the Selected Acquisition Reports and independent cost estimates on nuclear weapons systems undergoing major life extension under section 4217 of the Atomic Energy Defense Act (50 U.S.C. 2537).

(F) Reviewing cost and schedule baselines for projects under section 4713 of that Act (50 U.S.C. 2753) and managing notifications to the congressional defense committees of cost overruns under that section.

(2) A review conducted under paragraph (1)(B) shall be considered an inherently governmental function, but the Director may use data collected by a national security laboratory or a management and operating contractor of the Administration in conducting such a review.

(3) The Director shall submit to Congress a report on any major programmatic deviations from the future-years nuclear security program discovered in conducting a review under paragraph (1)(B) at or about the time the budget of the President is submitted to Congress under section 1105(a) of title 31, United States Code, for the next fiscal year.

(e) DATA COLLECTION AND ACCESSIBILITY.—The Administrator, acting through the Director, shall, as appropriate, seek to use procedures, processes, and policies for collecting cost data and making that data accessible that are similar to the procedures, processes, and policies used by the Defense Cost Analysis Resource Center of the Office of Cost Assessment and Program Evaluation of the Department of Defense for those purposes.

(f) STAFF.—The Administrator shall ensure that the Director has sufficient numbers of personnel who have competence in technical matters, budgetary matters, cost estimation, technology readiness analysis, and other appropriate matters to carry out the functions required by this section.

(g) **REPORTS BY DIRECTOR.**—The Director shall submit to Congress at or about the time that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 2015 through 2018, a report that includes the following:

(1) A description of activities conducted by the Director during the calendar year preceding the submission of the report that are related to the duties and activities described in this section.

(2) A list of all major atomic energy defense acquisition programs and a concise description of the status of each such program and project in meeting cost and critical schedule milestones.

(h) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to require duplicate reviews or cost estimates for major atomic energy defense acquisition programs by the Administration or other elements of the Department of Energy.

(i) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATION.**—The term ‘Administration’, with respect to any authority, duty, or responsibility provided by this section, does not include the Office of Naval Reactors.

(2) **MAJOR ATOMIC ENERGY DEFENSE ACQUISITION PROGRAM.**—The term ‘major atomic energy defense acquisition program’ means an atomic energy defense acquisition program of the Administration—

(A) the total project cost of which is more than \$500,000,000; or

(B) the total lifetime cost of which is more than \$1,000,000,000.

(3) **PERFORMANCE BASELINE.**—The term ‘performance baseline’, with respect to a major atomic energy defense acquisition program, means the key parameters with respect to performance, scope, cost, and schedule for the project budget of the program.

## Subtitle B—Matters Relating to Security

50 USC 2421

### SEC. 3231. PROTECTION OF NATIONAL SECURITY INFORMATION.

(a) **POLICIES AND PROCEDURES REQUIRED.**—The Administrator shall establish procedures to ensure the maximum protection of classified information in the possession of the Administration.

(b) **PROMPT REPORTING.**—The Administrator shall establish procedures to ensure prompt reporting to the Administrator of any significant problem, abuse, violation of law or Executive order, or deficiency relating to the management of classified information by personnel of the Administration.

50 USC 2422

### SEC. 3232. OFFICE OF DEFENSE NUCLEAR SECURITY.<sup>10</sup>

(a) **ESTABLISHMENT.**—There is within the Administration an Office of Defense Nuclear Security, headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for such position.

(b) **CHIEF OF DEFENSE NUCLEAR SECURITY.**—

(1) The head of the Office of Defense Nuclear Security is the Chief of Defense Nuclear Security, who shall report to the Administrator and shall implement the security policies directed by the Secretary and Administrator.

(2) The Chief shall have direct access to the Secretary and all

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<sup>10</sup> **Amendments** – 2006 – Heading. Pub. L. 109-364, div. C, title XXXI, Sec. 3117(b) (1) (A), struck out “Office of Defense Nuclear Counterintelligence and” in the heading.

Subsec. (a). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(b) (1) (B), added subsec. (a), and struck out text of former subsec. (a), which read as follows: “ESTABLISHMENT. — (1) There are within the Administration— (A) an Office of Defense Nuclear Counterintelligence; and (B) an Office of Defense Nuclear Security. (2) Each office established under paragraph (1) shall be headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for each such position.”

Subsec. (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(b) (1) (C) & (D), redesignated subsec. (c) as (b) and struck out text of former subsec. (b), which read as follows: “CHIEF OF DEFENSE NUCLEAR COUNTERINTELLIGENCE. — (1) The head of the Office of Defense Nuclear Counterintelligence is the Chief of Defense Nuclear Counterintelligence, who shall report to the Administrator and shall implement the counterintelligence policies directed by the Secretary and Administrator. (2) The Secretary shall appoint the Chief, in consultation with the Director of the Federal Bureau of Investigation, from among individuals who have special expertise in counterintelligence. If an individual to serve as the Chief of Defense Nuclear Counterintelligence is a Federal employee of an entity other than the Administration, the service of that employee as Chief shall not result in any loss of employment status, right, or privilege by that employee. (3) The Chief shall have direct access to the Secretary and all other officials of the Department and the contractors of the Department concerning counterintelligence matters. (4) The Chief shall be responsible for— (A) the development and implementation of the counterintelligence programs of the Administration to prevent the disclosure or loss of classified or other sensitive information; and (B) the development and administration of personnel assurance programs within the Administration.”

other officials of the Department and the contractors of the Department concerning security matters.

(3) The Chief shall be responsible for the development and implementation of security programs for the Administration, including the protection, control and accounting of materials, and for the physical and cyber security for all facilities of the Administration.

50 USC 2423

### **SEC. 3233. COUNTERINTELLIGENCE PROGRAMS.<sup>11</sup>**

(a) NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES.—The Secretary of Energy shall, at each national security laboratory and nuclear weapons production facility, establish and maintain a counterintelligence program adequate to protect national security information at that laboratory or production facility.

