

DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS ¹

50 U.S.C. § 2501 | Sec. 4002. **DEFINITIONS** ²

Except as otherwise provided, in this chapter:

- (1) The term “Administration” means the National Nuclear Security Administration.
- (2) The term “Administrator” means the Administrator for Nuclear Security.
- (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. 3001 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 3161 note), Executive Order No. 13526 of December 29, 2009 (50 U.S.C. 3161 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.
- (4) The term “congressional defense committees” means--
 - (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.
- (5) The terms “defense nuclear facility” and “Department of Energy defense nuclear facility” have the meaning given the term “Department of Energy defense nuclear facility” in section 2286g of Title 42.
- (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.
- (7) 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.
- (8) The term “Nuclear Weapons Council” means the Nuclear Weapons Council established by section 179 of Title 10.
- (9) 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.

¹ Pub.L. 107-314, Div. D, § 4001 et seq. (2003).

² Added by Pub. L. 108-136 § 3141(c)(2); amended by Pub. L. 112-239 § 3131(a)(1) (2013) (rewriting entire section); Pub. L. 113-66 § 3146(a)(1) (2013) (technical corrections); Pub. L. 113-291 § 3142(a) (2014) (adding the 2009 executive order to subsection (3)).
2020 – Pub. L. 116-92 amended Section. 4002(9)(A)

- (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.
- (10) The term “Restricted Data” has the meaning given such term in section 2014(y) of Title 42.

TITLE XLI—ORGANIZATIONAL MATTERS

50 U.S.C. § 2511 | Sec. 4101. NAVAL NUCLEAR PROPULSION PROGRAM³

The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

50 U.S.C. § 2512 | Sec. 4102. MANAGEMENT STRUCTURE FOR NUCLEAR SECURITY ENTERPRISE⁴

- (a) **IN GENERAL**—The Administrator shall establish a management structure for the nuclear security enterprise in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.).
- (b) **NATIONAL NUCLEAR SECURITY ADMINISTRATION COUNCIL**
- (1) The Administrator shall establish a council to be known as the “National Nuclear Security Administration Council”. The Council may advise the Administrator on--
 - (A) scientific and technical issues relating to policy matters;
 - (B) operational concerns;
 - (C) strategic planning;
 - (D) the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and
 - (E) such other matters as the Administrator determines appropriate.
 - (2) The Council shall be composed of the directors of the national security laboratories and the nuclear weapons production facilities.
 - (3) The Council may provide the Administrator or the Secretary of Energy recommendations
 - (A) for improving the governance, management, effectiveness, and efficiency of the Administration; and

³ Formerly Pub. L. 98-525, tit. XVI, § 1634 (1984); renumbered and amended by Pub. L. 108-136 § 3141(d)(2) (2003) (consolidating transfer).

⁴ Formerly Pub. L. 104-201 § 3140 (1996); renumbered and amended by Pub. L. 108-136 § 3141(d)(3) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3113(a) (2013) (rewriting entire section); Pub. L. 113-291 § 3142(b) (2014) (dividing subsection (b)(3) into two further subsections and adjusting language accordingly).

- (B) relating to any other matter in accordance with paragraph (1).
- (4) Not later than 60 days after the date on which any recommendation under paragraph (3) is received, the Administrator or the Secretary, as the case may be, shall respond to the Council with respect to whether such recommendation will be implemented and the reasoning for implementing or not implementing such recommendation.

50 U.S.C. § 2513 | Sec. 4103. **RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES**⁵

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540) or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

50 U.S.C. § 2515 **ESTABLISHMENT OF CENTER FOR SECURITY TECHNOLOGY, ANALYSIS, RESPONSE, AND TESTING**⁶

- (a) ESTABLISHMENT—The Administrator for Nuclear Security shall establish within the nuclear security enterprise (as defined in section 2501 of this title) a Center for Security Technology, Analysis, Response, and Testing.
- (b) DUTIES—The center established under subsection (a) shall carry out the following:
- (1) Provide to the Administrator, the Chief of Defense Nuclear Security, and the management and operating contractors of the nuclear security enterprise a wide range of objective expertise on security technologies, systems, analysis, testing, and response forces.
 - (2) Assist the Administrator in developing standards, requirements, analysis methods, and testing criteria with respect to security.
 - (3) Collect, analyze, and distribute lessons learned with respect to security.
 - (4) Support inspections and oversight activities with respect to security.
 - (5) Promote professional development and training for security professionals.
 - (6) Provide for advance and bulk procurement for security-related acquisitions that affect multiple facilities of the nuclear security enterprise.
 - (7) Advocate for continual improvement and security excellence throughout the nuclear security enterprise.
 - (8) Such other duties as the Administrator may assign.

⁵ Formerly Pub. L. 96-540 § 210(1980); renumbered and amended by Pub. L. 108-136 § 3141(d)(4) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(b) (2013) (technical correction).

⁶ Provision not incorporated into the Atomic Energy Defense Act. Pub. L. 113-66 § 3116(2013).

TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

Subtitle A—Stockpile Stewardship and Weapons Production

50 U.S.C. § 2521 | Sec. 4201. **STOCKPILE STEWARDSHIP PROGRAM**⁷

- (a) ESTABLISHMENT—The Secretary of Energy, acting through the Administrator, shall establish a stewardship program to ensure--
- (1) the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification; and
 - (2) that the nuclear weapons stockpile is safe, secure, and reliable without the use of underground nuclear weapons testing.
- (b) PROGRAM ELEMENTS—The program shall include the following:
- (1) An increased level of effort for advanced computational capabilities to enhance the simulation and modeling capabilities of the United States with respect to the performance over time of nuclear weapons.
 - (2) An increased level of effort for above-ground experimental programs, such as hydrotesting, high-energy lasers, inertial confinement fusion, plasma physics, and materials research.
 - (3) Support for new facilities construction projects that contribute to the experimental capabilities of the United States, such as an advanced hydrodynamics facility, the National Ignition Facility, and other facilities for above-ground experiments to assess nuclear weapons effects.
 - (4) Support for the use of, and experiments facilitated by, the advanced experimental facilities of the United States, including--
 - (A) the National Ignition Facility at Lawrence Livermore National Laboratory;
 - (B) the Dual Axis Radiographic Hydrodynamic Test Facility at Los Alamos National Laboratory;
 - (C) the Z Machine at Sandia National Laboratories; and
 - (D) the experimental facilities at the Nevada National Security Site.
 - (5) Support for the sustainment and modernization of facilities with production and manufacturing capabilities that are necessary to ensure the safety, security, and reliability of the nuclear weapons stockpile, including--
 - (A) the nuclear weapons production facilities; and

⁷ Formerly Pub. L. 103-160 § 3138 (1993) (as amended by Pub. L. 105-85 § 3152(e) (1997) (striking former subsections (d)-(e) and redesignating subsections accordingly; and technical correction)); renumbered by Pub. L. 108-136 § 3141(e)(2) (2003); amended by Pub. L. 111-84 § 3111 (2009) (rewriting entire section); Pub. L. 112-239 § 3131(b), (bb)(1)(C) (2013) (striking in subsection (b)(5)(E) reference to definition in NNSA Act; and technical correction); Pub. L. 113-66 § 3146(c)(1) (2013) (technical correction).

- (B) production and manufacturing capabilities resident in the national security laboratories.

50 U.S.C. § 2522 | Sec. 4202. **STOCKPILE STEWARDSHIP CRITERIA**⁸

- (a) **REQUIREMENT FOR CRITERIA**—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.
- (b) **COORDINATION WITH SECRETARY OF DEFENSE**—The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

50 U.S.C. § 2523 | Sec. 4203. **NUCLEAR WEAPONS STOCKPILE STEWARDSHIP, MANAGEMENT, AND RESPONSIVENESS PLAN**⁹

- (a) **PLAN REQUIREMENT**—The Administrator, in consultation with the Secretary of Defense and other appropriate officials of the departments and agencies of the Federal Government, shall develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan shall cover, at a minimum, stockpile stewardship, stockpile management, stockpile responsiveness, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. The plan shall be consistent with the programmatic and technical requirements of the most recent annual Nuclear Weapons Stockpile Memorandum.
- (b) **SUBMISSIONS TO CONGRESS**
 - (1) In accordance with subsection (c), not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

⁸ Formerly Pub. L. 105-261 § 3158 (1998) (as amended by Pub. L. 106-65 § 1067(3) (1999) (changing committee referenced throughout to the House Armed Services Committee)); renumbered by Pub. L. 108-136 § 3141(e)(3) (2003); amended by Pub. L. 111-84 § 3112 (2009) (rewriting subsection (c) and adding subsection (d)); Pub. L. 112-239 § 3133(b)(1) (2013) (striking subsections (c)-(d) and changing heading to “Stockpile Stewardship Criteria”).

⁹ Formerly Pub. L. 105-85 § 3151 (1997); renumbered by Pub. L. 108-136 § 3141(e)(4) (2003); amended by Pub. L. 108-375 § 3115 (2004) (changing calendar date in subsection (c)); Pub. L. 112-239 § 3133(a)(1) (2013) (rewriting entire section); Pub. L. 113-66 § 3123 (2013) (adding subsection (d)(6)); *id.* § 3146(a)(2)(A) (technical correction); Pub. L. 113-291 § 3142(c) (2014) (incorporating elements of new “stockpile responsiveness” program throughout); Pub. L. 114-92 § 3112(c)(1) (2015) (technical correction); Pub. L. 115-91 § 3111(c) (2017) (adding subsection (d)(4)(D)); Pub. L. 115-91 § 3133(c) (2017) (adding a new subsection (c)(6) and redesignating subparagraphs (c)(6) and (c)(7) as (c)(7) and (c)(8), respectively; Pub. L. 115-91 § 3133(c) (2017) (adding a new subsection (d)(7) and redesignating former subparagraph (d)(7) as (d)(8); Pub. L. 115-91 § 3134 (2017) (redesignating subparagraphs (c)(7) and (c)(8) as (c)(8) and (c)(9), respectively, and adding a new subparagraph (c)(7)); Pub. L. 115-91 § 3134 (2017) (redesignating subparagraphs (d)(8) as (d)(9) and inserting a new subparagraph (d)(8)); Pub. L. 115-91 § 3111(c) (2017) (adding subparagraph (d)(1)(O)).
2020 – Pub. L. 116-92 made several changes to Sect. 4203.

- (2) In accordance with subsection (d), not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).
 - (3) The summaries and reports required by this subsection shall be submitted in unclassified form, but may include a classified annex.
- (c) ELEMENTS OF BIENNIAL PLAN SUMMARY—Each summary of the plan submitted under subsection (b)(1) shall include, at a minimum, the following:
- (1) A summary of the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type.
 - (2) A summary of the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types.
 - (3) A summary of the methods and information used to determine that the nuclear weapons stockpile is safe and reliable, as well as the relationship of science-based tools to the collection and interpretation of such information.
 - (4) A summary of the status of the nuclear security enterprise, including programs and plans for infrastructure modernization and retention of human capital, as well as associated budgets and schedules.
 - (5) A summary of the status, plans, and budgets for carrying out the stockpile responsiveness program under section 2538b of this title.
 - (6) A summary of the plan regarding the research and development, deployment, and lifecycle sustainment of technologies described in subsection (d)(7).
 - (7) A summary of the assessment under subsection (d)(8) regarding the execution of programs with current and projected budgets and any associated risks.
 - (8) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).
 - (9) Such other information as the Administrator considers appropriate.
- (d) ELEMENTS OF BIENNIAL DETAILED REPORT—Each detailed report on the plan submitted under subsection (b)(2) shall include, at a minimum, the following:
- (1) With respect to stockpile stewardship, stockpile management, and stockpile responsiveness--
 - (A) the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type;
 - (B) for each five-year period occurring during the period beginning on the date of the report and ending on the date that is 20 years after the date of the report--
 - (i) the planned number of nuclear warheads (including active and inactive) for each warhead type in the nuclear weapons stockpile; and
 - (ii) the past and projected future total lifecycle cost of each type of nuclear weapon;
 - (C) the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types;
 - (D) a description of the process by which the Administrator assesses the lifetimes, and requirements for life extension or replacement, of the nuclear and non-

nuclear components of the warheads (including active and inactive warheads) in the nuclear weapons stockpile;

- (E) a description of the process used in recertifying the safety, security, and reliability of each warhead type in the nuclear weapons stockpile;
- (F) any concerns of the Administrator that would affect the ability of the Administrator to recertify the safety, security, or reliability of warheads in the nuclear weapons stockpile (including active and inactive warheads);
- (G) mechanisms to provide for the manufacture, maintenance, and modernization of each warhead type in the nuclear weapons stockpile, as needed;
- (H) mechanisms to expedite the collection of information necessary for carrying out the stockpile management program required by section 2524 of this title, including information relating to the aging of materials and components, new manufacturing techniques, and the replacement or substitution of materials;
- (I) mechanisms to ensure the appropriate assignment of roles and missions for each national security laboratory and nuclear weapons production facility, including mechanisms for allocation of workload, mechanisms to ensure the carrying out of appropriate modernization activities, and mechanisms to ensure the retention of skilled personnel;
- (J) mechanisms to ensure that each national security laboratory has full and complete access to all weapons data to enable a rigorous peer-review process to support the annual assessment of the condition of the nuclear weapons stockpile required under section 2525 of this title;
- (K) mechanisms for allocating funds for activities under the stockpile management program required by section 2524 of this title, including allocations of funds by weapon type and facility;
- (L) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 2524 of this title;
- (M) the status, plans, activities, budgets, and schedules for carrying out the stockpile responsiveness program under section 2538b of this title;
- (N) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 2538b of this title; and
- (O) as required, when assessing and developing prototype nuclear weapons of foreign countries, a report from the directors of the national security laboratories on the need and plan for such assessment and development that includes separate comments on the plan from the Secretary of Energy and the Director of National Intelligence.

(2) With respect to science-based tools--

- (A) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable.
- (B) for each science-based tool used to collect information described in subparagraph (A), the relationship between such tool and such information

- and the effectiveness of such tool in providing such information based on the criteria developed pursuant to section 2522(a) of this title; and
- (C) the criteria developed under section 2522(a) of this title (including any updates to such criteria).
- (3) An assessment of the stockpile stewardship program under section 2521(a) of this title by the Administrator, in consultation with the directors of the national security laboratories, which shall set forth--
- (A) an identification and description of--
- (i) any key technical challenges to the stockpile stewardship program; and
 - (ii) the strategies to address such challenges without the use of nuclear testing.
- (B) a strategy for using the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory to ensure that the nuclear weapons stockpile is safe, secure, and reliable without the use of nuclear testing;
- (C) an assessment of the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory that exist at the time of the assessment compared with the science-based tools expected to exist during the period covered by the future- years nuclear security program; and
- (D) an assessment of the core scientific and technical competencies required to achieve the objectives of the stockpile stewardship program and other weapons activities and weapons-related activities of the Administration, including--
- (i) the number of scientists, engineers, and technicians, by discipline, required to maintain such competencies; and
 - (ii) a description of any shortage of such individuals that exists at the time of the assessment compared with any shortage expected to exist during the period covered by the future-years nuclear security program.
- (4) With respect to the nuclear security infrastructure--
- (A) a description of the modernization and refurbishment measures the Administrator determines necessary to meet the requirements prescribed in--
- (i) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 3043 of this title if such strategy has been submitted as of the date of the plan;
 - (ii) the most recent national defense strategy as of the date of the plan; and
 - (iii) the most recent Nuclear Posture Review as of the date of the plan;
- (B) a schedule for implementing the measures described under subparagraph (A) during the 10-year period following the date of the plan;
- (C) the estimated levels of annual funds the Administrator determines necessary to carry out the measures described under subparagraph (A), including a

discussion of the criteria, evidence, and strategies on which such estimated levels of annual funds are based; and

(D) (i) a description of—

(I) the metrics (based on industry best practices) used by the Administrator to determine the infrastructure deferred maintenance and repair needs of the nuclear security enterprise; and

(II) the percentage of replacement plant value being spent on maintenance and repair needs of the nuclear security enterprise; and

(ii) an explanation of whether the annual spending on such needs complies with the recommendation of the National Research Council of the National Academies of Sciences, Engineering, and Medicine that such spending be in an amount equal to four percent of the replacement plant value, and, if not, the reasons for such noncompliance and a plan for how the Administrator will ensure facilities of the nuclear security enterprise are being properly sustained.

(5) With respect to the nuclear test readiness of the United States--

(A) an estimate of the period of time that would be necessary for the Administrator to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test;

(B) a description of the level of test readiness that the Administrator, in consultation with the Secretary of Defense, determines to be appropriate;

(C) a list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada National Security Site;

(D) a list and description of the infrastructure and physical plants that are essential to carrying out an underground nuclear test at the Nevada National Security Site; and

(E) an assessment of the readiness status of the skills and capabilities described in subparagraph (C) and the infrastructure and physical plants described in subparagraph (D).

(6) A strategy for the integrated management of plutonium for stockpile and stockpile stewardship needs over a 20-year period that includes the following:

(A) An assessment of the baseline science issues necessary to understand plutonium aging under static and dynamic conditions under manufactured and nonmanufactured plutonium geometries.

(B) An assessment of scientific and testing instrumentation for plutonium at elemental and bulk conditions.

(C) An assessment of manufacturing and handling technology for plutonium and plutonium components.

(D) An assessment of computational models of plutonium performance under static and dynamic loading, including manufactured and nonmanufactured conditions.

- (E) An identification of any capability gaps with respect to the assessments described in subparagraphs (A) through (D).
 - (F) An estimate of costs relating to the issues, instrumentation, technology, and models described in subparagraphs (A) through (D) over the period covered by the future-years nuclear security program under section 2453 of this title.
 - (G) An estimate of the cost of eliminating the capability gaps identified under subparagraph (E) over the period covered by the future-years nuclear security program.
 - (H) Such other items as the Administrator considers important for the integrated management of plutonium for stockpile and stockpile stewardship needs.
- (7) A plan for the research and development, deployment, and lifecycle sustainment of the technologies employed within the nuclear security enterprise to address physical and cyber security threats during the five fiscal years following the date of the report, together with –

- (A) for each site in the nuclear security enterprise, a description of the technologies deployed to address the physical and cybersecurity threats posed to that site;
- (B) for each site and for the nuclear security enterprise, the methods used by the Administration to establish priorities among investments in physical and cybersecurity technologies; and
- (C) 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 carry out that plan.