(b) OTHER FACILITIES.—The Secretary of Energy shall, at each Department facility not described in subsection (a) at which Restricted Data is located, assign an employee of the Office of Intelligence and Counterintelligence of the Department of Energy who shall be responsible for and assess counterintelligence matters at that facility.

50 USC 2424

### **SEC. 3234. PROCEDURES RELATING TO ACCESS BY INDIVIDUALS TO CLASSIFIED AREAS AND INFORMATION OF ADMINISTRATION.**

The Administrator shall establish appropriate procedures to ensure that any individual is not permitted unescorted access to any classified area, or access to classified information, of the Administration until that individual has been verified to hold the appropriate security clearances.

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<sup>11</sup> **Amendments** – 2009- Subsec. (a), (b). Pub. L. 111-84, div. C, title XXXI, Sec. 3121, repealed sunset provision (i) in each of subsections (a) and (b), striking ‘The Secretary of Energy shall’; and (ii) in subsection (b), striking ‘Office of Counterintelligence of the Department of Energy’ and inserting ‘Administration’” as required by Pub. L. 109-364, div. C, title XXXI, Sec. 3117(a) (2) (B).

2006 – Subsecs. (a), (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(c) (1), struck out “The Administrator shall” and inserted “The Secretary of Energy shall”.

Subsecs (a), (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(a)(2)(C) provides, effective September 30, 2010: “(C) section 3233 of the National Nuclear Security Administration Act (50 U.S.C. 2423) is amended— (i) in each of subsections (a) and (b), by striking ‘The Secretary of Energy shall’; and (ii) in subsection (b), by striking ‘Office of Counterintelligence of the Department of Energy’ and inserting ‘Administration.’” Subsec. (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3117(c) (2), struck out “Office of Defense Nuclear Counterintelligence” and inserted “Office of Counterintelligence of the Department of Energy”.

Pub. L. 116-92 deleted “Administration” and inserted “Department” and inserted “Intelligence and” after “Office of”.

**SEC. 3235. GOVERNMENT ACCESS TO INFORMATION ON ADMINISTRATION COMPUTERS.<sup>12</sup>**

(a) PROCEDURES REQUIRED.—The Administrator shall establish procedures to govern access to information on Administration computers. Those procedures shall, at a minimum, provide that any individual who has access to information on an Administration computer shall be required as a condition of such access to provide to the Administrator written consent which permits access by an authorized investigative agency to any Administration computer used in the performance of the duties of such employee during the period of that individual's access to information on an Administration computer and for a period of three years thereafter.

(b) EXPECTATION OF PRIVACY IN ADMINISTRATION COMPUTERS.—Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986 (Public Law 99–508; 100 Stat. 1848)), no user of an Administration computer shall have any expectation of privacy in the use of that computer.

(c) DEFINITION.—For purposes of this section, the term “authorized investigative agency” means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

**SEC. 3236. CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS.<sup>13</sup>**

(a) ANNUAL REPORT ON SPECIAL ACCESS PROGRAMS.—

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report on special access programs of the Administration.

(2) Each such report shall set forth—

(A) the total amount requested for such programs in the President's budget for the next fiscal year submitted under section 1105 of title 31, United States Code; and

(B) for each such program in that budget, the following:

(i) A brief description of the program.

(ii) A brief discussion of the major milestones

<sup>12</sup> **Amendment-2014-** Subsec. (c), Pub. L. 113-66, Div. C, Title XXXI, Sec. 3145 amended Sec. 3235(b) by inserting “(Public Law 99-508; 100 Stat. 1848)” after “of 1986”.

<sup>13</sup> **Amendment - 2015 –** Subsec. (b), Pub. L. 113-391, (Div. C, Title XXXI, Sec. 3143) made technical amendments to subsection (a) (2) (B) (iv).

established for the program.

(iii) The actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted.

(iv) The estimated total cost of the program and the estimated cost of the program for —

(I) the current fiscal year;

(II) the fiscal year for which the budget is submitted; and

(III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(b) ANNUAL REPORT ON NEW SPECIAL ACCESS PROGRAMS.—

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include--

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term “new special access program” means a special access program that has not previously been covered in a notice and justification under this subsection.

(c) REPORTS ON CHANGES IN CLASSIFICATION OF SPECIAL ACCESS PROGRAMS.—

(1) Whenever a change in the classification of a special access program of the Administration is planned to be made or whenever classified information concerning a special access program of the Administration is to be declassified and made public, the Administrator shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before

the date on which the proposed change or public announcement is to occur.

(3) If the Administrator determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Administration, the Administrator may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) NOTICE OF CHANGE IN SAP DESIGNATION CRITERIA.—Whenever there is a modification or termination of the policy and criteria used for designating a program of the Administration as a special access program, the Administrator shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e) WAIVER AUTHORITY.—

(1) The Administrator may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Administrator determines that inclusion of that information in the report would adversely affect the national security. The Administrator may waive the report-and-wait requirement in subsection (f) if the Administrator determines that compliance with such requirement would adversely affect the national security. Any waiver under this paragraph shall be made on a case-by-case basis.

(2) If the Administrator exercises the authority provided under paragraph (1), the Administrator shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) REPORT AND WAIT FOR INITIATING NEW PROGRAMS.—A special access program may not be initiated until—

(1) the congressional defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

## Subtitle C—Matters Relating to Personnel

50 USC 2441

### **SEC. 3241. AUTHORITY TO ESTABLISH CERTAIN CONTRACTING, PROGRAM MANAGEMENT, SCIENTIFIC, ENGINEERING, AND TECHNICAL POSITIONS.<sup>14</sup>**

The Administrator may, for the purposes of carrying out the responsibilities of the Administrator under this title, establish not more than 800 contracting, program management, scientific, engineering, and technical positions in the Administration, appoint individuals to such positions, and fix the compensation of such individuals. Subject to the limitations in the preceding sentence, the authority of the Administrator to make appointments and fix compensation with respect to positions in the Administration under this section shall be to equivalent to, and subject the limitations of, the authority under section 161 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(d)) to make appointments and fix compensation with respect to officers and employees described in such section. To ensure that the positions established under this section are used, the Administrator, to the extent practicable, shall appoint an individual to such a position to replace the vacancy of a position not established under this section.