- (8) An assessment of whether the programs described by the report can be executed with current and projected budgets and any associated risks.
- (9) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

(e) NUCLEAR WEAPONS COUNCIL ASSESSMENT

- (1) For each detailed report on the plan submitted under subsection (b)(2), the Nuclear Weapons Council shall conduct an assessment that includes the following:
 - (A) An analysis of the plan, including--
 - (i) whether the plan supports the requirements of the national security strategy of the United States or the most recent quadrennial defense review, referred to in subsection (d)(4)(A)(i), the most recent the national defense strategy, and the most recent Nuclear Posture Review;
 - (ii) whether the modernization and refurbishment measures described under subparagraph (A) of subsection (d)(4) and the schedule described under subparagraph (B) of such subsection are adequate to support such requirements; and
 - (iii) whether the plan supports the stockpile responsiveness program under section 2538b of this title in a manner that meets the objectives of such

program and an identification of any improvements that may be made to the plan to better carry out such program.

- (B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security enterprise.
- (C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security enterprise facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to--
 - (i) supporting the annual certification of the nuclear weapons stockpile; and
 - (ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.
- (2) Not later than 180 days after the date on which the Administrator submits the plan under subsection (b)(2), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

(f) DEFINITIONS—In this section:

- (1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of Title 31.
- (2) The term “future-years nuclear security program” means the program required by section 2453 of this title.
- (3) The term ‘national defense strategy’ means the review of the defense programs and policies of the United States that is carried out every four years under section 113(g) of title 10, United States Code.
- (4) The term “nuclear security budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Administrator in support of the budget for that fiscal year.
- (5) The term “weapons activities” means each activity within the budget category of weapons activities in the budget of the Administration.
- (6) The term “weapons-related activities” means each activity under the Department of Energy that involves nuclear weapons, nuclear weapons technology, or fissile or radioactive materials, including activities related to--
 - (A) nuclear nonproliferation;
 - (B) nuclear forensics;
 - (C) nuclear intelligence;
 - (D) nuclear safety; and
 - (E) nuclear incident response.

In fiscal year 2015 and subsequent fiscal years, the Secretary of Energy shall submit to the congressional defense committees (as defined in U.S.C. 101(a)(16))¹ a report, on each major warhead refurbishment program that reaches the Phase 6.3 milestone, that provides an analysis of alternatives. Such report shall include--

- (1) a full description of alternatives considered prior to the award of Phase 6.3;
- (2) a comparison of the costs and benefits of each of those alternatives, to include an analysis of trade-offs among cost, schedule, and performance objectives against each alternative considered;
- (3) identification of the cost and risk of critical technology elements associated with each alternative, including technology maturity, integration risk, manufacturing feasibility, and demonstration needs;
- (4) identification of the cost and risk of additional capital asset and infrastructure capabilities required to support production and certification of each alternative;
- (5) a comparative analysis of the risks, costs, and scheduling needs for any military requirement intended to enhance warhead safety, security, or maintainability, including any requirement to consolidate and/or integrate warhead systems or mods as compared to at least one other feasible refurbishment alternative the Nuclear Weapons Council considers appropriate; and
- (6) a life-cycle cost estimate for the alternative selected that details the overall cost, scope, and schedule planning assumptions.

50 U.S.C. § 2524 | Sec. 4204. **STOCKPILE MANAGEMENT PROGRAM¹¹**

- (a) PROGRAM REQUIRED—The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a program, in support of the stockpile stewardship program, to provide for the effective management of the weapons in the nuclear weapons stockpile, including the extension of the effective life of such weapons. The program shall have the following objectives:
- (1) To increase the reliability, safety, and security of the nuclear weapons stockpile of the United States.
 - (2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.
 - (3) To achieve reductions in the future size of the nuclear weapons stockpile.
 - (4) To reduce the risk of an accidental detonation of an element of the stockpile.
 - (5) To reduce the risk of an element of the stockpile being used by a person or entity hostile to the United States, its vital interests, or its allies.

¹⁰ Not incorporated into the Atomic Energy Defense Act. Pub. L. 113-235 § 308 (2014).

¹¹ Formerly Pub. L. 106-65 § 3133 (1999); renumbered and amended by Pub. L. 108-136 § 3111 (2003) (striking subsections (c)-(f)); *id.* § 3141(e)(5) (consolidating transfer); further amended by Pub. L. 111-84 § 3113(a)(2) (2009) (rewriting entire section); Pub. L. 112-239 § 3133(d) (2013) (changing in subsection (b)(2)(B) “nuclear complex” to “nuclear security enterprise”); Pub. L. 113-66 § 3146(c)(2) (2013) (technical correction).

- (b) PROGRAM LIMITATIONS—In carrying out the stockpile management program under subsection (a), the Secretary of Energy shall ensure that--
- (1) any changes made to the stockpile shall be made to achieve the objectives identified in subsection (a); and
 - (2) any such changes made to the stockpile shall--
 - (A) remain consistent with basic design parameters by including, to the maximum extent feasible, components that are well understood or are certifiable without the need to resume underground nuclear weapons testing; and
 - (B) use the design, certification, and production expertise resident in the nuclear security enterprise to fulfill current mission requirements of the existing stockpile.
- (c) PROGRAM BUDGET—In accordance with the requirements under section 2529 of this title, for each budget submitted by the President to Congress under section 1105 of Title 31, the amounts requested for the program under this section shall be clearly identified in the budget justification materials submitted to Congress in support of that budget.

50 U.S.C. § 2525 | Sec. 4205. **ANNUAL ASSESSMENTS AND REPORTS TO THE PRESIDENT AND CONGRESS REGARDING THE CONDITION OF THE UNITED STATES NUCLEAR WEAPONS STOCKPILE**¹²

- (a) ANNUAL ASSESSMENTS REQUIRED—For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance, or military effectiveness of that nuclear weapon type, complete an assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.
- (b) COVERED OFFICIALS—The officials referred to in subsection (a) are the following:
- (1) The head of each national security laboratory.
 - (2) The Commander of the United States Strategic Command.
- (c) DUAL VALIDATION TEAMS IN SUPPORT OF ASSESSMENTS—In support of the assessments required by subsection (a), the Administrator may establish teams, known as “dual validation teams”, to provide each national security laboratory responsible for weapons design with independent evaluations of the condition of each warhead for which such laboratory has lead responsibility. A dual validation team established by the Administrator shall--
- (1) be comprised of weapons experts from the laboratory that does not have lead responsibility for fielding the warhead being evaluated;
 - (2) have access to all surveillance and underground test data for all stockpile systems for use in the independent evaluations;
 - (3) use all relevant available data to conduct independent calculations; and

¹² Formerly Pub. L. 107-314 § 3141 (2002); renumbered and amended by Pub. L. 108-136 § 3141(e)(6) (2003) (consolidating transfer); further amended by Pub. L. 111-84 § 3114(a)(2), (d) (2009) (adding subsection (c); and technical correction); Pub. L. 112-239 § 3131(c) (2013) (striking subsection (i)); Pub. L. 113-66 § 3122 (2013) (adding subsection (e)(3)(E); rewriting subsection (e)(4); changing in subsection (f)(1) “March 1” to “February 1”; and adding subsection (f)(3)); *id.* § 3146(c)(3) (technical corrections); Pub. L. 113-291 § 3142(d) (2014) (adding subsection (e)(4)(C)); Pub. L. 114-92 § 3112(d) (2015) (minor grammatical correction).

- (4) pursue independent experiments to support the independent evaluations.
- (d) USE OF TEAMS OF EXPERTS FOR ASSESSMENTS—The head of each national security laboratory shall establish and use one or more teams of experts, known as “red teams”, to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall--
 - (1) review both the matters covered by the assessments under subsection (a) performed by the head of that laboratory and any independent evaluations conducted by a dual validation team under subsection (c);
 - (2) subject such matters to challenge; and
 - (3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.
- (e) REPORT ON ASSESSMENTS—Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following:
 - (1) The results of each such assessment.
 - (2)
 - (A) Such official's determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so--
 - (i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and
 - (ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.
 - (B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.
 - (C) Such official's determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.
 - (3) In the case of a report submitted by the head of a national security laboratory --
 - (A) a concise statement regarding the adequacy of the science-based tools and methods being used to determine the matters covered by the assessments;
 - (B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 2532 of this title to identify and fix any inadequacy with respect to the matters covered by the assessments;
 - (C) a concise summary of the findings and recommendations of any teams under subsection (d) that relate to the assessments, together with a discussion of those findings and recommendations;

- (D) a concise summary of the results of any independent evaluation conducted by a dual validation team under subsection (c); and
 - (E) a concise summary of any significant finding investigations initiated or active during the previous year for which the head of the national security laboratory has full or partial responsibility.
- (4) In the case of a report submitted by the Commander of the United States Strategic Command--
- (A) a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types;
 - (B) a summary of all major assembly releases in place as of the date of the report for the active and inactive nuclear weapon stockpiles; and
 - (C) the views of the Commander on the stockpile responsiveness program under section 2538b of this title, the activities conducted under such program, and any suggestions to improve such program.
- (5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.
- (f) SUBMITTALS TO THE PRESIDENT AND CONGRESS
- (1) Not later than February 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President--
- (A) each report, without change, submitted to either Secretary under subsection (e) during the preceding year;
 - (B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;
 - (C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and
 - (D) any other information that the Secretaries individually or jointly consider appropriate.
- (2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.
- (3) If the President does not forward to Congress the matters required under paragraph (2) by the date required by such paragraph, the officials specified in subsection (b) shall provide a briefing to the congressional defense committees not later than March 30 on the report such officials submitted to the Secretary concerned under subsection (e).
- (g) CLASSIFIED FORM—Each submittal under subsection (f) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.
- (h) DEFINITION—In this section, the term “Secretary concerned” means--

- (1) the Secretary of Energy, with respect to matters concerning the Department of Energy; and
- (2) the Secretary of Defense, with respect to matters concerning the Department of Defense.

50 U.S.C. § 2526 | Sec. 4206. **FORM OF CERTIFICATIONS REGARDING THE SAFETY OR RELIABILITY OF THE NUCLEAR WEAPONS STOCKPILE**¹³

Any certification submitted to the President by the Secretary of Defense or the Secretary of Energy regarding confidence in the safety or reliability of a nuclear weapon type in the United States nuclear weapons stockpile shall be submitted in classified form only.

50 U.S.C. § 2527 | Sec. 4207. **NUCLEAR TEST BAN READINESS PROGRAM**¹⁴

- (a) **ESTABLISHMENT OF PROGRAM**—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Russian Federation.
- (b) **PURPOSES OF PROGRAM**—The purposes of the program under subsection (a) shall be the following:
 - (1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.
 - (2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.
 - (3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.
- (c) **CONDUCT OF PROGRAM**—The Secretary of Energy shall carry out the program provided for in subsection (a). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national security laboratories.

¹³ Formerly Pub. L. 106-398 § 3194 (2000); renumbered by Pub. L. 108-136 § 3141(e)(7) (2003).

¹⁴ Formerly Pub. L. 100-456 § 1436 (1988) (as amended by Pub. L. 105-85 § 3152(i) (1997) (striking subsection (e))); renumbered and amended by Pub. L. 108-136 § 3141(e)(8) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(c)(4) (2013) (striking former subsection (a) and redesignating the other subsections; and changing terminology from “national nuclear weapons laboratories” to “national security laboratories”).

(a) **REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT**

- (1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary --
- (A) shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of Title 31; and
 - (B) may carry out such activities only if amounts are authorized to be appropriated for such activities by an Act of Congress consistent with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270).
- (2) The activities described in this paragraph are as follows:
- (A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.
 - (B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.
 - (C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.
 - (D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) **BUDGET REQUEST FORMAT**—The Secretary shall include in a request for funds under subsection (a) the following:

- (1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any concept work prior to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.
- (2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) **EXCEPTION**—Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary to address proliferation concerns.

(d) **DEFINITIONS**—In this section:

¹⁵ Formerly Pub. L. 107-314 § 3143 (2002); renumbered by Pub. L. 108-136 § 3141(e)(10) (2003); amended by Pub. L. 111-84 § 3115 (2009) (amending subsection (c)-(d) to eliminate life extension program from exception to requirement to request funds in President's budget); Pub. L. 113-66 § 3146(c)(5) (2013) (changing in subsection (d) "the date of the enactment of this Act" to "December 2, 2002"); further amended by Pub. L. 115-232 § 3111(c) (2018) (adding subdivisions (A) and (B) to subsection (a)(1)).

- (1) The term “modified nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which--
 - (A) is in the nuclear weapons stockpile as of December 2, 2002; and
 - (B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.
- (2) The term “new nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which is neither--
 - (A) in the nuclear weapons stockpile on December 2, 2002; nor
 - (B) in production as of that date.

50 U.S.C. § 2530 | Sec. 4210. **TESTING OF NUCLEAR WEAPONS**¹⁶

- (a) UNDERGROUND TESTING—No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.
- (b) ATMOSPHERIC TESTING—None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1547) or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.

50 U.S.C. § 2532 | Sec. 4212. **MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE**¹⁷

(a) MANUFACTURING PROGRAM

- (1) The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives as specified in the most recent Nuclear Posture Review:
 - (A) To provide a stockpile surveillance engineering base.
 - (B) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.
 - (C) To fabricate and certify new nuclear warheads, as necessary.
 - (D) To support nuclear weapons.
 - (E) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

¹⁶ Formerly Pub. L. 102-377 § 507(f) (1992); renumbered and amended by Pub. L. 108-136 § 3141(e)(11) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(d)(1) (2013) (rewriting entire section).

¹⁷ Formerly Pub. L. 104-106 § 3137 (1996) (as amended by Pub. L. 104-201 § 3132(a) (1996) (redesignating subparagraphs (a)(1)(A)-(E) and adding subsection (a)(2); and rewriting subsection (b)(3)); renumbered and amended by Pub. L. 108-136 § 3141(e)(13) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(e) (2013) (striking subsections (d)-(e)); Pub. L. 113-66 § 3146(c)(6) (2013) (changing in subsection (a)(2) “review” to “memorandum” and minor grammatical change).

2020 – Pub. L. 116-92 amended Sec. 4212.

- (2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Memorandum.
- (b) **REQUIRED CAPABILITIES**—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):
- (1) The weapons assembly capabilities of the Pantex Plant.
 - (2) The weapon secondary fabrication capabilities of the Y-12 National Security Complex, Oak Ridge, Tennessee.
 - (3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.
 - (4) The non-nuclear component capabilities of the Kansas City National Security Campus, Kansas City, Missouri.
- (c) **NUCLEAR POSTURE REVIEW**—For purposes of subsection (a), the term “Nuclear Posture Review” means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and Congress dated February 19, 1995, or subsequent such reports.

50 U.S.C. § 2533 | Sec. 4213. **REPORTS ON CRITICAL DIFFICULTIES AT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES**¹⁸

- (a) **REPORTS BY HEADS OF LABORATORIES AND FACILITIES**—In the event of a difficulty at a national security laboratory or a nuclear weapons production facility that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or facility, as the case may be, shall submit to the Administrator a report on the difficulty. The head of the laboratory or facility shall submit the report as soon as practicable after discovery of the difficulty.
- (b) **TRANSMITTAL BY ADMINISTRATOR**—Not later than 10 days after receipt of a report under subsection (a), the Administrator shall transmit the report (together with the comments of the Administrator) to the congressional defense committees, to the Secretary of Energy and the Secretary of Defense, and to the President.
- (c) [Not part of U.S. Code; amending 10 U.S.C. § 179.]
- (d) **INCLUSION OF REPORTS IN ANNUAL STOCKPILE ASSESSMENT**—Any report submitted pursuant to subsection (a) shall also be submitted to the President and Congress with the matters required to be submitted under section 2525(f) of this title for the year in which such report is submitted.

¹⁸ Formerly Pub. L. 104-201 § 3159 (1996) (as amended by Pub. L. 106-65 § 3163(f) (1999) (adding subsection (d))); renumbered by Pub. L. 108-136 § 3141(e)(14) (2003); amended by Pub. L. 112-239 § 3131(f)(1) (generally changing terminology from “nuclear weapons laboratories” to “national security laboratories,” and from “nuclear weapons production plants” to “nuclear weapons production facilities”; changing terminology in subsection (b) from “Assistant Secretary” to “Administrator”; and striking subsection (e) on definitions of nuclear weapons laboratories); Pub. L. 113-66 § 3146(c)(7) (2013) (changing “plant” to “facility” throughout; and changing subsection (d) heading from “certification” to “assessment”).

50 U.S.C. § 2535 | Sec. 4215. **REPLACEMENT PROJECT FOR CHEMISTRY AND METALLURGY RESEARCH BUILDING, LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO**¹⁹

- (a) **REPLACEMENT BUILDING REQUIRED**—The Secretary of Energy shall construct at Los Alamos National Laboratory, New Mexico, a building to replace the functions of the existing Chemistry and Metallurgy Research Building at Los Alamos National Laboratory associated with Department of Energy Hazard Category 2 special nuclear material operations.
- (b) **LIMITATION ON COST**—The cost of the building constructed under subsection (a) may not exceed \$3,700,000,000. If the Secretary determines the cost will exceed such amount, the Secretary shall submit a detailed justification for such increase to the congressional defense committees.
- (c) **PROJECT BASIS**—The construction authorized by subsection (a) shall use as its basis the facility project in the Department of Energy Readiness and Technical Base designated 04 -D-125 (chemistry and metallurgy facility replacement project at Los Alamos National Laboratory).
- (d) **ASSISTANCE**
 - (1) In carrying out this section, the Secretary shall procure the services of the Commander of the Naval Facilities Engineering Command to assist the Secretary with respect to the program management, oversight, and design activities of the project authorized by subsection (a).
 - (2) The Secretary shall carry out this subsection using funds made available for the Administration.
- (e) **DEADLINE FOR COMMENCEMENT OF OPERATIONS**—The building constructed under subsection (a) shall commence operations by not later than December 31, 2026.

50 U.S.C. § 2536 | Sec. 4216. **REPORTS ON LIFE EXTENSION PROGRAMS**²⁰

- (a) **REPORTS REQUIRED**—Before proceeding beyond phase 6.2 activities with respect to any life extension program, the Nuclear Weapons Council shall submit to the congressional defense committees a report on such phase 6.2 activities, including--
 - (1) an assessment of the life extension options considered for the phase 6.2 activities, including whether the subsystems and components in each option are considered to be a refurbishment, reuse, or replacement of such subsystem or component; and
 - (2) an assessment of the option selected for the phase 6.2 activities, including--
 - (A) whether the subsystems and components will be refurbished, reused, or replaced; and
 - (B) the advantages and disadvantages of refurbishment, reuse, and replacement for each such subsystem and component.

¹⁹ Added by Pub. L. 112-239 § 3114(a)(1) (2013); amended by Pub. L. 113-66 § 3146(c)(9) (2013) (minor terminology change).

²⁰ Added by Pub. L. 112-239 § 3141(a) (2013); amended by Pub. L. 113-66 § 3146(a)(2)(B) (2013) (technical correction).

2020-Pub. L. 116-92 amended Sec. 4216.

(b) PHASE 6.2 ACTIVITIES DEFINED—In this section, the term “phase 6.2 activities” means, with respect to a life extension program, the phase 6.2 feasibility study and option down-select.

50 U.S.C. § 2537 | Sec. 4217. **SELECTED ACQUISITION REPORTS AND INDEPENDENT COST ESTIMATES AND REVIEWS OF CERTAIN PROGRAMS AND FACILITIES**²¹

(a) **SELECTED ACQUISITION REPORTS**

- (1) At the end of the first quarter of each fiscal year, the Secretary of Energy, acting through the Administrator, shall submit to the congressional defense committees a report on each nuclear weapon system undergoing life extension and each major alteration project (as defined in section 4713(a)(2) of this title) during the preceding fiscal year. The reports shall be known as Selected Acquisition Reports for the weapon system concerned.
- (2) The information contained in the Selected Acquisition Report for a fiscal year for a nuclear weapon system shall be the information contained in the Selected Acquisition Report for each fiscal-year quarter in that fiscal year for a major defense acquisition program under section 2432 of Title 10, expressed in terms of the nuclear weapon system.

(b) **INDEPENDENT COST ESTIMATES AND REVIEWS**

- (1) The Secretary, acting through the Administrator, shall submit to the congressional defense committees and the Nuclear Weapons Council the following:
 - (A) An independent cost estimate of the following:
 - (i) Each nuclear weapon system undergoing life extension at the completion of phase 6.2A, relating to design definition and cost study.
 - (ii) Each nuclear weapon system undergoing life extension at the completion of phase 6.3, relating to development engineering.
 - (iii) Each nuclear weapon system undergoing life extension at the completion of phase 6.4, relating to production engineering, and before the initiation of phase 6.5, relating to first production.
 - (iv) Each new nuclear facility within the nuclear security enterprise that is estimated to cost more than \$500,000,000 before such facility achieves critical decision 1 and before such facility achieves critical decision 2 in the acquisition process.
 - (v) Each nuclear weapons system undergoing a major alteration project (as defined in section 4713(a)(2)).

²¹ Added by Pub. L. 112-239 § 3162(a) (2013); amended by Pub. L. 113-66 §§ 3112(b) (2013) (changing in subsection (b)(2) “for purposes of this subsection” to “submitted under this subsection before October 1, 2015”; and adding subsection (b)(3)); *id.* § 3146(a)(2)(C) (technical correction); Pub. L. 113-291 § 3114(a), (b) (2014) (amending title to “Certain Programs and Facilities” and adding language concerning cost “reviews” throughout); Pub. L. 114-92 § 3113(b)(1), (2)(A) (2015) (amending title to “Certain Programs and Facilities”; adding major alterations projects to subsection (a)(1); and adding subsection (b)(1)(A)(iv)); Pub. L. 115-91 § 3113 (2017) (amending subsection b); Pub. L. 115-91 § 3133 (2017) (amending section (a)).

- (B) An independent cost review of each nuclear weapon system undergoing life extension at the completion of phase 6.2, relating to study of feasibility and down-select.
- (2) Each independent cost estimate and independent cost review under paragraph (1) shall include –
 - (A) whether the cost baseline or the budget estimate for the period covered by the future-years nuclear security program has changed, and the rationale for any such change; and
 - (B) any views of the Secretary or the Administrator regarding such estimate or review.
- (3) The Administrator shall review and consider the results of any independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility, as the case may be, under this subsection before entering the next phase of the development process of such system or the acquisition process of such facility.
- (4) Except as otherwise specified in paragraph (1), each independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility under this subsection shall be submitted not later than 30 days after the date on which—
 - (A) in the case of a nuclear weapons system, such system completes a phase specified in such paragraph; or
 - (B) in the case of a nuclear facility, such facility achieves critical decision 1 as specified in subparagraph (A)(iv) of such paragraph.
- (5) Each independent cost estimate or independent cost review submitted under this subsection shall be submitted in unclassified form, but may include a classified annex if necessary.
- (c) **AUTHORITY FOR FURTHER ASSESSMENTS**—Upon the request of the Administrator, the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Administrator, may conduct an independent cost assessment of any initiative or program of the Administration that is estimated to cost more than \$500,000,000.

50 U.S.C. § 2538 | Sec. 4218. **ADVICE TO PRESIDENT AND CONGRESS REGARDING SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE**²²

(a) **POLICY**

- (1) **IN GENERAL**—It is the policy of the United States--
 - (A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

²² Formerly Pub. L. 105-85 § 1305 (1997); renumbered and amended by Pub. L. 112-239 § 3164(a)-(b) (2013) (adding subsection (e) [formerly subsection (f)]; and changing terminology to “national security laboratory” and “nuclear weapons production plant” throughout); further amended by Pub. L. 113-66 § 3146(a)(2)(D), (c)(10) (2013) (technical corrections); Pub. L. 113-291 § 3142(e) (2014) (minor grammatical corrections).
2020 – Pub. L. 116-92 amended Sec. 4218.

- (B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.
- (2) NUCLEAR WEAPONS STOCKPILE—It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the national security laboratories and nuclear weapons production facilities.
- (3) SENSE OF CONGRESS—It is the sense of Congress that--
 - (A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;
 - (B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and
 - (C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.
- (b) [Not part of U.S. Code; amending Pub. L. 104-201 § 3159(b).]
- (c) [Not part of U.S. Code; amending Pub. L. 104-201 § 3159(b).]
- (d) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE—In addition to a director of a national security laboratory or a nuclear weapons production facility under section 2533 of this title, any member of the Nuclear Weapons Council may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.
- (e) EXPRESSION OF INDIVIDUAL VIEWS
 - (1) In general—No individual, including a representative of the President, may take any action against, or otherwise constrain, a director of a national security laboratory or a nuclear weapons production facility, or a member of the Nuclear Weapons Council from presenting the professional views of the director or member, as the case may be, to the President, the National Security Council, or Congress regarding--
 - (A) the safety, security, reliability, or credibility of the nuclear weapons stockpile and nuclear forces; or
 - (B) the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces.
 - (2) CONSTRUCTION—Nothing in paragraph (1)(B) may be construed to affect the interagency budget process.
- (f) REPRESENTATIVE OF THE PRESIDENT DEFINED—In this section, the term “representative of the President” means the following:
 - (1) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.
 - (2) Any member or official of the National Security Council.
 - (3) Any member or official of the Joint Chiefs of Staff.
 - (4) Any official of the Office of Management and Budget.

- (a) **REQUIREMENT**—Consistent with the requirements of the Secretary of Defense, the Secretary of Energy shall ensure that the nuclear security enterprise--
- (1) during 2021, begins production of qualification plutonium pits;
 - (2) during 2024, produces not less than 10 war reserve plutonium pits;
 - (3) during 2025, produces not less than 20 war reserve plutonium pits;
 - (4) during 2026, produces not less than 30 war reserve plutonium pits; and
 - (5) during 2030, produces not less than 80 war reserve plutonium pits.
- (b) **ANNUAL CERTIFICATION**—Not later than March 1, 2015, and each year thereafter through 2030, the Secretary of Energy shall certify to the congressional defense committees and the Secretary of Defense that the programs and budget of the Secretary of Energy will enable the nuclear security enterprise to meet the requirements under subsection (a).
- (c) **PLAN**—If the Secretary of Energy does not make a certification under subsection (b) by March 1 of any year in which a certification is required under that subsection, by not later than May 1 of such year, the Chairman of the Nuclear Weapons Council shall submit to the congressional defense committees a plan to enable the nuclear security enterprise to meet the requirements under subsection (a). Such plan shall include identification of the resources of the Department of Energy that the Chairman determines should be redirected to support the plan to meet such requirements.

- (a) **STATEMENT OF POLICY**—It is the policy of the United States to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons to ensure the nuclear deterrent of the United States remains safe, secure, reliable, credible, and responsive.
- (b) **PROGRAM REQUIRED**—The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a stockpile responsiveness program, along with the stockpile stewardship program under section 2521 of this title and the stockpile management program under section 2524 of this title, to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons
- (c) **OBJECTIVES**—The program under subsection (b) shall have the following objectives:
- (1) Identify, sustain, enhance, integrate, and continually exercise all of the capabilities, infrastructure, tools, and technologies across the science, engineering, design, certification, and manufacturing cycle required to carry out all phases of the joint nuclear weapons life cycle process, with respect to both the nuclear security enterprise and relevant elements of the Department of Defense.

²³ Added by Pub. L. 113-291 § 3112(b)(1) (2014).
2020 – Pub. L. 116-92 amended Sec. 4219.

²⁴ Added by Pub. L. 114-92 § 3112(b)(1) (2015). Amended by Pub. L. 115-91 § 3135 (2017) (adding subsection (c)(6)).
2020 – Pub. L. 116-92 amended Sec. 4220(C)(3) and (6).

- (2) Identify, enhance, and transfer knowledge, skills, and direct experience with respect to all phases of the joint nuclear weapons life cycle process from one generation of nuclear weapon designers and engineers to the following generation.
 - (3) Periodically demonstrate stockpile responsiveness throughout the range of capabilities as required, such as through the use of prototypes, flight testing, and development of plans for certification without the need for nuclear explosive testing.
 - (4) Shorten design, certification, and manufacturing cycles and timelines to minimize the amount of time and costs leading to an engineering prototype and production.
 - (5) Continually exercise processes for the integration and coordination of all relevant elements and processes of the Administration and the Department of Defense required to ensure stockpile responsiveness.
 - (6) The retention of the ability, in coordination with the Director of National Intelligence, to assess and develop prototype nuclear weapons of foreign countries if needed to meet intelligence requirements and, if necessary, to conduct no-yield testing of those prototypes.
- (d) **JOINT NUCLEAR WEAPONS LIFE CYCLE PROCESS DEFINED**—In this section, the term “joint nuclear weapons life cycle process” means the process developed and maintained by the Secretary of Defense and the Secretary of Energy for the development, production, maintenance, and retirement of nuclear weapons.

50 U.S.C. § 2538c | Sec. 4221. **LONG-TERM PLAN FOR MEETING NATIONAL SECURITY REQUIREMENTS FOR UNENCUMBERED URANIUM**²⁵

- (a) **IN GENERAL**—Not later than December 31 of each even-numbered year through 2026, the Secretary of Energy shall submit to the congressional defense committees a plan for meeting national security requirements for unencumbered uranium through 2065.
- (b) **PLAN REQUIREMENTS**—The plan required by subsection (a) shall include the following:
 - (1) An inventory of unencumbered uranium (other than depleted uranium), by program source and enrichment level, that, as of the date of the plan, is allocated to national security requirements.
 - (2) An inventory of unencumbered uranium (other than depleted uranium), by program source and enrichment level, that, as of the date of the plan, is not allocated to national security requirements but could be allocated to such requirements.
 - (3) An identification of national security requirements for unencumbered uranium, by program source and enrichment level.
 - (4) A description of any shortfall in obtaining unencumbered uranium to meet national security requirements and an assessment of whether that shortfall could be mitigated through the blending down of uranium that is of a higher enrichment level.
 - (5) An inventory of unencumbered depleted uranium, an assessment of the portion of that uranium that could be allocated to national security requirements through re-enrichment, and an estimate of the costs of re-enriching that uranium.

²⁵ Added by Pub. L. 114-92 § 3131(a) (2015); Amended by Pub L. 115-91 § 3133(e)(2017) (amending paragraph (a)).

- (6) A description of the swap and barter agreements involving unencumbered uranium needed to meet national security requirements that are in effect on the date of the plan.
 - (7) An assessment of whether additional enrichment of uranium will be required to meet national security requirements and an estimate of the time for production operations and the cost for each type of enrichment being considered.
 - (8) A description of changes in policy that would mitigate any shortfall in obtaining unencumbered uranium to meet national security requirements and the implications of those changes.
- (c) **FORM OF PLAN**—The plan required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.
- (d) **DEFINITIONS**—In this section:
- (1) The term “depleted”, with respect to uranium, means that the uranium is depleted in uranium-235 compared with natural uranium.
 - (2) The term “unencumbered”, with respect to uranium, means that the United States has no obligation to foreign governments to use the uranium for only peaceful purposes.

50 U.S.C. § 2538d | Sec. 4222. **INCORPORATION OF INTEGRATED SURETY ARCHITECTURE**²⁶

(a) **SHIPMENTS.** –

- (1) The Administrator shall ensure that shipments described in paragraph (2) incorporate surety technologies relating to transportation and shipping developed by the Integrated Surety Architecture program of the Administration.
- (2) A shipment described in this paragraph is an over-the-road shipment of the Administration that involves any nuclear weapon planned to be in the active stockpile after 2025.

(b) **CERTAIN PROGRAMS.** –

- (1) The Administrator, in coordination with the Chairman of the Nuclear Weapons Council, shall ensure that each program described in paragraph (2) incorporates integrated designs compatible with the Integrated Surety Architecture program.
- (2) A program described in this subsection is a program of the Administration that is a warhead development program, a life extension program, or a warhead major alteration program.

(c) **DETERMINATION.** –

- (1) If, on a case-by-case basis, the Administrator determines that a shipment under subsection (a) will not incorporate some or all of the surety technologies described in such subsection, or that a program under subsection (b) will not incorporate some or all of the integrated designs described in such subsection, the Administrator shall submit such determination to the congressional defense committees, including the results of analysis conducted pursuant to paragraph (2).

²⁶ Added by Pub L. 115-91 § 3112 (2017).

(2) Each determination made under paragraph (1) shall be based on a documented, system risk analysis that considers security risk reduction, operational impacts, and technical risk.

(d) TERMINATION. — The requirements of subsections (a) and (b) shall terminate on December 31, 2029.

TBD | Sec. 4223. **W93 NUCLEAR WARHEAD ACQUISITION PROCESS**²⁷

(a) REPORTING REQUIREMENTS. —

(1) PHASE 1. — Upon receiving a concept definition study under phase 1 of the joint nuclear weapons life cycle for the W93 nuclear weapon, the Nuclear Weapons Council shall submit to the congressional defense committees a report that includes the following:

- (A) A description of the potential military characteristics of the weapon.
- (B) A description of the stockpile-to-target sequence requirements of the weapon.
- (C) An initial assessment of the requirements a W93 nuclear weapon program is likely to generate for the nuclear security enterprise, including—
 - (i) adjustments to the size and composition of the workforce;
 - (ii) additions to existing weapon design and production capabilities; or
 - (iii) additional facility recapitalization or new construction.
- (D) A preliminary description of other significant requirements for a W93 nuclear weapon program, including—
 - (i) first production unit date;
 - (ii) initial operational capability date;
 - (iii) full operational capability date; and
 - (iv) any unique safety and surety requirements that could increase design complexity or cost estimate uncertainty.

(2) PHASE 2. —

(A) IN GENERAL. — Not later than 15 days after the date on which the Nuclear Weapons Council approves phase 2 of the joint nuclear weapons life cycle for the W93 nuclear weapon, the Administrator shall submit to the congressional defense committees a plan to implement a process of independent peer review or review by a board of experts, or both, with respect to—

- (i) the nonnuclear components of the weapon;
 - (ii) subsystem design; and
 - (iii) engineering aspects of the weapon.
- (B) REQUIREMENTS FOR PROCESS. — The Administrator shall ensure that the process required by subparagraph (A)—
- (i) uses—
 - (I) all relevant capabilities of the Federal Government, the defense industrial base, and institutions of higher education; and
 - (II) other capabilities that the Administrator determines necessary;and
 - (ii) informs the entire development life cycle of the W93 nuclear weapon.

²⁷ Added by Pub. L. 116-283 (2020) § 3111.

(b) **CERTIFICATIONS AND REPORTS AT PHASE 3.**—Not later than 15 days after the date on which the Nuclear Weapons Council approves phase 3 of the joint nuclear weapons life cycle for the W93 nuclear weapon—

(1) the Administrator shall certify to the congressional defense committees that—

(A) phases 1 through 5 of the joint nuclear weapons life cycle for the weapon will employ, at a minimum, the same best practices and will provide Congress with the same level of programmatic insight as exists under the phase 6.X process for life extension programs; and

(B) the proposed design for the weapon can be carried out within estimated schedule and cost objectives; and

(2) the Commander of the United States Strategic Command shall submit to the congressional defense committees a report containing the requirements for weapon quantity and composition by type for the sub-surface ballistic nuclear (SSBN) force, including such requirements planned for the 15-year period following the date of the report, including any planned life extensions, retirements, or alterations.

(c) **WAIVERS.**—Subsections (a) and (b) may be waived during a period of war declared by Congress after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021.

(d) **JOINT NUCLEAR WEAPONS LIFE CYCLE DEFINED.**—In this section, the term ‘joint nuclear weapons life cycle’ has the meaning given that term in section 4220.

Sec. 4224. EARNED VALUE MANAGEMENT AND TECHNOLOGY READINESS LEVELS FOR LIFE EXTENSION PROGRAMS ²⁸

(a) **REVIEW OF CONTRACTOR EARNED VALUE MANAGEMENT SYSTEMS.**—The Administrator shall enter into an arrangement with an independent entity under which that entity shall—

(1) review and validate whether the earned value management systems of contractors of the Administration for life extension programs meet the earned value management national standard; and

(2) conduct periodic surveillance reviews of such systems to ensure that such systems maintain compliance with that standard through program completion.

(b) **BENCHMARKS FOR TECHNOLOGY READINESS LEVELS.**—The Administrator shall—

(1) establish specific benchmarks for technology readiness levels of critical technologies for life extension programs at key decision points; and

(2) ensure that critical technologies meet such benchmarks at such decision points.

²⁸ Added by Pub. L. 116-283 (2020) § 3112.

(c) **APPLICABILITY.**—This section shall apply to programs that, as of the date of the enactment of this section, have not entered phase 3 of the nuclear weapons acquisition process or phase 6.3 of a nuclear weapons life extension program.

(d) **DEFINITION.**—In this section, the term ‘earned value management national standard’ means the most recent version of the EIA-748 Earned Value Management System Standard published by the National Defense Industrial Association.

Subtitle B—Tritium

50 U.S.C. § 2541 | Sec. 4231. **TRITIUM PRODUCTION PROGRAM**²⁹

- (a) **ESTABLISHMENT OF PROGRAM**—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons.
- (b) **LOCATION OF TRITIUM PRODUCTION FACILITY**—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.
- (c) **IN-REACTOR TESTS**—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

50 U.S.C. § 2542 | Sec. 4232. **TRITIUM RECYCLING**³⁰

- (a) **IN GENERAL**—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:
 - (1) All tritium recycling for weapons, including tritium refitting.
 - (2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.
- (b) **EXCEPTION**—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:
 - (1) Research on tritium.
 - (2) Work on tritium in support of the defense inertial confinement fusion program.
 - (3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

50 U.S.C. § 2544 | Sec. 4234. **MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES**³¹

The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

²⁹ Formerly Pub. L. 104-106 § 3133 (1996); renumbered and amended by Pub. L. 108-136 § 3141(e)(16) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(h) (2013) (rewriting entire section); Pub. L. 113-66 § 3146(c)(11) (2013) (transferring in subsection (c) from section 4233 [section 4233 later repealed]).