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<sup>14</sup> **Amendments** – 2014-Subsec (d) (1), Pub. L. 113-66, Div. C, Title XXXI, Sec. 3145 amended the text by striking “excepted positions established” and inserting “positions established”.

2014-Subsec (d) (2), Pub. L. 113-66, Div. C., Title XXXI, Sec. 3145 amended the text by striking out “excepted position” and inserting “position”.

2014-Subsec (d) (3), Pub. L. 113-66, Div. C, Title XXXI, Sec. 3145 amended the text by striking out “nonexcepted position” and inserting “position not established under this section”.

2013 – Subsec. (b)(2). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3111) amended the header of such section by inserting “CONTRACTING, PROGRAM MANAGEMENT,” before “SCIENTIFIC”.

2013 – Subsec. (b)(1)(A). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3111) amended the text by striking “300” and inserting “600”.

2013 – Subsec. (b)(1)(B). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3111) amended the text by inserting “contracting, program management,” before “scientific”.

2013 – Subsec. (b)(1)(C). Pub. L. 112-239, (Div. C., Title XXXI, Sec. 3111) amended the text by adding new sentence “To ensure that the excepted positions established under this section are used, the Administrator, to the extent practicable, shall appoint an individual to such an excepted position to replace the vacancy of a nonexcepted position.” after the phrase “appoint individuals to such positions, and fix the compensation of such individuals.”

2020- Subsec. (b), Pub. L. 116-92, amended the text by striking “600” and adding “800”.



**SEC. 3241A. AUTHORIZED PERSONNEL LEVELS OF THE OFFICE OF THE ADMINISTRATOR<sup>15</sup>.**

(a) FULL-TIME EQUIVALENT PERSONNEL LEVELS.—

(1) TOTAL NUMBER.— The total number of employees of the Office of the Administrator may not exceed 1,890.

(2) EXCESS.—For fiscal year 2020 and each fiscal year thereafter, the Administrator may not exceed the total number of employees authorized under paragraph (1) unless, during each fiscal year in which such total number exceeds 1,890, the Administrator submits to the congressional defense committee a report justifying such excess.

(b) COUNTING RULE.—

(1) A determination of the number of employees in the Office of the Administrator under subsection (a) shall be expressed on a full-time equivalent basis.

(2) Except as provided by paragraph (3), in determining the total number of employees in the Office of the Administrator under subsection (a), the Administrator shall count each employee of the Office without regard to whether the employee is located at the headquarters of the Administration, a site office of the Administration, a service or support center of the Administration, or any other location.

(3) The following employees may not be counted for purposes of determining the total number of employees in the Office of the Administrator under subsection (a):

(A) Employees of the Office of Naval Reactors.

(B) Employees of the Office of Secure Transportation.

(C) Members of the Armed Forces detailed to the Administration.

(D) Personnel supporting the Office of the Administrator pursuant to the mobility program under subchapter VI of chapter 33 of title 5, United States Code (commonly referred to as the ‘Intergovernmental Personnel at Mobility Program’).

(c) VOLUNTARY EARLY RETIREMENT.—In accordance with section 3523 of title 5, United States Code, the Administrator may

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<sup>15</sup> 2013 – Subsec. (a)(1). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3111) amended the section by inserting after section 3241, “SEC. 3241A. AUTHORIZED PERSONNEL LEVELS OF THE OFFICE OF THE ADMINISTRATOR.” and its accompanying text.

2014 – Subsec. (a). Pub. L. 113-391, (Div. C, Title XXXI, Sec. 3116) amended the text by striking “2014” and inserting “2015” and striking “1,825” and inserting “1,690” in paragraph 1; by striking “2015” and inserting “2016” and striking “1,825” and inserting “1,690” in paragraph 2; and by adding a new subsection (e).

2015 – Subsec. (f) added by section Pub. L. 114-92 (Div. C, Title XXXI, Sec. 3138).

2016 – Subsec. (f)(5) added by Pub. L. 114-328, Div C, Title XXXI, Subtitle C, § 3136(a).

2020 – Subsec. (a). Pub. L. 116-92 amended the section by removing 1,690 and inserting 1,890 wherever 1,690 appeared and adding a new subsection (f)(5) and (6).

offer voluntary separation or retirement incentives to meet the total number of employees authorized under subsection (a).

(d) USE OF IPA.—The Administrator shall ensure that the expertise of the national security laboratories and the nuclear weapons production facilities is made available to the Administration, the Department of Energy, the Department of Defense, other Federal agencies, and Congress through the temporary assignment of personnel from such laboratories and facilities pursuant to the Intergovernmental Personnel Act Mobility Program and other similar programs.

(e) OFFICE OF THE ADMINISTRATOR EMPLOYEES.— In this section, the term ‘Office of the Administrator’, with respect to the employees of the Administration, includes employees whose funding is derived from an account of the Administration titled ‘Federal Salaries and Expenses’.

(f) Annual report – The Administrator shall include in the budget justification materials submitted to Congress in support of the budget of the Administration for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report containing the following information for the most recent fiscal year for which data are available:

- (1) The number of full-time equivalent employees of the Office of the Administrator, as counted under subsection (a).
- (2) The number of service support contracts of the Administration and whether such contracts are funded using program or program direction funds.
- (3) The number of full-time equivalent contractor employees working under each contract identified under paragraph (2).
- (4) The number of full-time equivalent contractor employees described in paragraph (3) that have been employed under such a contract for a period greater than two years.
- (5) With respect to each contract identified under paragraph (2)

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- (A) identification of each appropriations account that supports the contract; and
  - (B) the amount obligated under the contract during the fiscal year, listed by each such account.
- (6) With respect to each appropriations account identified under paragraph (5)(A), the total amount obligated for contracts identified under paragraph (2).