³⁰ Formerly Pub. L. 104-106 § 3136 (1996); renumbered by Pub. L. 108-136 § 3141(e)(17) (2003).

³¹ Formerly Pub. L. 104-201 § 3134 (1996); renumbered and amended by Pub. L. 108-136 § 3141(e)(19) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(i) (2013) (minor numbering adjustment).

- (1) modernize and consolidate the facilities for recycling tritium from weapons; and
- (2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

50 U.S.C. § 2545 | Sec. 4235. **PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS**³²

- (a) **PRODUCTION OF NEW TRITIUM**—The Secretary of Energy shall produce new tritium to meet the requirements of the Nuclear Weapons Stockpile Memorandum at the Tennessee Valley Authority Watts Bar or Sequoyah nuclear power plants consistent with the Secretary's December 22, 1998, decision document designating the Secretary's preferred tritium production technology.
- (b) **SUPPORT**—To support the method of tritium production set forth in subsection (a), the Secretary shall design and construct a new tritium extraction facility in the H-Area of the Savannah River Site, Aiken, South Carolina.
- (c) **DESIGN AND ENGINEERING DEVELOPMENT**—The Secretary shall--
 - (1) complete preliminary design and engineering development of the Accelerator Production of Tritium technology design as a backup source of tritium to the source set forth in subsection (a) and consistent with the Secretary's December 22, 1998, decision document; and
 - (2) make available those funds necessary to complete engineering development and demonstration, preliminary design, and detailed design of key elements of the system consistent with the Secretary's decision document of December 22, 1998.

³² Formerly Pub. L. 106-65 § 3134 (1999); renumbered by Pub. L. 108-136 § 3141(e)(20) (2003).

TITLE XLIII—PROLIFERATION MATTERS³³

50 U.S.C. § 2565 | Sec. 4305. AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS³⁴

The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

50 U.S.C. § 2566 | Sec. 4306. DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE³⁵

(a) PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY

(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include--

(A) a schedule for construction and operations so as to achieve, as of January 1, 2012, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2012; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(3)

(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include--

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2012.

(C) Each report under subparagraph (A) for years after 2014 shall--

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

³³ Former section 4303 repealed by Pub. L. 115-91 § 3133 (2017).

³⁴ Formerly Pub. L. 104-106 § 3131 (1996) (as amended by Pub. L. 107-314 § 3152 (2002) (striking subsection (b))); renumbered by Pub. L. 108-136 § 3141(f)(6) (2003).

³⁵ Formerly Pub. L. 107-314 § 3182 (2002); renumbered by Pub. L. 108-136 § 3141(f)(7)(A) (2003); amended by Pub. L. 109-103 § 313 (2005) (extending deadlines by an additional three years throughout; and inserting subsection (g) and redesignating accordingly); Pub. L. 112-239 § 3116 (2013) (extending schedule by another two years throughout); Pub. L. 113-291 § 3142(f) (2014) (minor grammatical corrections and clarifications).

(D) Each report under subparagraph (A) for years after 2019 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

- (i) Compliance with such objective.
- (ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

(b) CORRECTIVE ACTIONS

- (1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (g) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective.
- (2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.
- (3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.
- (4) If, before January 1, 2012, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2012 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2012.
- (5) If, after January 1, 2014, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.
- (6)
 - (A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.
 - (B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

- (C) Upon submittal of a report under subparagraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.
- (c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE—If the MOX production objective is not achieved as of January 1, 2014, the Secretary shall, consistent with the National Environmental Policy Act of 1969 and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere--
- (1) not later than January 1, 2016, not less than 1 metric ton of defense plutonium or defense plutonium materials; and
 - (2) not later than January 1, 2022, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.
- (d) ECONOMIC AND IMPACT ASSISTANCE
- (1) If the MOX production objective is not achieved as of January 1, 2016, the Secretary shall, subject to the availability of appropriations, pay to the State of South Carolina each year beginning on or after that date through 2021 for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the later of--
 - (A) the date on which the MOX production objective is achieved in such year; or
 - (B) the date on which the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.
 - (2)
 - (A) If, as of January 1, 2022, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than--
 - (i) one metric ton, in each of any two consecutive calendar years; and
 - (ii) three metric tons total,
 the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.
 - (B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.
 - (3) If the State of South Carolina obtains an injunction that prohibits the Department of Energy from taking any action necessary for the Department of Energy to meet any

deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

- (e) **FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM**—If on July 1 each year beginning in 2025 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for--
 - (1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or
 - (2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.
- (f) **REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY**—If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress--
 - (1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or
 - (2) a plan for removing such fuel from the State of South Carolina.
- (g) **BASELINE**—Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.
- (h) **DEFINITIONS**—In this section:
 - (1) **MOX PRODUCTION OBJECTIVE**—The term “MOX production objective” means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.
 - (2) **MOX FACILITY**—The term “MOX facility” means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.
 - (3) **DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MATERIALS**—The terms “defense plutonium” and “defense plutonium materials” mean weapons-usable plutonium.

50 U.S.C. § 2567 | Sec. 4306A. **DISPOSITION OF SURPLUS DEFENSE PLUTONIUM AT SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA** ³⁶

- (a) **CONSULTATION REQUIRED**—The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the

³⁶ Formerly Pub. L. 107-107 § 3155 (2001); renumbered by Pub. L. 108-136 § 3141(f)(7)(B) (2003).

disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

- (b) NOTICE REQUIRED—For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.
- (c) PLAN FOR DISPOSITION—The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:
 - (1) A review of each option considered for such disposal.
 - (2) An identification of the preferred option for such disposal.
 - (3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997--
 - (A) a statement of the cost of construction and operation of such facilities;
 - (B) a schedule for the expeditious construction of such facilities, including milestones; and
 - (C) a firm schedule for funding the cost of such facilities.
 - (4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.
- (d) PLAN FOR ALTERNATIVE DISPOSITION—If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.
- (e) SUBMISSION OF PLANS—Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).
- (f) LIMITATION ON PLUTONIUM SHIPMENTS—If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.
- (g) RULE OF CONSTRUCTION—Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.
- (h) ANNUAL REPORT ON FUNDING FOR FISSILE MATERIALS DISPOSITION ACTIVITIES—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) a report setting forth the extent to which amounts

requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

50 U.S.C. § 2568 |

**AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS
PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE
FORMER SOVIET UNION**³⁷

- (a) **AUTHORITY**—Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union that has not previously been authorized by Congress if the President determines each of the following:
- (1) That such project or activity will--
 - (A)
 - (i) assist the United States in the resolution of a critical emerging proliferation threat; or
 - (ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and
 - (B) be completed in a short period of time.
 - (2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.
- (b) **SCOPE OF AUTHORITY**—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.
- (c) **LIMITATION ON AVAILABILITY OF FUNDS**
- (1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.
 - (2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with--
 - (A) a justification for such determinations; and
 - (B) a description of the scope and duration of such project or activity.

³⁷ Not incorporated into the Atomic Energy Defense Act. Pub. L. 108-136 § 3124 (2003); amended by Pub. L. 108-375 § 3131 (2004) (inserting in subsection (a) “that has not previously been authorized by Congress”; striking former subsection (c) and redesignating other subsections accordingly; and in subsection (e) [formerly subsection (f)] changing source of appropriated funds in subsection (e) [formerly subsection (f)] from section Pub. L. 108-136 3101(a)(2) to “the International Nuclear Materials Protection and Cooperation Program”).

(d) **ADDITIONAL LIMITATIONS AND REQUIREMENTS**—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

- (1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.
- (2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.
- (3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(e) **FUNDS**—As used in this section, the term “international nuclear materials protection and cooperation program funds” means the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program.

50 U.S.C. § 2569 |

**ACCELERATION OF REMOVAL OR SECURITY OF FISSILE
MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED
EQUIPMENT AT VULNERABLE SITES WORLDWIDE³⁸**

(a) **SENSE OF CONGRESS**

- (1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.
- (2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) **PROGRAM AUTHORIZED**—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) **PROGRAM ELEMENTS**

- (1) Activities under the program under subsection (b) may include the following:
 - (A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.
 - (B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such

³⁸ Not incorporated into the Atomic Energy Defense Act. Pub. L. 108-375 § 3132 (2004); amended by Pub. L. 109-364 § 3113 (2006) (inserting subsection (f) and redesignating other subsections accordingly); Pub. L. 112-239 § 3118 (2013) (rewriting paragraph (f)(2)).

countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

- (C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.
- (D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.
- (E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.
- (F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.
- (G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.
- (H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.
- (I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.
- (J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.
- (K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.
- (L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.
- (M) Programs to--
 - (i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and
 - (ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

- (2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.
- (3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) REPORTS—

- (1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).
- (2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:
 - (A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.
 - (B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.
 - (C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.
- (3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) PARTICIPATION BY OTHER GOVERNMENTS AND ORGANIZATIONS

- (1) IN GENERAL—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).
- (2) PROGRAMS COVERED—The programs described in this paragraph are any programs within the Office of Defense Nuclear Nonproliferation of the National Nuclear Security Administration.
- (3) RETENTION AND USE OF AMOUNTS—Notwithstanding section 3302 of Title 31, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

- (4) RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS—If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.
- (5) NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES—Not later than 30 days after the receipt of an amount contributed under paragraph (1), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.
- (6) ANNUAL REPORT—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth--
- (A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;
 - (B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and
 - (C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.
- (7) EXPIRATION—The authority to accept, retain, and use contributions under this subsection expires on December 31, 2018.
- (g) DEFINITIONS—In this section:
- (1) The term “fissile materials” means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.
 - (2) The term “radiological materials” includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.
 - (3) The term “related equipment” includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.
 - (4) The term “highly-enriched uranium” means uranium enriched to or above 20 percent in the isotope 235.
 - (5) The term “low-enriched uranium” means uranium enriched below 20 percent in the isotope 235.
 - (6) The term “proliferation-attractive”, in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

(a) PROGRAM AUTHORIZED—

- (1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should--
 - (A) incorporate best practices under the Initiatives for Proliferation Prevention program; and
 - (B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.
 - (2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.
- (b) **SILK ROAD NATIONS DEFINED—**In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.
- (c) **FUNDING—**Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, up to \$10,000,000 may be used to carry out this section.

(a) IN GENERAL

- (1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at nonproliferation research laboratories of the Russian Federation and the United States, international exchange fellowships, to be known as Nuclear Nonproliferation Fellowships, in the nuclear nonproliferation sciences.
- (2) The purpose of the program shall be to provide opportunities for advancement in the nuclear nonproliferation sciences to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in those sciences.
- (3) A fellowship awarded to a scientist under the program shall be for collaborative study and training or advanced research at--
 - (A) a nonproliferation research laboratory of the Russian Federation, in the case of a scientist employed at a nonproliferation research laboratory of the United States; and

³⁹ Not incorporated into the Atomic Energy Defense Act. Pub. L. 108-375 § 3133 (2004).

⁴⁰ Not incorporated into the Atomic Energy Defense Act. Pub. L. 108-375 § 3134 (2004).

- (B) a nonproliferation research laboratory of the United States, in the case of a scientist employed at a nonproliferation research laboratory of the Russian Federation.
- (4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.
- (5) In a calendar year, the Administrator may not award more than--
 - (A) one fellowship to a scientist employed at a nonproliferation research laboratory of the Russian Federation; and
 - (B) one fellowship to a scientist employed at a nonproliferation research laboratory of the United States.
- (6) A fellowship under the program shall include--
 - (A) travel expenses; and
 - (B) any other expenses that the Administrator considers appropriate, such as room and board.
- (b) DEFINITIONS—In this section:
 - (1) The term “nonproliferation research laboratory” means, with respect to a country, a national laboratory of that country at which research in the nuclear nonproliferation sciences is carried out.
 - (2) The term “nuclear nonproliferation sciences” means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.
 - (3) The term “scientist” means an individual who has a degree from an institution of higher education in a science that has practical application in the nuclear nonproliferation sciences.
- (c) FUNDING—Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

50 U.S.C. § 2572 | Sec. 4307. INTERNATIONAL AGREEMENTS ON NUCLEAR WEAPONS DATA ⁴¹

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

⁴¹ Added by Pub. L. 110-181 § 3129(a)(1) (2008).

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations--

- (1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and
- (2) to obtain access to information described in paragraph (1) in the event of--
 - (A) a nuclear detonation; or
 - (B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

(a) RESEARCH AND DEVELOPMENT PLAN FOR NUCLEAR FORENSICS AND ATTRIBUTION

- (1) RESEARCH AND DEVELOPMENT—The Secretary of Energy shall prepare and implement a research and development plan to improve nuclear forensics capabilities in the Department of Energy and at the national laboratories overseen by the Department of Energy. The plan shall focus on improving the technical capabilities required--
 - (A) to enable a robust and timely nuclear forensic response to a nuclear explosion or to the interdiction of nuclear material or a nuclear weapon anywhere in the world; and
 - (B) to develop an international database that can attribute nuclear material or a nuclear weapon to its source.

(2) REPORTS

- (A) The Secretary of Energy shall submit to the congressional defense committees--
 - (i) not later than 6 months after October 14, 2008, a report on the contents of the research and development plan described in paragraph (1), and any legislative changes required to implement the plan; and
 - (ii) not later than 18 months after October 14, 2008, a report on the status of implementing the plan.
- (B) The Secretary shall submit each report required by this subsection in unclassified form, but may include a classified annex with such report.

(b) [omitted; amends Pub. L. 110-181 § 3129(b)]

(c) PRESIDENTIAL REPORT

⁴² Added by Pub. L. 110-181 § 3129(a)(1) (2008).

⁴³ Not incorporated into the Atomic Energy Defense Act. Pub. L. 110-417 § 3114 (2008).

- (1) IN GENERAL—Not later than 90 days after October 14, 2008, the President shall submit to the appropriate committees of Congress a report on the involvement of senior-level executive branch leadership in nuclear terrorism preparedness exercises that include nuclear forensics analysis.
- (2) APPROPRIATE COMMITTEES OF CONGRESS—In this subsection, the term “appropriate committees of Congress” means--
 - (A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and
 - (B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

50 U.S.C. § 2575 | Sec. 4309. **DEFENSE NUCLEAR NONPROLIFERATION MANAGEMENT PLAN**⁴⁴

- (a) PLAN REQUIRED-- The Administrator shall develop and annually update a five-year management plan for activities associated with the defense nuclear nonproliferation programs of the Administration to prevent and counter the proliferation of materials, technology, equipment, and expertise related to nuclear and radiological weapons in order to minimize and address the risk of nuclear terrorism and the proliferation of such weapons.
- (b) SUBMISSION TO CONGRESS –
 - (1) Not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).
 - (2) Not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).
 - (3) Each summary submitted under paragraph (1) and each report submitted under paragraph (2) shall be submitted in unclassified form, but may include a classified annex if necessary
- (c) ELEMENTS—The plan required by subsection (a) shall include, with respect to each defense nuclear nonproliferation program of the Administration, the following:
 - (1) A description of the policy context in which the program operates, including--
 - (A) a list of relevant laws, policy directives issued by the President, and international agreements; and
 - (B) nuclear nonproliferation activities carried out by other Federal agencies.
 - (2) A description of the objectives and priorities of the program during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be.
 - (3) A description of the activities carried out under the program during that year.
 - (4) A description of the accomplishments and challenges of the program during that year, based on an assessment of metrics and objectives previously established to determine the effectiveness of the program.

⁴⁴ Added by Pub. L. 114-92 § 3132(a)(1) (2015); amended by Pub L. 115-91 § 3112 (2017) (adding paragraphs 16 and 17); further amended by Pub. L. 115-232 § 1081(e)(3) (2018) (redesignating paragraphs (17) and (18) as paragraphs (16) and (17), respectively).

- (5) A description of any gaps that remain that were not or could not be addressed by the program during that year.
- (6) An identification and explanation of uncommitted or uncosted balances for the program, as of the date of the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, that are greater than the acceptable carryover thresholds, as determined by the Secretary of Energy.
- (7) An identification of funds for the program received through contributions from or cost-sharing agreements with foreign governments consistent with section 2569(f) of this title during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be and an explanation of such contributions and agreements.
- (8) A description and assessment of activities carried out under the program during that year that were coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.
- (9) Plans for activities of the program during the five-year period beginning on the date on which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be is submitted, including activities with respect to the following:
 - (A) Preventing nuclear and radiological proliferation and terrorism, including through--
 - (i) material management and minimization, particularly with respect to removing or minimizing the use of highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), efforts to dispose of surplus material, converting reactors from highly enriched uranium to low-enriched uranium (and identifying the countries in which such reactors are located);
 - (ii) global nuclear material security, including securing highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), and providing radiation detection capabilities at foreign ports and borders;
 - (iii) nonproliferation and arms control, including nuclear verification and safeguards;
 - (iv) defense nuclear research and development, including a description of activities related to developing and improving technology to detect the proliferation and detonation of nuclear weapons, verifying compliance of foreign countries with commitments under treaties and agreements relating to nuclear weapons, and detecting the diversion of nuclear materials (including safeguards technology); and
 - (v) nonproliferation construction programs, including activities associated with Department of Energy Order 413.1 (relating to program management controls).

- (B) Countering nuclear and radiological proliferation and terrorism.
- (C) Responding to nuclear and radiological proliferation and terrorism, including through--
 - (i) crisis operations;
 - (ii) consequences management; and
 - (iii) emergency management, including international capacity building.
- (10) A threat assessment, carried out by the intelligence community (as defined in section 3003(4) of this title), with respect to the risk of nuclear and radiological proliferation and terrorism and a description of how each activity carried out under the program will counter the threat during the five-year period beginning on the date on which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be is submitted and, as appropriate, in the longer term.
- (11) A plan for funding the program during that five-year period.
- (12) An identification of metrics and objectives for determining the effectiveness of each activity carried out under the program during that five-year period.
- (13) A description of the activities to be carried out under the program during that five-year period and a description of how the program will be prioritized relative to other defense nuclear nonproliferation programs of the Administration during that five-year period to address the highest priority risks and requirements, as informed by the threat assessment carried out under paragraph (10).
- (14) A description and assessment of activities to be carried out under the program during that five-year period that will be coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.
- (15) A summary of the technologies and capabilities documented under section 4310(a).⁴⁵
- (16) A summary of the assessments conducted under section 4310(b)(1).
- (17) Such other matters as the Administrator considers appropriate.⁴⁶

50 U.S.C. § 2576] | Sec. 4310. **INFORMATION RELATING TO CERTAIN DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS**⁴⁷

- (a) **TECHNOLOGIES AND CAPABILITIES** – The Administrator shall document, for efforts that are not focused on basic research, the technologies and capabilities of the defense nuclear nonproliferation research and development program that—
 - (1) are transitioned to end users for further development or deployment; and
 - (2) are deployed.
- (b) **ASSESSMENTS OF STATUS** –

⁴⁵ As enacted in Pub. L. 115-91 § 3114 and 3133 (2017) presumed to be paragraphs (c)(16) and (c)(17).