50 USC 2442

**SEC. 3242. VOLUNTARY EARLY RETIREMENT  
AUTHORITY. [REPEALED]<sup>16</sup>**

5 USC 5595

**SEC. 3243. SEVERANCE PAY.**

Section 5595 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(j) (1) In the case of an employee of the Department of Energy who is entitled to severance pay under this section as a result of the establishment of the National Nuclear Security Administration, the Secretary of Energy may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

“(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Energy an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

“(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

“(C) Amounts repaid to the Department of Energy under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

“(3) If an employee fails to repay to the Department of Energy an amount required to be repaid under paragraph (2) (A), that amount is recoverable from the employee as a debt due the United States.”.

5 USC 8905a

**SEC. 3244. CONTINUED COVERAGE OF HEALTH CARE  
BENEFITS.**

Section 8905a (d) (4) (A) of title 5, United States Code, is amended by inserting, “, or the Department of Energy due to a reduction in force

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<sup>16</sup> **Amendment** – 2013 – Subsec. (c)(1)(A). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) repealed this expired provision.

resulting from the establishment of the National Nuclear Security Administration” after “reduction in force”.

50 USC 2443

**SEC. 3245. NOTIFICATION OF EMPLOYEE PRACTICES AFFECTING NATIONAL SECURITY<sup>17</sup>**

(a) Annual notification

At or about the time that the President's budget is submitted to Congress under section 1105(a) of title 31, the Secretary of Energy and the Administrator shall jointly notify the appropriate congressional committees of-

(1) the number of covered employees whose security clearance was revoked during the year prior to the year in which the notification is made; and

(2) for each employee counted under paragraph (1), the length of time such employee has been employed at the Department or the Administration, as the case may be, since such revocation.

(b) Notification to congressional committees

Whenever the Secretary or the Administrator terminates the employment of a covered employee or removes and reassigns a covered employee for cause, the Secretary or the Administrator, as the case may be, shall notify the appropriate congressional committees of such termination or reassignment by not later than 30 days after the date of such termination or reassignment.

(c) Definitions

In this section:

(1) The term "appropriate congressional committees" means  
(A) the congressional defense committees; and  
(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term "covered employee" means-\  
(A) an employee of the Administration; or  
(B) an employee of an element of the Department of Energy (other than the Administration) involved in nuclear security.

50 USC 2445

**SEC. 3246. LIMITATION ON BONUSES FOR EMPLOYEES WHO ENGAGE IN IMPROPER PROGRAM MANAGEMENT<sup>18</sup>**

(a) Limitation

(1) In general

The Secretary of Energy or the Administrator may not pay to a covered employee a bonus during the one-year period

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<sup>17</sup> Section 3245 added by Pub. L. 114-92 (Div. C, Title XXXI, Sec. 3111(a)(1)).

<sup>18</sup> Sec. 3246 added by Pub. L. 114-92 (Div. C, Title XXXI, Sec. 3111(b)(1)).

beginning on the date on which the Secretary or the Administrator, as the case may be, determines that the covered employee engaged in improper program management that resulted in a notification under section 2753 of this title or significantly and detrimentally affected the cost, scope, or schedule associated with the approval of critical decision 3 in the acquisition process for a project (as defined in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets)).

(2) Implementation guidance

Not later than one year after November 25, 2015, the Secretary shall issue guidance for the implementation of paragraph (1).

(b) Guidance prohibiting bonuses for additional employees

Not later than 180 days after November 25, 2015, the Secretary and the Administrator shall each issue guidance prohibiting the payment of a bonus to a covered employee during the one-year period beginning on the date on which the Secretary or the Administrator, as the case may be, determines that the covered employee engaged in improper program management-

(1) that jeopardized the health, safety, or security of employees or facilities of the Administration or another element of the Department of Energy involved in nuclear security; or

(2) in carrying out defense nuclear nonproliferation activities.

(c) Waiver

The Secretary or the Administrator, as the case may be, may waive the limitation on the payment of a bonus under subsection (a) or (b) on a case-by-case basis if-

(1) the Secretary or the Administrator, as the case may be, notifies the appropriate congressional committees of such waiver; and

(2) a period of 60 days elapses following such notification.

(d) Definitions

In this section:

(1) The term "appropriate congressional committees" means-

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term "bonus" means a bonus or award paid under title 5, including under chapters 45 or 53 of such title, or any other provision of law.

(3) The term "covered employee" has the meaning given that term in section 3245.

**SEC. 3247. TREATMENT OF CONTRACTORS WHO ENGAGE IN IMPROPER PROGRAM MANAGEMENT.<sup>19</sup>**

(a) **IN GENERAL.**—Except as provided by subsection (b), if the Secretary of Energy or the Administrator determines that a covered contractor engaged in improper program management that resulted in a notification under section 4713 of the Atomic Energy Defense Act (50 U.S.C. 2753) or significantly and detrimentally affected the cost, scope, or schedule associated with the approval of critical decision 3 in the acquisition process for a project as defined in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets)), the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees—

- (1) an explanation as to whether termination of the contract is an appropriate remedy;
- (2) a description of the terms of the contract regarding award fees and performance; and
- (3) a description of how the Secretary or the Administrator, as the case may be, plans to exercise options under the contract.

(b) **EXCEPTION.**—If the Secretary or the Administrator, as the case may be, is not able to submit the information described in paragraphs (1) through (3) of subsection (a) by reason of a contract enforcement action, the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of such contract enforcement action and the date on which the Secretary or the Administrator, as the case may be, plans to submit the information described in such paragraphs.

(c) **DEFINITIONS.**—In this section:

- (1) The term ‘appropriate congressional committees’ means—
  - (A) the congressional defense committees; and
  - (B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.
- (2) The term ‘covered contractor’ means—
  - (A) a contractor of the Administration; or
  - (B) a contractor of an element of the Department of Energy (other than the Administration) involved in nuclear security.

**SEC. 3248. PAY AND PERFORMANCE SYSTEM.**

(a) **PAY ADJUSTMENT DEMONSTRATION PROJECT.** –

- (1) **EXTENSION.**—The Administrator for Nuclear Security shall carry out the pay banding and performance-based pay adjustment demonstration project of the National Nuclear Security Administration

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<sup>19</sup> Sec. 3247 added by Pub. L. 114-92 (Div. C, Title XXXI, Sec. 3111(c)(1)).  
Sec. 3248 added by **Pub. L. 115-91(Div. C, Title XXXI, Sec. 3116(d)(1)(A)(i).**

authorized under section 4709 of title 5, United States Code, until the date that is 10 years after the date of the enactment of this Act.

- (2) MODIFICATIONS.—In carrying out the demonstration project described in paragraph (1), the Administrator –
- (A) may, subject to subparagraph (B), revise the requirements and limitations of the demonstration project to the extent necessary; and
  - (B) shall –
    - (i) ensure that the demonstration project is carried out in a manner consistent with the plan for the demonstration project published in the Federal Register on December 21, 2007 (72 Fed. Reg. 72776);
    - (ii) ensure that significant changes in the demonstration project not take effect until revisions, as necessary and applicable, to the plan for the demonstration project are approved by the Office of Personnel Management and published in the Federal Register;
    - (iii) ensure that procedural modifications or clarifications to the plan for the demonstration project be made through local notification processes;
    - (iv) authorize, and establish incentives for, employees of the National Nuclear Security Administration to have rotational assignments among different programs of the Administration, the headquarters and field offices of the Administration, and the management and operating contractors of the Administration; and
    - (v) establish requirements for employees of the Administration who are in the demonstration project described in paragraph (1) to be promoted to senior-level positions in the Administration, including requirements with respect to –
      - (I) professional training and continuing education; and
      - (II) a certain number and types of rotational assignments under clause (iv), as determined by the Administrator.
- (3) APPLICATION TO NAVAL NUCLEAR PROPULSION PROGRAM. – The Director of the Naval Nuclear Propulsion Program established pursuant to section 4101 of the Atomic Energy Defense Act (50 U.S.C. 2511) and section 3216 of the National Nuclear Security Administration Act (50 U.S.C. 2406) may, with the concurrence of the Secretary of the Navy, apply the demonstration project described in paragraph (1) to –
- (A) all employees of the Naval Nuclear Propulsion Program in the competitive services (as defined in section 2102 of title 5, United States Code); and

(B) all employees of the Department of Navy who are assigned to the Naval Nuclear Propulsion Program and are in the excepted services (as defined in section 2103 of title 5, United States Code) (other than such employees in statutory excepted service systems).



## Subtitle D – Budget and Financial Management

50 USC 2451

### SEC. 3251. SEPARATE TREATMENT IN BUDGET.<sup>20</sup>

(a) PRESIDENT'S BUDGET.—In each budget submitted by the President to Congress under section 1105 of title 31, United States Code, amounts requested for the Administration shall be set forth separately within the other amounts requested for the Department of Energy.

(b) BUDGET JUSTIFICATION MATERIALS.—(1) In the budget justification

materials submitted to Congress in support of each such budget, the amounts requested for the Administration shall be specified in individual, dedicated program elements.

(2) In the budget justification materials submitted to Congress in support of each such budget, the Administrator shall include an assessment of how the budget maintains the core nuclear weapons skills of the Administration, including nuclear weapons design, engineering, production, testing, and prediction of stockpile aging.

50 USC 2452

### SEC. 3252. PLANNING, PROGRAMMING, AND BUDGETING PROCESS.<sup>21</sup>

(a) PROCEDURES REQUIRED – The Administrator shall establish procedures to ensure that the planning, programming, budgeting, and financial activities of the Administration comport with sound financial and fiscal management principles. Those procedures shall, at a minimum, provide for the planning, programming, and budgeting of activities of the Administration using funds that are available for obligation for a limited number of years.

(b) ANNUAL PLAN FOR OBLIGATION OF FUNDS.—

(1) Each year, the Administrator shall prepare a plan for the obligation of the amounts that, in the President's budget submitted to Congress that year under section 1105(a) of title 31, United States Code, are proposed to be appropriated for the Administration for the fiscal year that begins in that year (in this section referred to as the “budget year”) and the two succeeding fiscal years.

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<sup>20</sup> **Amendments** –2014 Subsec (e), Pub. L. 113-66, Div. C., Title XXXI, Sec. 3145 amended section 3251(a) by striking out “the Congress” and inserting “Congress”.

2013 – Subsec. (1) Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3112) amended subsection (b) by striking “In the” and inserting “(1) In the”.

2013 – Subsec. (2). Pub. L. 112-239, (Div. C., Title XXXI, Sec. 3112) amended subsection (b) by adding at the end of subsection (b)(1) a new paragraph labeled subsection (b)(2) with accompanied text.

<sup>21</sup> **Amendments** – 2000 – Pub. L. 106-398 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

(2) For each program element and construction line item of the Administration, the plan shall provide the goal of the Administration for the obligation of those amounts for that element or item for each fiscal year of the plan, expressed as a percentage of the total amount proposed to be appropriated in that budget for that element or item.

(c) SUBMISSION OF PLAN AND REPORT.—The Administrator shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress under section 1105(a) of title 31, United States Code, each of the following:

(1) The plan required by subsection (b) prepared with respect to that budget.

(2) A report on the plans prepared with respect to the preceding years' budgets, which shall include, for each goal provided in those plans—

(A) the assessment of the Administrator as to whether or not that goal was met; and

(B) if that assessment is that the goal was not met—

(i) the reasons why that goal was not met; and

(ii) the plan of the Administrator for meeting or, if necessary, adjusting that goal.