⁴⁶ Amended by Pub. L. 115-91 § 3114 (2017) (by redesignating paragraph 16 as paragraph 18).

⁴⁷ Added by Pub L. 115-91 § 3114 (2017).

- (1) In assessing projects under the defense nuclear nonproliferation research and development program or the defense nuclear nonproliferation and arms control program, the Administrator shall compare the status of each such project, including with respect to the final results of such project, to the baseline targets and goals established in the initial project plan of such project.
- (2) The Administrator may carry out paragraph (1) using a common template or such other means as the Administrator determines appropriate.

50 U.S.C. § 2577 | Sec. 4311 **ANNUAL SELECTED ACQUISITION REPORTS ON CERTAIN
HARDWARE RELATING TO DEFENSE NUCLEAR
NONPROLIFERATION.**⁴⁸

- (a) **ANNUAL SELECTED ACQUISITION REPORTS.**--
- (1) **IN GENERAL.** – At the end of each fiscal year, the Administrator shall submit to the congressional defense committees a report on each covered hardware project. The reports shall be known as Selected Acquisition Reports for the covered hardware project concerned.
 - (2) **MATTERS INCLUDED.** -- The information contained in the Selected Acquisition Report for a fiscal year for a covered hardware project shall be the information contained in the Selected Acquisition Report for such fiscal year for a major defense acquisition program under section 2432 of title 10, United States Code, expressed in terms of the covered hardware project
- (b) **COVERED HARDWARE PROJECT DEFINED.** -- In this section, the term ‘covered hardware project’ means a project carried out under the defense nuclear nonproliferation research and development program that—
- (1) is focused on the production and development of hardware, including with respect to the development and deployment of satellites or satellite payloads; and
 - (2) exceeds \$500,000,000 in total program cost over the course of five years.

⁴⁸ Added by Pub L. 115-91 § 3131 (2017).

TITLE XLIV—DEFENSE ENVIRONMENTAL CLEANUP MATTERS

Subtitle A—Defense Environmental Cleanup

50 U.S.C. § 2581 | Sec. 4401. **DEFENSE ENVIRONMENTAL CLEANUP ACCOUNT**⁴⁹

- (a) **ESTABLISHMENT**—There is hereby established in the Treasury of the United States for the Department of Energy an account to be known as the “Defense Environmental Cleanup Account” (hereafter in this section referred to as the “Account”).
- (b) **AMOUNTS IN ACCOUNT**—All sums appropriated to the Department of Energy for defense environmental cleanup at defense nuclear facilities shall be credited to the Account. Such appropriations shall be authorized annually by law. To the extent provided in appropriations Acts, amounts in the Account shall remain available until expended.

50 U.S.C. § 2582 | Sec. 4402. **REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR DEFENSE ENVIRONMENTAL CLEANUP**⁵⁰

- (a) **AUTHORITY TO DEVELOP FUTURE USE PLANS**—The Secretary of Energy may develop future use plans for any defense nuclear facility at which defense environmental cleanup activities are occurring.
- (b) **REQUIREMENT TO DEVELOP FUTURE USE PLANS**—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:
 - (1) Hanford Site, Richland, Washington.
 - (2) Savannah River Site, Aiken, South Carolina.
 - (3) Idaho National Engineering Laboratory, Idaho.
- (c) **CITIZEN ADVISORY BOARD**—
 - (1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.
 - (2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for defense environmental cleanup activities necessary for national security programs.

⁴⁹ Formerly Pub. L. 102-190 § 3134 (1991); renumbered by Pub. L. 108-136 § 3141(g)(2) (2003); amended by Pub. L. 113-66 § 3146(e)(1) (2013) (generally changing terminology from “Restoration and Waste Management” to “defense environmental cleanup”).

⁵⁰ Formerly Pub. L. 104-201 § 3153 (1996); renumbered and amended by Pub. L. 108-136 § 3141(g)(3) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(2) (2013) (generally changing terminology to “defense environmental cleanup”).

- (d) **REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD**—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of September 23, 1996, for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.
- (e) **50-YEAR PLANNING PERIOD**—A future use plan developed under this section shall cover a period of at least 50 years.
- (f) **REPORT**—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.
- (g) **SAVINGS PROVISIONS**
 - (1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before September 23, 1996.
 - (2) Nothing in this section may be construed to affect statutory requirements for a defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

50 U.S.C. 2582A | Sec. 4402A **FUTURE-YEARS DEFENSE ENVIRONMENTAL CLEANUP PLAN** ⁵¹

- (a) **IN GENERAL**—The Secretary of Energy shall submit to Congress each year, at or about the same time that the President's budget is submitted to Congress for a fiscal year under section 1105(a) of Title 31, a future-years defense environmental cleanup plan that--
 - (1) reflects the estimated expenditures and proposed appropriations included in that budget for the Department of Energy for defense environmental cleanup; and
 - (2) covers a period that includes the fiscal year for which that budget is submitted and not less than the four succeeding fiscal years.
- (b) **ELEMENTS**—Each future-years defense environmental cleanup plan required by subsection (a) shall contain the following:
 - (1) A detailed description of the projects and activities relating to defense environmental cleanup to be carried out during the period covered by the plan at the sites specified in subsection (c) and with respect to the activities specified in subsection (d).
 - (2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support such projects and activities.

⁵¹ Added by Pub. L. 111-383 § 3116(a) (2011); amended by Pub. L. 113-66 § 3146(e)(3) (2013) (generally changing terminology from “management” to “cleanup”); amended by Pub. L. 116-283 (2020) § 3122 (adding subsection (D) to Section 4402A(b)(3)).

- (3) With respect to each site specified in subsection (c), the following:
 - (A) A statement of each milestone included in an enforceable agreement governing cleanup and waste remediation for that site for each fiscal year covered by the plan.
 - (B) For each such milestone, a statement with respect to whether each such milestone will be met in each such fiscal year.
 - (C) For any milestone that will not be met, an explanation of why the milestone will not be met and the date by which the milestone is expected to be met.
 - (D) For any milestone that has been missed, renegotiated, or postponed, a statement of the current milestone, the original milestone, and any interim milestones.

(c) SITES SPECIFIED—The sites specified in this subsection are the following:

- (1) The Idaho National Laboratory, Idaho.
- (2) The Waste Isolation Pilot Plant, Carlsbad, New Mexico.
- (3) The Savannah River Site, Aiken, South Carolina.
- (4) The Oak Ridge National Laboratory, Oak Ridge, Tennessee.
- (5) The Hanford Site, Richland, Washington.
- (6) Any defense closure site of the Department of Energy.
- (7) Any site of the National Nuclear Security Administration.

(d) ACTIVITIES SPECIFIED—The activities specified in this subsection are the following:

- (1) Program support.
- (2) Program direction.
- (3) Safeguards and security.
- (4) Technology development and deployment.
- (5) Federal contributions to the Uranium Enrichment Decontamination and Decommissioning Fund established under section 2297g of Title 42.

50 U.S.C. § 2583 | Sec. 4403. **INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN** ⁵²

(a) PLAN—The Secretary of Energy shall develop a long-term plan for the integrated management of fissile materials by the Department of Energy. The plan shall--

- (1) identify means of coordinating or integrating the responsibilities of the Office of Environmental Management, the Office of Nuclear Energy, and the Administration for the treatment, storage, and disposition of fissile materials, and for the waste streams containing fissile materials, in order to achieve budgetary and other efficiencies in the discharge of those responsibilities; and

⁵² Formerly Pub. L. 106-65 § 3172 (1999); renumbered by Pub. L. 108-136 § 3141 (g)(4) (2003) (consolidating transfer); amended by Pub. L. 113-66 § 3146(e)(4) (2013) (changing in subsection (a)(1) “the Office of Fissile Materials Disposition, the Office of Nuclear Energy, and the Office of Defense Programs” to “the Office of Nuclear Energy, and the Administration”; and minor grammatical correction).

- (2) identify any expenditures necessary at the sites that are anticipated to have an enduring mission for plutonium management in order to achieve the integrated management of fissile materials by the Department.
- (b) **SUBMITTAL TO CONGRESS**—The Secretary shall submit the plan required by subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than March 31, 2014.

50 U.S.C. § 2585 | Sec. 4405. **ACCELERATED SCHEDULE FOR DEFENSE ENVIRONMENTAL CLEANUP ACTIVITIES**⁵³

- (a) **ACCELERATED CLEANUP**—The Secretary of Energy shall accelerate the schedule for defense environmental cleanup activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.
- (b) **CONSIDERATION OF FACTORS**—In making a determination under subsection (a), the Secretary shall consider the following:
 - (1) The cost savings achievable by the Federal Government.
 - (2) The potential for reuse of the site.
 - (3) The risks that the site poses to local health and safety.
 - (4) The proximity of the site to populated areas.
- (c) **SAVINGS PROVISION**—Nothing in this section may be construed to affect a specific statutory requirement for a specific defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment.

50 U.S.C. § 2586 | Sec. 4406. **DEFENSE ENVIRONMENTAL CLEANUP TECHNOLOGY PROGRAM**⁵⁴

- (a) **ESTABLISHMENT OF PROGRAM**—The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for--
 - (1) the reduction of environmental hazards and contamination resulting from defense waste; and
 - (2) environmental restoration of inactive defense waste disposal sites.
- (b) **DEFINITIONS**—As used in this section:

⁵³ Formerly Pub. L. 104-106 § 3156 (1996); renumbered and amended by Pub. L. 108-136 § 3141(g)(6) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(6) (2013) (generally changing terminology from “environmental restoration and waste management” to “defense environmental cleanup”).

⁵⁴ Formerly Pub. L. 101-189 § 3141 (1989) (as amended by Pub. L. 105-85 § 3152(g) (1997) (striking subsection (c) and redesignating subsections accordingly); renumbered and amended by Pub. L. 108-136 § 3141(g)(7) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(7) (2013) (generally changing terminology from “environmental restoration and waste management” to “defense environmental cleanup”; and striking former subsections (b)-(c) and redesignating former subsection (d) accordingly); Pub. L. 113-291 § 3142(g) (2014) (minor grammatical corrections).

- (1) The term “defense waste” means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.
- (2) The term “inactive defense waste disposal site” means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

50 U.S.C. § 2587 | Sec. 4407. **REPORT ON DEFENSE ENVIRONMENTAL CLEANUP EXPENDITURES**⁵⁵

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of Title 31), the Secretary of Energy shall submit to Congress a report on how the defense environmental cleanup funds of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

50 U.S.C. § 2588 | Sec. 4408. **PUBLIC PARTICIPATION IN PLANNING FOR DEFENSE ENVIRONMENTAL CLEANUP**⁵⁶

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and attorneys general of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for defense environmental cleanup activities at Department of Energy defense nuclear facilities.

TBD | Sec. 4409. **ESTIMATION OF COSTS OF MEETING DEFENSE ENVIRONMENTAL CLEANUP MILESTONES REQUIRED BY CONSENT ORDERS.**⁵⁷

The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the cost, for that fiscal year and the four fiscal years following that fiscal year, of meeting milestones required by a consent order at each defense nuclear facility at which defense environmental cleanup activities are occurring. The report shall include, for each such facility –

- (1) a specification of the cost of meeting such milestones during that fiscal year; and

⁵⁵ Formerly Pub. L. 101-510 § 3134 (1990); renumbered and amended by Pub. L. 108-136 § 3141(g)(8) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(8) (2013) (generally changing terminology from “environmental restoration and waste management” to “defense environmental cleanup”).

⁵⁶ Formerly Pub. L. 103-337 § 3160(e) (1994); renumbered and amended by Pub. L. 108-136 § 3141(g)(9) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(9) (2013) (generally changing terminology from “environmental restoration and waste management” to “defense environmental cleanup”; and minor grammatical correction).

⁵⁷ 2020- Pub. L. 116-92 inserted Sec. 4409.

- (2) an estimate of the cost of meeting such milestones during the four fiscal years following that fiscal year.

TBD | Sec. 4410. **PUBLIC STATEMENT OF ENVIRONMENTAL LIABILITIES.**⁵⁸

Each year, at the same time that the Department of Energy submits its annual financial report under section 3516 of title 31, United States Code, the Secretary of Energy shall make available to the public a statement of environmental liabilities, as calculated for the most recent audited financial statement of the Department under section 3515 of that title, for each defense nuclear facility at which defense environmental cleanup activities are occurring.

50 U.S.C. § 2589 | **POLICY OF DEPARTMENT OF ENERGY REGARDING FUTURE DEFENSE ENVIRONMENTAL MANAGEMENT MATTERS**⁵⁹

(a) POLICY REQUIRED

- (1) Commencing not later than October 1, 2005, the Secretary of Energy shall have in effect a policy for carrying out future defense environmental management matters of the Department of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.
 - (2) In paragraph (1), the term “future defense environmental management matter” means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after November 24, 2003. However, such term does not include any such project or activity the responsibility for which has been assigned, as of November 24, 2003, to the Environmental Management program of the Department.
- (b) REFLECTION IN BUDGET—For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) reflect the policy required by subsection (a).
 - (c) CONSULTATION—The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.
 - (d) REPORT—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of Title 31) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

Subtitle B—Closure of Facilities

⁵⁸ Added by Pub. L. 116-283 (2020) § 3121.

⁵⁹ Not incorporated into the Atomic Energy Defense Act. Pub. L. 108-136 § 3132 (2003).

50 U.S.C. § 2602 | Sec. 4422. **REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES**⁶⁰

- (a) TRAINING AND JOB PLACEMENT SERVICES PLAN—Not later than 120 days before a Department of Energy defense nuclear facility permanently ceases all production and processing operations, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the defense environmental cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.
- (b) CLOSURE REPORT—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing--
 - (1) a complete survey of environmental problems at the facility;
 - (2) budget quality data indicating the cost of defense environmental cleanup activities at the facility; and
 - (3) a discussion of the proposed cleanup schedule.

50 U.S.C. § 2603 | Sec. 4423. **PLAN FOR DEACTIVATION AND DECOMMISSIONING OF NONOPERATIONAL DEFENSE NUCLEAR FACILITIES**⁶¹

- (a) IN GENERAL—The Secretary of Energy shall, during each even-numbered year beginning in 2016, develop and subsequently carry out a plan for the activities of the Department of Energy relating to the deactivation and decommissioning of nonoperational defense nuclear facilities.
- (b) ELEMENTS—The plan required by subsection (a) shall include the following:
 - (1) A list of nonoperational defense nuclear facilities, prioritized for deactivation and decommissioning based on the potential to reduce risks to human health, property, or the environment and to maximize cost savings.
 - (2) An assessment of the life cycle costs of each nonoperational defense nuclear facility during the period beginning on the date on which the plan is submitted under subsection (d) and ending on the earlier of--
 - (A) the date that is 25 years after the date on which the plan is submitted; or
 - (B) the estimated date for deactivation and decommissioning of the facility.
 - (3) An estimate of the cost and time needed to deactivate and decommission each nonoperational defense nuclear facility.

⁶⁰ Formerly Pub. L. 101-189 § 3141(g)(12) (2003); renumbered and amended by Pub. L. 108-136 § 3141(g)(12) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(a)(2)(E) (2013) (technical correction); *id.* § (e)(11) (changing in subsection (a) “must” to “shall”; and changing terminology of both subsections (a) and (b) to “defense environmental cleanup”).

⁶¹ Added by Pub. L. 114-92 § 3133(a) (2015).

- (4) A schedule for when the Office of Environmental Management will accept each nonoperational defense nuclear facility for deactivation and decommissioning.
- (5) An estimate of costs that could be avoided by--
 - (A) accelerating the cleanup of nonoperational defense nuclear facilities; or
 - (B) other means, such as reusing such facilities for another purpose.
- (c) PLAN FOR TRANSFER OF RESPONSIBILITY FOR CERTAIN FACILITIES—The Secretary shall, during 2016, develop and subsequently carry out a plan under which the Administrator shall transfer, by March 31, 2019, to the Assistant Secretary for Environmental Management the responsibility for decontaminating and decommissioning facilities of the Administration that the Secretary determines--
 - (1) are nonoperational as of September 30, 2015; and
 - (2) meet the requirements of the Office of Environmental Management for such transfer.
- (d) SUBMISSION TO CONGRESS—Not later than March 31 of each even-numbered year beginning in 2016, the Secretary shall submit to the appropriate congressional committees a report that includes--
 - (1) the plan required by subsection (a);
 - (2) a description of the deactivation and decommissioning actions expected to be taken during the following fiscal year pursuant to the plan;
 - (3) in the case of the report submitting¹ during 2016, the plan required by subsection (c); and
 - (4) in the case of a report submitted during 2018 or any year thereafter, a description of the deactivation and decommissioning actions taken at each nonoperational defense nuclear facility during the preceding fiscal year.
- (e) TERMINATION—The requirements of this section shall terminate after the submission to the appropriate congressional committees of the report required by subsection (d) to be submitted not later than March 31, 2026.
- (f) DEFINITIONS—In this section:
 - (1) The term “appropriate congressional committees” means--
 - (A) the congressional defense committees; and
 - (B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.
 - (2) The term “life cycle costs”, with respect to a facility, means--
 - (A) the present and future costs of all resources and associated cost elements required to develop, produce, deploy, or sustain the facility; and
 - (B) the present and future costs to deactivate, decommission, and deconstruct the facility.
 - (3) The term “nonoperational defense nuclear facility” means a production facility or utilization facility (as those terms are defined in section 2014 of Title 42) under the control or jurisdiction of the Secretary of Energy and operated for national security purposes that is no longer needed for the mission of the Department of Energy, including the National Nuclear Security Administration.

Subtitle C—Hanford Reservation, Washington

50 U.S.C. § 2621 | Sec. 4441. SAFETY MEASURES FOR WASTE TANKS AT HANFORD NUCLEAR RESERVATION ⁶²

- (a) IDENTIFICATION AND MONITORING OF TANKS—Not later than February 3, 1991, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether continuous monitoring is being carried out to detect a release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.
- (b) ACTION PLANS—Not later than March 5, 1991, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).
- (c) PROHIBITION—Beginning March 5, 1991, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under subsection (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

50 U.S.C. § 2622 | Sec. 4442. HANFORD WASTE TANK CLEANUP PROGRAM REFORMS ⁶³

- (a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the “Office of River Protection” (in this section referred to as the “Office”).
- (b) MANAGEMENT AND RESPONSIBILITIES OF OFFICE
 - (1) The Office shall be headed by a senior official of the Department of Energy, who shall report to the Assistant Secretary of Energy for Environmental Management.

⁶² Formerly Pub. L. 101-510 § 3137 (1990); renumbered and amended by Pub. L. 108-136 § 3141(g)(16) (2013) (consolidating transfer); further amended by Pub. L. 113-291 § 3142(h) (2014) (striking subsection (d) requiring report to Congress on tank safety-related actions and outstanding issues).

⁶³ Formerly Pub. L. 105-261 § 3139 (1998) (as amended by Pub. L. 106-398 § 3141(b)-(d) (2000) (including mention of policy direction of Department in subsection (b)(2); changing subsection (c) to describe as “head” rather than “manager”; and adding subsection (b)(3) and reporting subsection); Pub. L. 107-107 § 3135 (2001) (generally rewriting subsection on termination)); renumbered and amended by Pub. L. 108-136 § 3141(g)(17) (2003) (consolidating transfer); further amended by Pub. L. 112-81 § 3113 (2011) (specifically including Hanford Tank Farm and Waste Treatment Plant into subsection (b)(2)); Pub. L. 113-66 § 3146(e)(13) (2013) (changing language of subsection (b)(2) to “responsible for managing all aspects”); further amended by Pub. L. 115-232 § 3118 (2018) (amending subsection (e) by striking “2019” and inserting “2024”).

(2) The head of the Office shall be responsible for managing all aspects of the River Protection Project, Richland, Washington, including Hanford Tank Farm operations and the Waste Treatment Plant.

(3)

(A) The Assistant Secretary of Energy for Environmental Management shall delegate in writing responsibility for the management of the River Protection Project, Richland, Washington, to the head of the Office.

(B) Such delegation shall include, at a minimum, authorities for contracting, financial management, safety, and general program management that are equivalent to the authorities of managers of other operations offices of the Department of Energy.

(C) The head of the Office shall, to the maximum extent possible, coordinate all activities of the Office with the manager of the Richland Operations Office of the Department of Energy.

(c) DEPARTMENT RESPONSIBILITIES—The Secretary shall provide the head of the Office with the resources and personnel necessary to carry out the responsibilities specified in subsection (b)(2).

(d) NOTIFICATION—The Assistant Secretary of Energy for Environmental Management shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notification detailing any changes in the roles, responsibilities, and reporting relationships that involve the Office.

(e) TERMINATION—The Office shall terminate on September 30, 2024. The Office may be extended beyond that date if the Assistant Secretary of Energy for Environmental Management determines in writing that termination would disrupt effective management of the Hanford Tank Farm operations.

50 U.S.C. § 2623 | Sec. 4443. **RIVER PROTECTION PROJECT**⁶⁴

The tank waste remediation system environmental project, Richland, Washington, including all programs relating to the retrieval and treatment of tank waste at the site at Hanford, Washington, under the management of the Office of River Protection, shall be known and designated as the “River Protection Project”. Any reference to that project in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the River Protection Project.

50 U.S.C. § 2624 | Sec. 4444. **FUNDING FOR THE COSTS OF RIVER PROTECTION PROJECT, RICHLAND, WASHINGTON**⁶⁵

The Secretary of Energy may not use appropriated funds to establish a reserve for the payment of any costs of termination of any contract relating to the River Protection Project, Richland,

⁶⁴ Formerly Pub. L. 106-398 § 3141(a) (2000); renumbered and amended by Pub. L. 108-136 § 3141(g)(18) (2003) (consolidating transfer).

⁶⁵ Formerly Pub. L. 106-398 § 3131 (2000); renumbered and amended by Pub. L. 108-136 § 3141(g)(19) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(e)(14) (2013) (substituting “defense environmental cleanup” for “environmental restoration and waste management”).

Washington (as designated by section 2623 of this title), that is terminated after October 30, 2000. Such costs may be paid from--

- (1) appropriations originally available for the performance of the contract concerned;
- (2) appropriations currently available for privatization initiatives in carrying out defense environmental cleanup activities necessary for national security programs, and not otherwise obligated; or
- (3) funds appropriated specifically for the payment of such costs.

50 U.S.C. § 2625 | Sec. 4445. **PLAN FOR TANK FARM WASTE AT HANFORD NUCLEAR RESERVATION** ⁶⁶

(a) **PLAN**—Not later than June 1, 2014, the Secretary of Energy shall submit to the congressional defense committees a plan for the initial activities (as defined in subsection (d)) for the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

(b) **MATTERS INCLUDED**—The plan under subsection (a) shall include the following:

- (1) A list of significant requirements needed for the initial activities.
- (2) A schedule of significant activities needed to carry out the initial activities.
- (3) Actions required to accelerate, to the extent possible, the treatment of lower risk, low-activity waste while continuing efforts to resolve the technical challenges associated with higher risk, high-activity waste.
- (4) A description of how the Secretary will--
 - (A) provide adequate protection to workers and the public under the plan; and
 - (B) incorporate into the plan any significant new science and technical information that was not available before the development of the plan.

(c) **DETERMINATIONS**

- (1) For each significant requirement identified by the Secretary under subsection (b)(1), the Secretary shall include in the plan submitted under subsection (a) a determination regarding whether such requirement is finalized and will be used to inform the initial activities.
- (2) For each significant requirement that the Secretary cannot make a finalized determination for under paragraph (1) by the date on which the plan under subsection (a) is submitted to the congressional defense committees, the Secretary shall--
 - (A) include in the plan--
 - (i) a description of the requirement;
 - (ii) a list of significant activities required to finalize the requirement; and
 - (iii) the date on which the Secretary anticipates making such determination; and
 - (B) once the Secretary makes a determination that such a significant requirement is finalized, submit to such committees notification that the requirement is finalized and will be used to inform the initial activities.

⁶⁶ Added by Pub. L. 113-66 § 3127(a) (2013).

(3)

(A) Notwithstanding any determination made under paragraph (1) with respect to a significant requirement identified by the Secretary under subsection (b)(1)--

(i) the Secretary shall change a requirement if necessary to provide adequate protection to workers and the public; and

(ii) the Secretary may change a requirement if the Secretary determines such change is necessary.

(B) If the Secretary authorizes a change to a requirement under subparagraph (A) that will have a significant material effect on the schedule or cost of the initial activities, the Secretary shall promptly notify the congressional defense committees of such change.

(C) The authority of the Secretary under this paragraph may be delegated only to the Deputy Secretary of Energy.

(d) INITIAL ACTIVITIES DEFINED—In this section, the term “initial activities” means activities necessary to start the operations of the Waste Treatment and Immobilization Plant at the Hanford Tank Farms of the Hanford Nuclear Reservation, Richland, Washington, with respect to the design, construction, and operating of the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

50 U.S.C. § 2626 | Sec. 4446. **HANFORD WASTE TREATMENT AND IMMOBILIZATION PLANT CONTRACT OVERSIGHT**⁶⁷

(a) IN GENERAL—Not later than 180 days after November 25, 2015, the Secretary of Energy shall arrange to have an owner's agent advise the Secretary in carrying out the oversight responsibilities of the Secretary with respect to the contract described in subsection (b).

(b) CONTRACT DESCRIBED—The contract described in this subsection is the contract between the Office of River Protection of the Department of Energy and Bechtel National, Inc., or its successor relating to the Hanford Waste Treatment and Immobilization Plant (contract number DE-AC27-01RV14136).

(c) DUTIES—The duties of the owner's agent under subsection (a) shall include advising the Secretary with respect to the following:

(1) Performing design, construction, nuclear safety, and operability oversight of each facility covered by the contract described in subsection (b).

(2) Beginning not later than one year after November 25, 2015, ensuring that the preliminary documented safety analyses for all facilities covered by the contract meet the requirements of all applicable Department of Energy regulations and guidance, including section 830.206 of title 10, Code of Federal Regulations, and the Department of Energy Standard on the Integration of Safety into the Design Process (DOE-STD-1189-2008).

⁶⁷ Added by Pub. L. 114-92 § 3116(a) (2015); amended by Pub. L. 115-232 § 3137 (2018) (striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively).

- (3) Ensuring that, until the Secretary approves the documented safety analysis for each facility covered by the contract, the contractor ensures that each preliminary documented safety analysis is current.
- (4) Ensuring that the contractor acts to promptly resolve any unreviewed safety questions.
- (d) **REPORT ON SELECTION OF THE OWNER'S AGENT**—Not later than 30 days after the selection of the owner's agent under subsection (a), the Secretary shall submit to the congressional defense committees a report on the process used to select the owner's agent to ensure that the owner's agent does not have a conflict of interest.
- (e) **DEFINITIONS**—In this section:
 - (1) The term “contractor” means Bechtel National, Inc.
 - (2) The term “current”, with respect to a documented safety analysis, means that the documented safety analysis includes any design changes approved by the contractor and any safety evaluation reports issued by the Secretary with respect to the facility covered by the analysis before the date that is 60 days before the date of the analysis.
 - (3) The terms “documented safety analysis”, “safety evaluation report”, and “unreviewed safety question” have the meanings given those terms in section 830.3 of title 10, Code of Federal Regulations (or any corresponding similar ruling or regulation).
 - (4) The term “owner's agent” means a private third-party entity with nuclear safety management expertise.

50 U.S.C. § 2627 | Sec. 4447. **NOTIFICATION REGARDING AIR RELEASE OF RADIOACTIVE OR HAZARDOUS MATERIAL**⁶⁸

If the Secretary of Energy (or a designee of the Secretary) is notified of an improper release into the air of radioactive or hazardous material above applicable statutory or regulatory limits that resulted from waste generated by atomic energy defense activities at the Hanford Nuclear Reservation, Richland, Washington, the Secretary (or designee of the Secretary) shall—

- (1) not later than two business days after being notified of the release, notify the congressional defense committees of the release; and
- (2) not later than seven business days after being notified of the release, provide the congressional defense committees a briefing on the status of the release, including--
 - (A) the cause of the release, if known; and
 - (B) preliminary plans to address and remediate the release, including associated costs and timelines.

Subtitle D—Savannah River Site, South Carolina

⁶⁸ Added by Pub. L. 115-232 § 3115(a) (2018).

50 U.S.C. § 2631 | Sec. 4451. **ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT THE DEFENSE WASTE PROCESSING FACILITY, SAVANNAH RIVER SITE**⁶⁹

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule--

- (1) will achieve long-term cost savings to the Federal Government; and
- (2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

50 U.S.C. § 2632 | Sec. 4452. **MULTI-YEAR PLAN FOR CLEAN-UP**⁷⁰

The Secretary of Energy shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

- (1) Nuclear weapons activities carried out at the site.
- (2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

50 U.S.C. § 2633 | Sec. 4453. **CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS**⁷¹

The Secretary of Energy shall continue operations and maintain a high state of readiness at the H-canyon facility at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facility.

50 U.S.C. § 2638 | Sec. 4454. **LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F-CANYON FACILITY**⁷²

No amounts authorized to be appropriated or otherwise made available for the Department of Energy by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398) or any other Act may be obligated or expended for purposes of commencing the decommissioning of the F-canyon facility at the Savannah River Site until the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board, a report setting forth--

⁶⁹ Formerly Pub. L. 104-201 § 3141 (1996); renumbered by Pub. L. 108-136 § 3141(g)(21) (2003) (consolidating transfer).

⁷⁰ Formerly Pub. L. 104-201 § 3142(e) (1996); renumbered by Pub. L. 108-136 § 3141(g)(22) (2003) (consolidating transfer).

⁷¹ Formerly Pub. L. 106-398 § 3137(a) (2000); renumbered and amended by Pub. L. 108-136 § 3115(a) (2003) (removing F-canyon facility from provision); *id.* § 3141(g)(23)(A) (consolidating transfer).

⁷² Formerly Pub. L. 106-398 § 3137(b) (2000); renumbered and amended by Pub. L. 108-136 § 3115(b) (2003) (generally rewriting provision to include reporting requirements); *id.* § 3141(g)(24) (consolidating transfer); further amended by Pub. L. 113-291 § 3142(i) (2014) (minor grammatical clarifications).

- (1) an assessment of whether or not all materials present in the F-canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;
- (2) an assessment of whether or not the requirements applicable to the F-canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H-canyon facility at the Savannah River Site; and
- (3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H-canyon facility--
 - (A) an identification by the Secretary of each such requirement that cannot be met through full use of the H-canyon facility; and
 - (B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H-canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.

TITLE VLV—SAFEGUARDS AND SECURITY MATTERS

Subtitle A—Safeguards and Security

50 U.S.C. § 2651 | Sec. 4501. **PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED**⁷³

- (a) **PROHIBITION ON INSPECTIONS**—The Secretary of Energy may not allow an inspection of a national security laboratory or nuclear weapons production facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no Restricted Data will be revealed during such inspection.
- (b) [Not part of U.S. Code; amending Pub. L. 103-337 § 3155.]

50 U.S.C. § 2652 | Sec. 4502. **RESTRICTIONS ON ACCESS TO NATIONAL SECURITY LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES**⁷⁴

- (a) **BACKGROUND REVIEW REQUIRED**—The Secretary of Energy may not admit to any facility of a national security laboratory other than areas accessible to the general public any individual

⁷³ Formerly Pub. L. 104-106 § 3154 (1996); renumbered and amended by Pub. L. 108-136 § 3141(h)(2) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(j) (2013) (striking subsection (c)); Pub. L. 113-66 § 3146(a)(2)(F) (2013) (making uppercase the term “Restricted Data”); Pub. L. 113-291 § 3142(j) (2014) (substituting “national security laboratory or nuclear weapons production facility” for “nuclear weapons facility”).

⁷⁴ Formerly Pub. L. 106-65 § 3146 (1999); renumbered and amended by Pub. L. 108-136 § 3141(h)(3) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(k)(1), (bb)(1)(D) (2013) (repealing subsections (c)(3)-(4)); Pub. L. 113-66 § 3146(f)(1) (2013) (striking former subsections (b)-(e) and redesignating other subsections accordingly).

who is a citizen or agent of a nation that is named on the current sensitive countries list unless the Secretary first completes a background review with respect to that individual.

(b) **SENSE OF CONGRESS REGARDING BACKGROUND REVIEWS**—It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence should ensure that background reviews carried out under this section are completed in not more than 15 days.

(c) **DEFINITIONS**—For purposes of this section:

- (1) The term “background review”, commonly known as an indices check, means a review of information provided by the Director of National Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.
- (2) The term “sensitive countries list” means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

50 U.S.C. § 2653 | Sec. 4503. **BACKGROUND INVESTIGATION OF CERTAIN PERSONNEL AT DEPARTMENT OF ENERGY FACILITIES**⁷⁵

The Secretary of Energy shall ensure that an investigation meeting the requirements of section 2165 of Title 42 is made for each Department of Energy employee, or contractor employee, at a national security laboratory or nuclear weapons production facility who—

- (1) carries out duties or responsibilities in or around a location where Restricted Data is present; or
- (2) has or may have regular access to a location where Restricted Data is present.

50 U.S.C. § 2564 | Sec. 4504. **DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM**⁷⁶

(a) **NEW COUNTERINTELLIGENCE POLYGRAPH PROGRAM REQUIRED**—The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) **AUTHORITIES AND LIMITATIONS**

- (1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of Title 5 (commonly referred to as the Administrative Procedures Act).
- (2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

⁷⁵ Formerly Pub. L. 106-65 § 3143 (1999); renumbered and amended by Pub. L. 108-136 § 3141(h)(4) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(l) (2013).

⁷⁶ Formerly Pub. L. 107-107 § 3152 (2001); renumbered and amended by Pub. L. 108-136 § 3141(h)(5)(A) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(f)(2) (2013) (striking former subsection (d) and redesignating other subsections accordingly); further amended by Pub. L. 115-232 § 3112 (2018) (adding subsection (b)(4)).

- (3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rulemaking for the new program.
- (4) In the event of a counterintelligence investigation, the regulations prescribed under paragraph (1) may ensure that the persons subject to the counterintelligence polygraph program required by subsection (a) include any person who is--
 - (A) a national of the United States (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) and also a national of a foreign state; and
 - (B) an employee or contractor who requires access to classified information.

(c) [Omitted]

(d) **POLYGRAPH REVIEW DEFINED**—In this section, the term “ Polygraph Review” means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

50 U.S.C. § 2656 | Sec. 4505. **NOTICE TO CONGRESSIONAL COMMITTEES OF CERTAIN SECURITY AND COUNTERINTELLIGENCE FAILURES WITHIN ATOMIC ENERGY DEFENSE PROGRAMS⁷⁷**

- (a) **REQUIRED NOTIFICATION**—The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each significant atomic energy defense intelligence loss. Any such notification shall be provided only after consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate.
- (b) **SIGNIFICANT ATOMIC ENERGY DEFENSE INTELLIGENCE LOSSES**—In this section, the term “significant atomic energy defense intelligence loss” means any national security or counterintelligence failure or compromise of classified information at a facility of the Department of Energy or operated by a contractor of the Department that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States.
- (c) **MANNER OF NOTIFICATION**—Notification of a significant atomic energy defense intelligence loss under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (d), not later than 30 days after the date on which the Department of Energy determines that the loss has taken place.
- (d) **PROCEDURES**—The Secretary of Energy and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.
- (e) **STATUTORY CONSTRUCTION**

⁷⁷ Formerly Pub. L. 106-65 § 3150 (1999); renumbered by Pub. L. 108-136 § 3141 (h)(6) (2003); amended by Pub. L. 112-239 § 3131(m)(1), (bb)(1)(D) (2013); Pub. L. 113-66 § 3146(f)(3) (2013) (minor grammatical correction); Pub. L. 113-291 § 3142(k) (2014) (changing title terminology to “atomic energy defense” and technical correction).

- (1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.
- (2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 3091 of this title for the President to ensure that the congressional intelligence committees are kept fully informed of the intelligence activities of the United States and for those committees to notify promptly other congressional committees of any matter relating to intelligence activities requiring the attention of those committees.

50 U.S.C. § 2657 | Sec. 4506. **ANNUAL REPORT AND CERTIFICATION ON STATUS OF SECURITY OF ATOMIC ENERGY DEFENSE FACILITIES**⁷⁸

(a) REPORT AND CERTIFICATION ON NUCLEAR SECURITY ENTERPRISE

- (1) Not later than September 30 of each even-numbered year⁷⁹, the Administrator shall submit to the Secretary of Energy--
 - (A) a report detailing the status of security at facilities holding Category I and II quantities of special nuclear material that are administered by the Administration; and
 - (B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Administration and the Department of Energy.
- (2) If the Administrator is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Administrator shall submit to the Secretary with the matters required by paragraph (1) a corrective action plan for the facility describing--
 - (A) the deficiency that resulted in the Administrator being unable to make the certification;
 - (B) the actions to be taken to correct the deficiency; and
 - (C) timelines for taking such actions.
- (3) Not later than December 1 of each even-numbered year⁸⁰, the Secretary shall submit to the congressional defense committees the unaltered report, certification, and any corrective action plans submitted by the Administrator under paragraphs (1) and (2) together with any comments of the Secretary.