**SEC. 3253. FUTURE-YEARS NUCLEAR SECURITY PROGRAM.**<sup>22</sup>

(a) **SUBMISSION TO CONGRESS.**—The Administrator shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future-years nuclear security program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years nuclear security program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b) **ELEMENTS.**—Each future-years nuclear security program shall contain the following:

(1) A detailed description of the program elements (and the projects, activities, and construction projects associated with each such program element) during the applicable five-fiscal-year period for at least each of the following:

(A) For defense programs—

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<sup>22</sup> Amendments – 2018 Subsec (c)(2), Pub. L. 115-91, Title XXXI, Sec. 3133, amended section 3253(b) by striking paragraph (5).

2014 Subsec (f) (1), Pub. L. 113-66, Div. C., Title XXXI, Sec. 3145, amended section 3253(b) (1) by striking “five-fiscal year” and inserting “five-fiscal-year.”

2014- Subsec (f) (2) and (f) (3), Pub. L. 113-66, Div. C., Title XXXI, Sec. 3145, amended section 3253(b)(5) by striking paragraph (b)(5); redesignating paragraph (b)(6) to (b)(5) and striking “National Nuclear Security”.

2013 – Subsec. (a)(1). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended section 3253(b) by striking “nuclear weapons complex” each place it appears and inserting “nuclear security enterprise”.

2013 – Subsec. (d)(2). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended section 3253(b) (3) by striking “section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note)” and inserting “section 4202(a) of the Atomic Energy Defense Act (50 U.S.C. 2522(a))”.

2008 Subsec. (b). Pub. L. 110-181, Div C, Title XXXI, Subtitle C, Sec. 3123, added subsec. (b)(6) relating to plan for the physical and cyber security threats to the nuclear weapons complex.

2006 – Subsec. (b). Pub. L. 109-364, div. C, title XXXI, Sec. 3111(b), added par. (5) relating to plan for the transformation of the nuclear weapons complex.

2000 – Subsec. (b). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3154(a)), added pars. (1) to (3), redesignated former par. (2) as (4), and struck out former par. (1) which read as follows: “The estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Administration during the five-fiscal year period covered by the program, expressed in a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31.”

Subsec. (c). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3154(b) (1), (2)), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “The Administrator shall include in the materials the Administrator submits to Congress in support of the budget for any fiscal year that is submitted by the President pursuant to section 1105 of title 31 a description of how the funds identified for each program element in the weapons activities budget of the Administration for such fiscal year will help ensure that the nuclear weapons stockpile is safe and reliable as determined in accordance with the criteria established under section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2257; 42 U.S.C. 2121 note).”

Subsec. (d). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3154(b) (2), (3)), redesignated subsec. (e) as (d) and substituted “subsection (c)” for “subsection (d)”. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 106-398, Sec. 1 (div. C, title XXXI, Sec. 3154(b) (2)), redesignated subsec. (e) as (d).

- (i) directed stockpile work;
- (ii) campaigns;
- (iii) readiness in technical base and facilities; and
- (iv) secure transportation asset.

(B) For defense nuclear nonproliferation—

- (i) nonproliferation and verification, research, and development;
- (ii) arms control; and
- (iii) fissile materials disposition.

(C) For naval reactors, naval reactors operations and maintenance.

(2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support each program element specified pursuant to paragraph (1).

(3) A detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal year period will help ensure that the nuclear weapons stockpile is safe and reliable, as determined in accordance with the criteria established under section 4202(a) of the Atomic Energy Defense Act (50 U.S.C. 2522(a)).

(4) A description of the anticipated workload requirements for each Administration site during that five-fiscal year period.

(c) CONSISTENCY IN BUDGETING.—

(1) The Administrator shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Administrator in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31, United States Code, for any fiscal year, as shown in the future-years nuclear security program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Administration included pursuant to paragraph (5) of section 1105(a) of such title in the budget submitted to Congress under that section for any fiscal year.

(d) TREATMENT OF MANAGEMENT CONTINGENCIES.—Nothing in this section shall be construed to prohibit the inclusion in the future-years nuclear security program of amounts for management contingencies, subject to the requirements of subsection (c).

50 USC 2454

**SEC. 3254. SEMIANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.**<sup>23</sup>

(a) SEMIANNUAL REPORTS REQUIRED.—The Administrator shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the amounts available for the defense nuclear nonproliferation programs of the Administration. Each such report shall cover a half of a fiscal year (in this section referred to as a “fiscal half”) and shall be submitted not later than 30 days after the end of that fiscal half.

(b) CONTENTS.—Each report for a fiscal half shall, for each such defense nuclear nonproliferation program for which amounts are available for the fiscal year that includes that fiscal half, set forth the following:

- (1) The aggregate amount available for such program as of the beginning of such fiscal half and, within such amount, the uncommitted balances, the unobligated balances, and the unexpended balances.
- (2) The aggregate amount newly made available for such program during such fiscal half and, within such amount, the amount made available by appropriations, by transfers, by reprogrammings, and by other means.
- (3) The aggregate amount available for such program as of the end of such fiscal half and, within such amount, the uncommitted balances, the unobligated balances, and the unexpended balances.

50 USC 2455

**SEC. 3255. COMPTROLLER GENERAL ASSESSMENT OF ADEQUACY OF BUDGET REQUESTS WITH RESPECT TO THE MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR WEAPONS STOCKPILE. [REPEALED]**<sup>24</sup>

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<sup>23</sup> Source – Pub. L. 106-65, div. D, title XXXII, Sec. 3254, as added Pub. L. 108-136, div. C, title XXXI, Sec. 3121(a), Nov. 24, 2003.

<sup>24</sup>2020 – Pub. L. 116-92, Section 3132 repealed Sec. 3255.

## Subtitle E—Miscellaneous Provisions

50 USC 2461

### **SEC. 3261. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.**

(a) **COMPLIANCE REQUIRED.**—The Administrator shall ensure that the Administration complies with all applicable environmental, safety, and health statutes and substantive requirements.

(b) **PROCEDURES REQUIRED.**—The Administrator shall develop procedures for meeting such requirements.

(c) **RULE OF CONSTRUCTION.**—Nothing in this title shall diminish the authority of the Secretary of Energy to ascertain and ensure that such compliance occurs.