⁷⁸ Formerly Pub. L. 105-85 § 3162 (1997) (as amended by Pub. L. 106-65 § 3142(h)(2) (1999) (striking former subsection (b) and redesignating other subsections accordingly)); renumbered and amended by Pub. L. 108-136 § 3141(h)(7) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3121(a) (2013) (rewriting section); Pub. L. 114-328 § 3135 (2016) (inserting in paragraph (b)(1)(B) “are secure and that the security measures at such facilities”).

⁷⁹ Amended by Pub. L. 115-91 § 3133(b) (2017).

⁸⁰ Amended by Pub. L. 115-91 § 3133(b) (2017).

(b) **REPORT AND CERTIFICATION ON ATOMIC ENERGY DEFENSE FACILITIES NOT ADMINISTERED BY THE ADMINISTRATION**

- (1) Not later than December 1 of each even-numbered year⁸¹, the Secretary shall submit to the congressional defense committees--
 - (A) a report detailing the status of the security of atomic energy defense facilities holding Category I and II quantities of special nuclear material that are not administered by the Administration; and
 - (B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Department of Energy.
- (2) If the Secretary is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Secretary shall submit to the congressional defense committees, together with the matters required by paragraph (1), a corrective action plan describing--
 - (A) the deficiency that resulted in the Secretary being unable to make the certification;
 - (B) the actions to be taken to correct the deficiency; and
 - (C) timelines for taking such actions.

50 U.S.C. § 2661 | Sec. 4510. **PROTECTION OF CERTAIN NUCLEAR FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT**⁸²

- (a) **AUTHORITY**—Notwithstanding any provision of Title 18, the Secretary of Energy may take such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Energy, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.
- (b) **ACTIONS DESCRIBED**
 - (1) The actions described in this paragraph are the following:
 - (A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire, oral, or electronic communication used to control the unmanned aircraft system or unmanned aircraft.
 - (B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.
 - (C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

⁸¹ Amended by Pub. L. 115-91 § 3133(b) (2017).

⁸² Added by Pub. L. 114-328 § 3112(a) (2016); Pub. L. 115-91 § 3135 (2017) (repealing Section 4509).

- (D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.
 - (E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.
 - (F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.
- (2) The Secretary of Energy shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.
- (c) **FORFEITURE**—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Energy is subject to forfeiture to the United States.
- (d) **REGULATIONS**—The Secretary of Energy and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.
- (e) **DEFINITIONS**—In this section:
- (1) The term “covered facility or asset” means any facility or asset that is--
 - (A) identified by the Secretary of Energy for purposes of this section;
 - (B) located in the United States (including the territories and possessions of the United States); and
 - (C) owned by the United States or contracted to the United States, to store or use special nuclear material.
 - (2) The terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 40101 note).

TBD | Sec. 4511. REPORTING ON PENETRATIONS OF NETWORKS OF CONTRACTORS AND SUBCONTRACTORS⁸³

(a) **PROCEDURES FOR REPORTING PENETRATIONS.**—The Administrator shall establish procedures that require each contractor and subcontractor to report to the Chief Information Officer when a covered network of the contractor or subcontractor that meets the criteria established pursuant to subsection (b) is successfully penetrated.

(b) **ESTABLISHMENT OF CRITERIA FOR COVERED NETWORKS.**—

(1) **IN GENERAL.**—The Administrator shall, in consultation with the officials specified in paragraph (2), establish criteria for covered networks to be subject to the procedures for reporting penetrations under subsection (a).

(2) **OFFICIALS SPECIFIED.**—The officials specified in this paragraph are the following officials of the Administration:

- (A) The Deputy Administrator for Defense Programs.
- (B) The Associate Administrator for Acquisition and Project Management.
- (C) The Chief Information Officer.

⁸³ Added by Pub. L. 116-283 (2020) § 3131.

(D) Any other official of the Administration the Administrator considers necessary.

(c) PROCEDURE REQUIREMENTS.—

(1) RAPID REPORTING.—

(A) IN GENERAL.—The procedures established pursuant to subsection (a) shall require each contractor or subcontractor to submit to the Chief Information Officer a report on each successful penetration of a covered network of the contractor or subcontractor that meets the criteria established pursuant to subsection (b) not later than 60 days after the discovery of the successful penetration.

(B) ELEMENTS.—Subject to subparagraph (C), each report required by subparagraph (A) with respect to a successful penetration of a covered network of a contractor or subcontractor shall include the following:

- (i) A description of the technique or method used in such penetration.
- (ii) A sample of the malicious software, if discovered and isolated by the contractor or subcontractor, involved in such penetration.
- (iii) A summary of information created by or for the Administration in connection with any program of the Administration that has been potentially compromised as a result of such penetration.

(C) AVOIDANCE OF DELAYS IN REPORTING.—If a contractor or subcontractor is not able to obtain all of the information required by subparagraph (B) to be included in a report required by subparagraph (A) by the date that is 60 days after the discovery of a successful penetration of a covered network of the contractor or subcontractor, the contractor or subcontractor shall—

- (i) include in the report all information available as of that date; and
- (ii) provide to the Chief Information Officer the additional information required by subparagraph (B) as the information becomes available.

(2) ACCESS TO EQUIPMENT AND INFORMATION BY ADMINISTRATION PERSONNEL.—Concurrent with the establishment of the procedures pursuant to subsection (a), the Administrator shall establish procedures to be used if information owned by the Administration was in use during or at risk as a result of the successful penetration of a covered network—

(A) in order to—

- (i) in the case of a penetration of a covered network of a management and operating contractor, enhance the access of personnel of the Administration to Government-owned equipment and information; and
- (ii) in the case of a penetration of a covered network of a contractor or subcontractor that is not a management and operating contractor, facilitate the access of personnel of the Administration to the equipment and information of the contractor or subcontractor; and

(B) which shall—

- (i) include mechanisms for personnel of the Administration to, upon request, obtain access to equipment or information of a contractor or subcontractor necessary to conduct forensic analysis in addition to any analysis conducted by the contractor or subcontractor;

(ii) provide that a contractor or subcontractor is only required to provide access to equipment or information as described in clause (i) to determine whether information created by or for the Administration in connection with any program of the Administration was successfully exfiltrated from a network of the contractor or subcontractor and, if so, what information was exfiltrated; and

(iii) provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(3) DISSEMINATION OF INFORMATION.—The procedures established pursuant to subsection (a) shall allow for limiting the dissemination of information obtained or derived through such procedures so that such information may be disseminated only to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) DEFINITIONS.—In this section:

(1) CHIEF INFORMATION OFFICER.—The term ‘Chief Information Officer’ means the Associate Administrator for Information Management and Chief Information Officer of the Administration.

(2) CONTRACTOR.—The term ‘contractor’ means a private entity that has entered into a contract or contractual action of any kind with the Administration to furnish supplies, equipment, materials, or services of any kind.

(3) COVERED NETWORK.—The term ‘covered network’ includes any network or information system that accesses, receives, or stores—

(A) classified information; or

(B) sensitive unclassified information germane to any program of the Administration, as determined by the Administrator.

(4) SUBCONTRACTOR.—The term ‘subcontractor’ means a private entity that has entered into a contract or contractual action with a contractor or another subcontractor to furnish supplies, equipment, materials, or services of any kind in connection with another contract in support of any program of the Administration.

Subtitle B—Classified Information

50 U.S.C. § 2671 | Sec. 4521. **REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE**⁸⁴

- (a) IN GENERAL—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains Restricted Data.
- (b) LIMITATION ON DECLASSIFICATION—The Secretary may not implement the automatic declassification provisions of Executive Order No. 13526 (50 U.S.C. 3161 note) if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing Restricted Data.

50 U.S.C. § 2672 | Sec. 4522. **PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA**⁸⁵

- (a) PLAN FOR PROTECTION AGAINST RELEASE—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 13526 (50 U.S.C. 3161 note).
- (b) PLAN ELEMENTS—The plan under subsection (a) shall include the following:
 - (1) The actions to be taken in order to ensure that records subject to Executive Order No. 13526 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.
 - (2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.
 - (3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.
 - (4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.
 - (5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the

⁸⁴ Formerly Pub. L. 104-106 § 3155 (1996); renumbered by Pub. L. 108-136 § 3141(h)(11) (2003); amended by Pub. L. 112-239 § 3131(p) (2003) (striking former subsection (c)); Pub. L. 113-66 § 3146(a)(2)(G) (2013) (making upper case the term Restricted Data); Pub. L. 113-291 § 3142(l) (2014) (technical correction to executive order referenced in subsection (b)).

⁸⁵ Formerly Pub. L. 105-261 § 3161 (1998) (as amended by Pub. L. 106-65 § 1067(3) (1999) (updating references to “Committee on Armed Services”); Pub. L. 106-398 § 3193(a) (2000) (rewriting former paragraph (f)(2)); renumbered and amended by Pub. L. 108-136 § 3141(h)(12) (2003) (consolidating transfer); further amended by Pub. L. 110-417 § 3123 (2008) (replacing in subsection (e) “on a periodic basis” with “in each even-numbered year”; and rewriting former paragraph (f)(2)); Pub. L. 113-66 § 3146(a)(2)(H) (2013) (striking former subsection (g)); Pub. L. 113-291 § 3142(m) (2014) (technical correction to executive order referenced throughout); Pub. L. 114-328 § 3137(a) (2016) (striking former subsection (e) and redesignating other subsections accordingly).

National Archives and Records Administration, of compliance by Federal agencies with the plan.

- (6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.
- (7) The funding, personnel, and other resources required to carry out the plan.
- (8) A timetable for implementation of the plan.

(c) LIMITATION ON DECLASSIFICATION OF CERTAIN RECORDS

- (1) Effective on October 17, 1998, and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.
- (2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.
- (3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

(d) SUBMISSION OF PLAN—The Secretary of Energy shall submit the plan required under subsection (a) to the following:

- (1) The Committee on Armed Services of the Senate.
- (2) The Committee on Armed Services of the House of Representatives.
- (3) The Assistant to the President for National Security Affairs.

(e) REPORT AND NOTIFICATION REGARDING INADVERTENT RELEASES

- (1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before October 17, 1998.
- (2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 13526 discovered in the two-year period preceding the submittal of the report.

50 U.S.C. § 2673 | Sec. 4523. **SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA**⁸⁶

- (a) **SUPPLEMENT TO PLAN**—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement to the plan required under subsection (a) of section 2672 of this title.
- (b) **CONTENTS OF SUPPLEMENT**—The supplement shall provide for the application of that plan (including in particular the element of the plan required by subsection (b)(1) of section 2672 of this title) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.
- (c) **LIMITATION ON DECLASSIFICATION OF RECORDS**—All records referred to in subsection (b) shall be treated, for purposes of subsection (c) of section 2672 of this title, in the same manner as records referred to in subsection (a) of such section.
- (d) **SUBMISSION OF SUPPLEMENT**—The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 2672 of this title.

50 U.S.C. § 2674 | Sec. 4524. **PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES**⁸⁷

- (a) **PROVISION OF TRAINING**—The Secretary of Energy shall ensure that all Department of Energy employees and Department of Energy contractor employees participating in laboratory-to-laboratory cooperative exchange activities are fully trained in matters relating to the protection of classified information and to potential espionage and counterintelligence threats.
- (b) **COUNTERING OF ESPIONAGE AND INTELLIGENCE-GATHERING ABROAD**
 - (1) The Secretary shall establish a pool of Department employees and Department contractor employees who are specially trained to counter threats of espionage and intelligence-gathering by foreign nationals against Department employees and Department contractor employees who travel abroad for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.
 - (2) The Director of Intelligence and Counterintelligence of the Department of Energy may assign at least one employee from the pool established under paragraph (1) to accompany a group of Department employees or Department contractor employees who travel to any nation designated to be a sensitive country for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

⁸⁶ Formerly Pub. L. 106-65 § 3149 (1999); renumbered and amended by Pub. L. 108-136 § 3141(h)(13) (2003) (consolidating transfer).

⁸⁷ Formerly Pub. L. 106-65 § 3145 (1999); renumbered by Pub. L. 108-136 § 3141(h)(14) (2003).
2020 – Pub. L. 116-92 amended Sec. 4524.

50 U.S.C. 2675 | Sec. 4525. **IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES**⁸⁸

- (a) AMOUNTS FOR DECLASSIFICATION OF RECORDS—The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order No. 13526 (50 U.S.C. 3161 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.
- (b) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS—No records of the Department of Energy that have not as of October 5, 1999, been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.

TITLE XLVI—PERSONNEL MATTERS

Subtitle A—Personnel Management

50 U.S.C. § 2701 | Sec. 4601. **AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL**⁸⁹

(a) AUTHORITY

⁸⁸ Formerly Pub. L. 106-65 § 3173 (1999); renumbered and amended by Pub. L. 108-136 § 3141(h)(15) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(f)(4) (2013) (striking former subsection (c)); Pub. L. 113-291 § 3142(n) (2014) (technical correction to executive order referenced in subsection (a)).

⁸⁹ Formerly Pub. L. 103-337 § 3161 (1994) (as amended by Pub. L. 105-85 § 3139 (1997) (striking former subsection (c) and redesignating other subsections accordingly; and extending date in newly designated paragraph (c)(1) from 2997 to 1999); Pub. L. 105-261 § 3152 (1998) (extending date in paragraph (c)(1) from 1999 to 2000); *id.* § 3155 (changing the pay level in subsection (a)(3) from level IV to level III); Pub. L. 106-398 § 3191 (2000) (extending date in paragraph (c)(1) from 2000 to 2002); Pub. L. 107-314 § 3174 (2002) (extending date in paragraph (c)(1) from 2002 to 2004)); renumbered by Pub. L. 108-136 § 3141(i)(2) (2003); amended by Pub. L. 108-375

(1) Notwithstanding any provision of Title 5 governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may--

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of Title 5.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW

(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of Title 5.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of Title 5 or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall--

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) TERMINATION

(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2021.

§ 3112 (2004) (extending date in paragraph (c)(1) from 2004 to 2006); Pub. L. 109-364 § 3115 (2006) (extending date in paragraph (c)(1) from 2006 to 2008); Pub. L. 111-32 § 402 (2009) (extending date in paragraph (c)(1) from 2008 to 2009); Pub. L. 111-84 § 3119 (2009) (extending date in paragraph (c)(1) from 2009 to 2011); Pub. L. 111-383 § 3117 (2011) (extending date in paragraph (c)(1) from 2011 to 2016); Pub. L. 113-66 § 3146(g)(1) (2013) (striking former paragraph (a)(4)); Pub. L. 114-328 § 3136(b) (2016) (extending authority termination date in paragraph (c)(1) from 2016 to 2020); Amended by Pub. L. 116-283 (2020) § 3141 (extending the termination date from September 30, 2020 to September 30, 2021).

- (2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

50 U.S.C. § 2702 | Sec. 4602. **WHISTLEBLOWER PROTECTION PROGRAM**⁹⁰

- (a) **PROGRAM REQUIRED**—The Secretary of Energy shall establish a program to ensure that covered individuals may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures.
- (b) **COVERED INDIVIDUALS**—For purposes of this section, a covered individual is an individual who is an employee of the Department of Energy, or of a contractor of the Department, who is engaged in the defense activities of the Department.
- (c) **PROTECTED DISCLOSURES**—For purposes of this section, a protected disclosure is a disclosure--
- (1) made by a covered individual who takes appropriate steps to protect the security of the information in accordance with guidance provided under this section;
 - (2) made to a person or entity specified in subsection (d); and
 - (3) of classified or other information that the covered individual reasonably believes to provide direct and specific evidence of any of the following:
 - (A) A violation of law or Federal regulation.
 - (B) Gross mismanagement, a gross waste of funds, or abuse of authority.
 - (C) A false statement to Congress on an issue of material fact.
- (d) **PERSONS AND ENTITIES TO WHICH DISCLOSURES MAY BE MADE**—A person or entity specified in this subsection is any of the following:
- (1) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates.
 - (2) An employee of Congress who is a staff member of such a committee and has an appropriate security clearance for access to information of the type disclosed.
 - (3) The Inspector General of the Department of Energy.
 - (4) The Federal Bureau of Investigation.
 - (5) Any other element of the Government designated by the Secretary as authorized to receive information of the type disclosed.
- (e) **OFFICIAL CAPACITY OF PERSONS TO WHOM INFORMATION IS DISCLOSED**—A member of, or an employee of Congress who is a staff member of, a committee of Congress specified in subsection (d) who receives a protected disclosure under this section does so in that member or employee's official capacity as such a member or employee.
- (f) **ASSISTANCE AND GUIDANCE**—The Secretary, acting through the Inspector General of the Department of Energy, shall provide assistance and guidance to each covered individual who

⁹⁰ Formerly Pub. L. 106-65 § 3164 (1999); renumbered and amended by Pub. L. 108-136 § 3141(i)(3) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(g)(2)(A) (2013) (technical correction).

seeks to make a protected disclosure under this section. Such assistance and guidance shall include the following:

- (1) Identifying the persons or entities under subsection (d) to which that disclosure may be made.
 - (2) Advising that individual regarding the steps to be taken to protect the security of the information to be disclosed.
 - (3) Taking appropriate actions to protect the identity of that individual throughout that disclosure.
 - (4) Taking appropriate actions to coordinate that disclosure with any other Federal agency or agencies that originated the information.
- (g) REGULATIONS—The Secretary shall prescribe regulations to ensure the security of any information disclosed under this section.
- (h) NOTIFICATION TO COVERED INDIVIDUALS—The Secretary shall notify each covered individual of the following:
- (1) The rights of that individual under this section.
 - (2) The assistance and guidance provided under this section.
 - (3) That the individual has a responsibility to obtain that assistance and guidance before seeking to make a protected disclosure.
- (i) COMPLAINT BY COVERED INDIVIDUALS—If a covered individual believes that that individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the individual may submit a complaint relating to such matter to the Director of the Office of Hearings and Appeals of the Department of Energy.
- (j) INVESTIGATION BY OFFICE OF HEARINGS AND APPEALS
- (1) For each complaint submitted under subsection (i), the Director of the Office of Hearings and Appeals shall--
 - (A) determine whether or not the complaint is frivolous; and
 - (B) if the Director determines the complaint is not frivolous, conduct an investigation of the complaint.
 - (2) The Director shall submit a report on each investigation undertaken under paragraph (1)(B) to--
 - (A) the individual who submitted the complaint on which the investigation is based;
 - (B) the contractor concerned, if any; and
 - (C) the Secretary of Energy.
- (k) REMEDIAL ACTION
- (1) Whenever the Secretary determines that a covered individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the Secretary shall--
 - (A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)

(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(l) **RELATIONSHIP TO OTHER LAWS**—The protections provided by this section are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101-12; 103 Stat. 16) or any other law that may provide protection for disclosures of information by employees of the Department of Energy or of a contractor of the Department.