50 USC 2462

### **SEC. 3262. COMPLIANCE WITH FEDERAL ACQUISITION REGULATION.<sup>25</sup>**

The Administrator shall establish procedures to ensure that the mission and programs of the Administration are executed in full compliance with all applicable provisions of the Federal Acquisition Regulation issued pursuant to section 1303(a)(1) of title 41, United States Code.

50 USC 2463

### **SEC. 3263. SHARING OF TECHNOLOGY WITH DEPARTMENT OF DEFENSE.**

The Administrator shall, in cooperation with the Secretary of Defense, establish procedures and programs to provide for the sharing of technology, technical capability, and expertise between the Administration and the Department of Defense to further national security objectives.

50 USC 2464

### **SEC. 3264. USE OF CAPABILITIES OF NATIONAL SECURITY LABORATORIES BY ENTITIES OUTSIDE THE ADMINISTRATION.<sup>26</sup>**

The Secretary of Energy, in consultation with the Administrator, shall establish appropriate procedures to provide for the use, in a manner consistent with the national security mission of the Administration

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<sup>25</sup> **Amendment-2014** Subsec. (g), Pub. L. 113-66, Div. C., Title XXXI, Sec 3145, amended the text by striking “the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.)” and inserting “section 1303(a)(1) of title 41, United States Code”.

<sup>26</sup> **Amendment-2014** Subsec. (h), Pub. L. 113-66, Div. C, Title XXXI, Sec. 3145, amended the text by inserting “of Energy” after “Secretary”.

under section 3211(b), of the capabilities of the national security laboratories by elements of the Department of Energy not within the Administration, other Federal agencies, and other appropriate entities, including the use of those capabilities to support efforts to defend against weapons of mass destruction.

## Subtitle F—Definitions

50 USC 2471

### SEC. 3281. DEFINITIONS.<sup>27</sup>

For purposes of this title:

(1) The term “national security laboratory” means any of the following:

(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

(C) Lawrence Livermore National Laboratory, Livermore, California.

(2) The term “nuclear weapons production facility” means any of the following:

(A) The Kansas City National Security Campus, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

(C) The Y-12 National Security Complex, Oak Ridge, Tennessee.

(D) The Savannah River Site, Aiken, South Carolina.

(E) The Nevada National Security Site, Nevada.

(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

(3) The term “classified information” means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 401 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 435 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

(4) The term “Restricted Data” has the meaning given such term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(5) The term “congressional defense committees” means—

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<sup>27</sup> **Amendments** – 2014-Subsec. (i), Pub. L. 113-66, Div. C., Title XXXI, Sec. 3145, amended the text by striking “the Congress” and inserting “Congress”.

2013 – Subsec. (d)(3). Pub. L. 112-239, (Div. C., Title XXXI, Sec. 3132) amended section 3281(2) in subparagraph (C), by striking “Y-12 Plant” and inserting “Y-12 National Security Complex” and striking “tritium operations facilities at the” in subparagraph (D).

2013 – Subsec. (d)(4). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended section 3281(2) in subparagraph (E) by striking “Nevada Test Site” each place it appeared and inserting “Nevada National Security Site”.

2013 – Subsec. (a)(3). Pub. L. 112-239, (Div. C., Title XXXI, Sec. 3132) amended the section by inserting subsection (6) immediately after subsection(5)(B).

2020- Pub. L. 116-92 amended the text by striking “Plant” from Sec. 3281 (2)(A) and inserting “National Security Campus”.



(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(6) The term 'nuclear security enterprise' means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.

## Subtitle G—Amendatory Provisions, Transition Provisions, and Effective Dates

50 USC 2481

### SEC. 3291. FUNCTIONS TRANSFERRED.<sup>28</sup>

(a) TRANSFERS.—There are hereby transferred to the Administrator all national security functions and activities performed immediately before the date of the enactment of this Act by the following elements of the Department of Energy:

- (1) The Office of Defense Programs.
- (2) The Office of Nonproliferation and National Security.
- (3) The Office of Fissile Materials Disposition.
- (4) The nuclear weapons production facilities.
- (5) The national security laboratories.
- (6) The Office of Naval Reactors.

(b) AUTHORITY TO TRANSFER ADDITIONAL FUNCTIONS.—The Secretary of Energy may transfer to the Administrator any other facility, mission, or function that the Secretary, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

(c) ENVIRONMENTAL REMEDIATION AND WASTE MANAGEMENT ACTIVITIES.—In the case of any environmental remediation and waste management activity of any element of the Administration, the Secretary of Energy may determine to transfer responsibility for that activity to another element of the Department.

(d) TRANSFER OF FUNDS.—(1) Any balance of appropriations that the Secretary of Energy determines is available and needed to finance or discharge a function, power, or duty or an activity that is transferred to the Administration shall be transferred to the Administration and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

- (A) be credited to any applicable appropriation account of the Administration; or
- (B) be credited to a new account that may be established on the books of the Department of the Treasury; and shall be merged with the funds already credited to that account and accounted for as one fund.

(2) Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically

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<sup>28</sup> **Amendments** – 2013 – Subsec. (b)(1)(A). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended subsection (c) by striking “specified in subsection (a)” and inserting “of the Administration”.

2013 – Subsec. (b)(1)(B). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended the section by adding at the end of subsection (c), new subsections entitled “(d) TRANSFER OF FUNDS.” and “(e) PERSONNEL.” with accompanying text.

applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(e) PERSONNEL.—(1) With respect to any function, power, or duty or activity of the Department of Energy that is transferred to the Administration, those employees of the element of the Department of Energy from which the transfer is made that the Secretary of Energy determines are needed to perform that function, power, or duty, or for that activity, as the case may be, shall be transferred to the Administration.

(2) The authorized strength in civilian employees of any element of the Department of Energy from which employees are transferred under this section is reduced by the number of employees so transferred.

50 USC 2482

**SEC. 3292. TRANSFER OF FUNDS AND EMPLOYEES.  
[REPEALED]<sup>29</sup>**

**SEC. 3293. PAY LEVELS.<sup>30</sup>**

5 USC 5314

(a) UNDER SECRETARY FOR NUCLEAR SECURITY.—Section 5314 of title 5, United States Code, is amended by striking “Under Secretary, Department of Energy” and inserting “Under Secretaries of Energy (3)”.

(b) DEPUTY ADMINISTRATORS.—Section 5315 of such title is amended by adding at the end the following new item:

“Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).”

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<sup>29</sup> **Amendment** – 2013 – Subsec. (c)(1)(B). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) repealed this expired provision.

<sup>30</sup> **Amendment** - Subsec. (a). Pub. L. 109-58, Title X, Sec 1006(c) (2) substituted “Under Secretaries of Energy (3)” for “Under Secretaries of Energy (2)”.

## SEC. 3294. CONFORMING AMENDMENTS.<sup>31</sup>

- (a) **REDUCTION IN NUMBER OF ASSISTANT SECRETARIES OF ENERGY.**—
- (1) Section 5315 of title 5, United States Code, is amended by striking “(8)” after “Assistant Secretaries of Energy” and inserting “(7)”.
  - (2) Subsection (a) of section 203 of the Department of Energy Organization Act (42 U.S.C. 7133) is amended in the first sentence by striking “eight” and inserting “7”.
- (b) **FUNCTIONS REQUIRED TO BE ASSIGNED TO ASSISTANT SECRETARIES OF ENERGY.**—Subsection (a) of section 203 of the Department of Energy Organization Act (42 U.S.C. 7133) is amended by striking paragraph (5).
- (c) **OFFICE OF NAVAL REACTORS.**—Section 309 of the Department of Energy Organization Act (42 U.S.C. 7158) is amended—
- (1) by striking subsection (b);
  - (2) by striking “(a)”; and
  - (3) by striking “Assistant Secretary to whom the Secretary has assigned the function listed in section 203(a) (2) (E)” and inserting “Under Secretary for Nuclear Security”.
- (d) **OFFICE OF FISSILE MATERIALS DISPOSITION.**—
- (1) Section 212 of the Department of Energy Organization Act (42 U.S.C. 7143) is repealed.
  - (2) The table of contents at the beginning of such Act is amended by striking the item relating to section 212.
- (e) **REPEAL OF RESTATED PROVISION RELATING TO DOE SPECIAL ACCESS PROGRAMS; CONFORMING AMENDMENT.**—
- (1)(A) Section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a) is repealed.
  - (B) The table of contents at the beginning of such Act is amended by striking the item relating to section 93.
  - (2) Clause (ii) of section 1152(g) (1) (B) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 50 U.S.C. 435 note) is amended to read as follows:  
“(ii) the National Nuclear Security Administration (which is required to submit reports on special access programs under section 3236 of the National Nuclear Security Administration Act); or”.
- (f) **REPEAL OF FIVE-YEAR BUDGET REQUIREMENT FOR DOE NATIONAL SECURITY PROGRAMS.**—Section 3155 of the National Defense

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<sup>31</sup> **Amendments** – Subsec. (a)(1). Pub. L. 109-58, Title X, Sec 1006(c) (3) struck out “Assistant Secretaries of Energy (6)” and inserted “Assistant Secretaries of Energy (7) in 5 USC 5315.

Subsec (a) (2). Publ. L. 109-58, Title X, Sec. 1006(b)(1) substituted “7 Assistant Secretaries” for “six Assistant Secretaries” in the first sentence of subsection (a) of section 203 of the Department of Energy Organization Act (42 U.S.C. 7133).

Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2841; 42 U.S.C. 7271b) is repealed.

50 USC 2483

**SEC. 3295. TRANSITION PROVISIONS. [REPEALED]<sup>32</sup>**

50 USC 2484

**SEC. 3296. APPLICABILITY OF PREEXISTING LAWS AND REGULATIONS.<sup>33</sup>**

With respect to any facility, mission, or function of the Department of Energy that the Secretary of Energy transfers to the Administrator under section 3291, unless otherwise provided in this title, all provisions of law and regulations in effect immediately before the date of the transfer that are applicable to such facility, mission, or function shall continue to apply to the corresponding functions of the Administration.

50 USC 2401 note

**SEC. 3297. REPORT CONTAINING IMPLEMENTATION PLAN OF SECRETARY OF ENERGY. [REPEALED]<sup>34</sup>**

50 USC 2401 note

**SEC. 3298. CLASSIFICATION IN UNITED STATES CODE.**

Subtitles A through F of this title (other than provisions of those subtitles amending existing provisions of law) shall be classified to the United States Code as a new chapter of title 50, United States Code.

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<sup>32</sup> **Amendment** – 2013 – Subsec. (c)(1)(C). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) repealed this expired provision.

<sup>33</sup> **Amendment** – 2013 – Subsec. (b)(2). Pub. L. 112-239, (Div. C, Title XXXI, Sec. 3132) amended the text adding par. (1) in its current form and struck out former par. (1) which read as follows: “Unless otherwise provided in this title, all provisions of law and regulations in effect immediately before the effective date of this title that are applicable to functions of the Department of Energy specified in section 3291 shall continue to apply to the corresponding functions of the Administration.”

<sup>34</sup> **Amendment** – 2013 – Subsec. (c)(1)(D). Pub. L. 112-239, (Div. C., Title XXXI, Sec. 3132) repealed this expired provision.

**SEC. 3299. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of this title shall take effect on March 1, 2000.

(b) **EXCEPTIONS.**—

(1) Sections 3202, 3204, 3251, 3295, and 3297 shall take effect on the date of the enactment of this Act.

(2) Sections 3234 and 3235 shall take effect on the date of the enactment of this Act. During the period beginning on the date of the enactment of this Act and ending on the effective date of this title, the Secretary of Energy shall carry out those sections and any reference in those sections to the Administrator and the Administration shall be treated as references to the Secretary and the Department of Energy, respectively.