(m) **ANNUAL REPORT**

(1) Not later than 30 days after the commencement of each fiscal year, the Director shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the investigations undertaken under subsection (j)(1)(B) during the preceding fiscal year, including a summary of the results of each such investigation.

(2) A report under paragraph (1) may not identify or otherwise provide any information about an individual submitting a complaint under this section without the consent of the individual.

50 U.S.C. § 2704 | Sec. 4604. **DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES
WORKFORCE RESTRUCTURING PLAN**⁹¹

(a) **IN GENERAL**—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy shall develop a plan for restructuring the workforce for the defense nuclear facility that takes into account--

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) **CONSULTATION**

(1) In developing a plan referred to in subsection (a), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-

⁹¹ Formerly Pub. L. 102-484 § 3161 (1992) (as amended by Pub. L. 103-337 § 1070(c)(2) (1994) (minor grammatical corrections); Pub. L. 105-277, div. A, tit. VIII, § 405(d)(7)(A), (f)(6)(A) (1998) (rewriting paragraph (c)(6)); Pub. L. 107-107 § 1048(h)(1) (2001) (technical corrections)); renumbered and amended by Pub. L. 108-136 § 3141(i)(5) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(q)(1) (2013) (adding the paragraph subsequently redesignated as (e)(2)); *id.* § 3131(bb)(1)(A), (C) (striking reference to Pinnellas Plant, Florida and updating references to “Nevada National Security Site”); *id.* § 3134(b)(1) (striking former subsection (e) and redesignating other subsections accordingly); Pub. L. 113-66 § 3146(g)(4) (2013) (technical correction and removing Mound Laboratory, Ohio from subsection (f)(1)); Pub. L. 113-128 § 512(d) (2014) (technical correction); Pub. L. 113-291 § 3142(o) (2014) (minor grammatical correction).

bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the workforce at a Department of Energy defense nuclear facility --

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with--

(A) programs carried out by the Secretary of Labor under title I of the Workforce Innovation and Opportunity Act;

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.).

(d) IMPLEMENTATION—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor,

workforce bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) SUBMITTAL TO CONGRESS

- (1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.
- (2) In addition to the plans submitted under paragraph (1), the Secretary shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under subsection (c)(6).

(f) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED—In this section, the term “Department of Energy defense nuclear facility” means--

- (1) a production facility or utilization facility (as those terms are defined in section 2014 of Title 42) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, and the 236 H facility at Savannah River, South Carolina), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;
- (2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;
- (3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada National Security Site, Nevada, and the Pantex facility, Texas);
- (4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or
- (5) any facility described in paragraphs (1) through (4) that--
 - (A) is no longer in operation;
 - (B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and
 - (C) was operated for national security purposes.

50 U.S.C. § 2705 | Sec. 4605. **AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO DEPARTMENT OF ENERGY AND CONTRACTOR EMPLOYEES FOR EXEMPLARY SERVICE IN STOCKPILE STEWARDSHIP AND SECURITY**⁹²

- (a) **AUTHORITY TO PRESENT CERTIFICATE OF COMMENDATION**—The Secretary of Energy may present a certificate of commendation to any current or former employee of the Department of Energy, and any current or former employee of a Department contractor, whose service to the Department in matters relating to stockpile stewardship and security assisted the Department in furthering the national security interests of the United States.
- (b) **CERTIFICATE**—The certificate of commendation presented to a current or former employee under subsection (a) shall include an appropriate citation of the service of the current or former employee described in that subsection, including a citation for dedication, intellect, and sacrifice in furthering the national security interests of the United States by maintaining a strong, safe, and viable United States nuclear deterrent during the cold war or thereafter.
- (c) **DEPARTMENT OF ENERGY DEFINED**—For purposes of this section, the term “Department of Energy” includes any predecessor agency of the Department of Energy.

Subtitle B—Education and Training

50 U.S.C. § 2721 | Sec. 4621. **EXECUTIVE MANAGEMENT TRAINING IN DEPARTMENT OF ENERGY**⁹³

- (a) **ESTABLISHMENT OF TRAINING PROGRAM**—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.
- (b) **TRAINING PROVISIONS**—The training program shall at a minimum include instruction in the following areas:
 - (1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.
 - (2) Methods of evaluating technical performance.
 - (3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.
 - (4) The establishment of program milestones and methods to evaluate success in meeting such milestones.
 - (5) Methods for conducting long-range technical and budget planning.

⁹² Formerly Pub. L. 106-398 § 3195 (2000); renumbered by Pub. L. 108-136 § 3141(i)(6) (2003); amended by Pub. L. 113-66 § 3146(g)(5) (2013) (minor grammatical correction).

⁹³ Formerly Pub. L. 101-189 § 3142 (1989); renumbered and amended by Pub. L. 108-136 § 3141(i)(8) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(g)(6) (2013) (replacing “environmental restoration and defense waste cleanup” with “defense environmental cleanup”).

- (6) Procedures for reviewing and applying innovative technology to defense environmental cleanup.

50 U.S.C. § 2722 | Sec. 4622. **STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM**⁹⁴

(a) CONDUCT OF PROGRAM

- (1) As part of the stockpile stewardship program established pursuant to section 2521 of this title, the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the national security laboratories.
 - (2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of Title 10 and the directors of the laboratories referred to in paragraph (1).
- (b) SUPPORT OF DUAL-USE PROGRAMS—As part of the recruitment and training program, the directors of the national security laboratories may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.
- (c) ESTABLISHMENT OF RETIREE CORPS—As part of the training and recruitment program, the Secretary, in coordination with the directors of the national security laboratories, shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

50 U.S.C. § 2723 | Sec. 4623. **FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO THE NUCLEAR SECURITY ENTERPRISE**⁹⁵

- (a) IN GENERAL—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the nuclear security enterprise. Under the fellowship program, the Secretary shall provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the nuclear security enterprise.
- (b) ELIGIBLE INDIVIDUALS—Individuals eligible for participation in the fellowship program are United States citizens who are either of the following:

⁹⁴ Formerly Pub. L. 103-337 § 3131 (1994); renumbered and amended by Pub. L. 108-136 § 3141(i)(9) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(r) (2003) (striking former paragraph (b)(2) and former subsection (d) and redesignating accordingly); Pub. L. 113-66 § 3146(g)(7) (2013) (replacing list of specific laboratories with general phrase “national security laboratories”).

⁹⁵ Formerly Pub. L. 104-106 § 3140 (1996) (as amended by Pub. L. 106-65 § 3162(a)-(d) (1999) (minor grammatical corrections; adding Lawrence Livermore, Los Alamos, and Sandia to list of covered facilities in subsection (c); and rewriting subsection (f)); renumbered by Pub. L. 108-136 § 3141(i)(10) (2003); amended by Pub. L. 112-239 § 3131(s)(1) (2003) (generally changing language to describe “nuclear security enterprise” rather than “nuclear weapons complex”; and replacing list of covered facilities with phrase “national security laboratories and nuclear weapons production facilities”); Pub. L. 113-66 § 3146(g)(8) (2013) (minor grammatical correction).

- (1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.
- (2) Individuals engaged in postdoctoral studies in such fields.
- (c) COVERED FACILITIES—The Secretary shall carry out the fellowship program at or in connection with the national security laboratories and nuclear weapons production facilities.
- (d) ADMINISTRATION—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.
- (e) ALLOCATION OF FUNDS—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.
- (f) AGREEMENT
 - (1) The Secretary may allow an individual to participate in the program only if the individual signs an agreement described in paragraph (2).
 - (2) An agreement referred to in paragraph (1) shall be in writing, shall be signed by the participant, and shall include the participant's agreement to serve, after completion of the course of study for which the assistance was provided, as a full-time employee in a position in the nuclear security enterprise for a period of time to be established by the Secretary of Energy of not less than one year, if such a position is offered to the participant.

Subtitle C—Worker Safety

50 U.S.C. § 2731 | Sec. 4641. **WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES**⁹⁶

(a) TRAINING GRANT PROGRAM

- (1) The Secretary of Energy is authorized to award grants to organizations referred to in paragraph (2) in order for such organizations--
 - (A) to provide training and education to persons who are or may be engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and
 - (B) to develop curricula for such training and education.
- (2)
 - (A) Subject to subparagraph (B), the Secretary is authorized to award grants under paragraph (1) to non-profit organizations that have demonstrated (as determined by the Secretary) capabilities in--
 - (i) implementing and conducting effective training and education programs relating to the general health and safety of workers; and

⁹⁶ Formerly Pub. L. 102-190 § 3131 (1991); renumbered and amended by Pub. L. 108-136 § 3141(i)(12) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(g)(9) (2013) (striking former subsection (e)).

- (ii) identifying, and involving in training, groups of workers whose duties include hazardous substance response or emergency response.
- (B) The Secretary shall give preference in the award of grants under this section to employee organizations and joint labor-management training programs that are grant recipients under section 9660a of Title 42.
- (3) An organization awarded a grant under paragraph (1) shall carry out training, education, or curricula development pursuant to Department of Energy orders relating to employee safety training, including orders numbered 5480.4 and 5480.11.
- (b) ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS
 - (1) Subject to paragraph (2), the Secretary shall assess civil penalties against any contractor of the Department of Energy who (as determined by the Secretary)--
 - (A) employs individuals who are engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and
 - (B) fails (i) to provide for the training of such individuals to carry out such hazardous substance response or emergency response, or (ii) to certify to the Department of Energy that such employees are adequately trained for such response pursuant to orders issued by the Department of Energy relating to employee safety training (including orders numbered 5480.4 and 5480.11).
 - (2) Civil penalties assessed under this subsection may not exceed \$5,000 for each day in which a failure referred to in paragraph (1)(B) occurs.
- (c) REGULATIONS—The Secretary shall prescribe regulations to carry out this section.
- (d) DEFINITIONS—For the purposes of this section, the term “hazardous substance” includes radioactive waste and mixed radioactive and hazardous waste.

50 U.S.C. § 2732 | Sec. 4642. **SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES**⁹⁷

The Secretary of Energy shall take appropriate actions to ensure that--

- (1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;
- (2) the independent, internal oversight functions carried out by the Department include activities relating to--
 - (A) the assessment of the safety of defense nuclear facilities;
 - (B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;
 - (C) the provision to the Secretary of oversight reports that--

⁹⁷ Formerly Pub. L. 103-337 § 3163 (1994); renumbered and amended by Pub. L. 108-136 § 3141(i)(13) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(g)(10) (2013) (striking former subsection (b) and redesignating other subsection accordingly).

- (i) contain validated technical information; and
- (ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and
- (D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);
- (3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and
- (4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

50 U.S.C. § 2733 | Sec. 4643. **PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES**⁹⁸

(a) **IN GENERAL**—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) **IMPLEMENTATION OF PROGRAM**

- (1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to--
 - (A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;
 - (B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);
 - (C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;
 - (D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;
 - (E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

⁹⁸ Formerly Pub. L. 102-484 § 3162 (1992); renumbered and amended by Pub. L. 108-136 § 3141(i)(14) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3134(b)(2) (2003) (technical correction); Pub. L. 113-66 § 3146(g)(11) (2013) (clarifying reference to Secretary of Energy; technical corrections; and in subsection (b) inserting “and Prevention” after “Disease Control,” and inserting “and measurements” after “Radiation Protection”).

- (F) ensure that employee participation in the program is voluntary.
- (2)
- (A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).
 - (B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and Prevention and the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health risks under Federal and State occupational, health, and safety standards.
- (3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:
- (A) The American College of Occupational and Environmental Medicine.
 - (B) The National Academy of Sciences.
 - (C) The National Council on Radiation Protection and Measurements.
 - (D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.
- (4) The Secretary shall provide for each employee identified under paragraph (1)(B) and provided with any medical examination or test under paragraph (1) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.
- (5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1).
- (6) The Secretary shall commence carrying out the program described in this subsection not later than October 23, 1993.
- (c) AGREEMENT WITH SECRETARY OF HEALTH AND HUMAN SERVICES—Not later than April 23, 1993, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.
- (d) DEFINITIONS—In this section:
- (1) The term “Department of Energy defense nuclear facility” has the meaning given that term in section 2704(f) of this title.
 - (2) The term “Department of Energy employee” means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

50 U.S.C. § 2734 | Sec. 4644. **PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION**⁹⁹

- (a) **FUNDING**—Of the funds authorized to be appropriated to the Department of Energy under title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), the Secretary of Energy shall make available \$3,000,000 to the State of Washington, \$1,000,000 to the State of Oregon, and \$1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.
- (b) **PROGRAMS**—The programs to be developed by the States may include only the following activities:
- (1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.
 - (2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.
 - (3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.
- (c) **PLAN AND REPORTS**
- (1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.
 - (2) Not later than May 5, 1991, such States shall submit to the Secretary of Energy and Congress a copy of the plan developed under paragraph (1).
 - (3) Not later than May 5, 1992, such States shall submit to the Secretary of Energy and Congress a single report on the implementation of the plan developed under paragraph (1).
 - (4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid Disease Study of the Centers for Disease Control and Prevention and the Hanford Environmental Dose Reconstruction Project of the Department of Energy), and may not cause substantial damage to such research programs.
- (d) **PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION**
- (1) Except as provided in paragraph (2), a person may not disclose to the public the following:
 - (A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

⁹⁹ Formerly Pub. L. 101-510 § 3138 (1990) (as amended by Pub. L. 103-337 § 3138(b) (1994)); renumbered and amended by Pub. L. 108-136 § 3141 (i)(15) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(g)(12) (2013) (minor grammatical correction and inserting “and Prevention” after “Disease Control”).

- (B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.
 - (C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).
 - (D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).
 - (E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).
 - (F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.
 - (G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).
 - (H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.
- (2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.
- (3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:
- (A) The disclosure of information under paragraph (2).
 - (B) The use of the Hanford Health Information Network database.
 - (C) The future disposition of the database.
 - (D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.

50 U.S.C. § 2735 | Sec. 4645. **USE OF PROBABILISTIC RISK ASSESSMENT TO ENSURE NUCLEAR SAFETY OF FACILITIES OF THE ADMINISTRATION AND THE OFFICE OF ENVIRONMENTAL MANAGEMENT**¹⁰⁰

- (a) **NUCLEAR SAFETY AT NNSA AND DOE FACILITIES**—The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.
- (b) **ADEQUATE PROTECTION**—The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 2232 of Title 42 that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

¹⁰⁰ Added by Pub. L. 112-239 § 3161(a) (2003).

(c) FACILITIES SPECIFIED—Subsection (a) shall apply--

- (1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and
- (2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy

50 U.S.C. § 2736 | Sec. 4646. **NOTIFICATION OF NUCLEAR CRITICALITY AND NON-NUCLEAR INCIDENTS**¹⁰¹

(a) NOTIFICATION—The Secretary of Energy or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

(b) ELEMENTS OF NOTIFICATION—Each notification submitted under subsection (a) shall include the following:

- (1) A description of the incident, including the cause of the incident.
- (2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.
- (3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.
- (4) Any corrective action taken in response to the incident.

(c) DATABASE

(1) The Secretary shall maintain a record of incidents described in paragraph (2).

(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

- (A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.
- (B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

(d) COOPERATION—In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

(e) 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 facility” means--

¹⁰¹ Added by Pub. L. 112-239 § 3142(a)(1) (2003); amended by Pub. L. 113-66 § 3146(g)(13) (2013) (changing in subsection (a) “and the Administrator” to “or the Administrator”).

- (A) a facility of the nuclear security enterprise; and
 - (B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.
- (3) The term “covered program” means--
- (A) programs of the Administration; and
 - (B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.

TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

Subtitle A—Recurring National Security Authorization Provisions

In this part:

- (1) The term “DOE national security authorization” means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.
- (2) The term “minor construction threshold” means \$20,000,000.

- (a) **IN GENERAL**—Except as provided in subsection (b) and in sections 2750 and 2751 of this title, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program--
 - (1) in amounts that exceed, in a fiscal year--
 - (A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or
 - (B) \$5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or
 - (2) which has not been presented to, or requested of, Congress.
- (b) **EXCEPTION WHERE NOTICE-AND-WAIT GIVEN**—An action described in subsection (a) may be taken if--
 - (1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and
 - (2) a period of 30 days has elapsed after the date on which such committees receive the report.
- (c) **REPORT**—The report referred to in this subsection is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.
- (d) **COMPUTATION OF DAYS**—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.
- (e) **LIMITATIONS**
 - (1) **TOTAL AMOUNT OBLIGATED**—In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

¹⁰² Formerly Sec. 3620; renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003); amended by Pub. L. 111-84 § 3118(a)-(b) (2009) (temporarily increasing a amount in former paragraph (3) from \$5,000,000 to \$10,000,000 until September 30, 2010, at which point the amount returns back to \$5,000,000); Pub. L. 111-383 § 3121(a) (2011) (increasing a amount in former paragraph (3) from \$5,000,000 to \$10,000,000); Pub. L. 113-66 § 3146(a)(2)(I) (2013) (striking former paragraph (2) and redesignating other paragraphs accordingly); amended by Pub. L. 115-91 (2017) (increasing a amount in paragraph (2) to \$20,000,000.).

¹⁰³ Formerly Sec. 3621; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(D)(i) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(h)(1) (2013) (technical correction).

- (2) **PROHIBITED ITEMS**—Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

50 U.S.C. § 2743 | Sec. 4703. **MINOR CONSTRUCTION PROJECTS**¹⁰⁴

- (a) **AUTHORITY**—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.
- (b) **ANNUAL REPORT**—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.
- (c) **COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES**—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.
- (d) **MINOR CONSTRUCTION PROJECT DEFINED**—In this section, the term “minor construction project” means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

50 U.S.C. § 2743a **GENERAL PLANT PROJECTS**¹⁰⁵

Plant or construction projects for which amounts are made available under this and subsequent appropriation Acts with a current estimated cost of less than \$10,000,000 are considered for purposes of section 2743 of this title as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 2744 of this title as a construction project with a current estimated cost of less than a minor construction threshold.

50 U.S.C. § 2744 | Sec. 4704. **LIMITS ON CONSTRUCTION PROJECTS**¹⁰⁶

- (a) **CONSTRUCTION COST CEILING**—Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of--
- (1) the amount authorized for the project; or
 - (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

¹⁰⁴ Formerly Sec. 3622 (2002); renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003).

¹⁰⁵ Provision not incorporated into the Atomic Energy Defense Act. Pub. L. 112-74 § 306 (2011).

¹⁰⁶ Formerly Sec. 3623; renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003).

- (b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN—An action described in subsection (a) may be taken if--
- (1) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and
 - (2) a period of 30 days has elapsed after the date on which the report is received by the committees.
- (c) COMPUTATION OF DAYS—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.
- (d) EXCEPTION FOR MINOR PROJECTS—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

50 U.S.C. § 2745 | Sec. 4705. **FUND TRANSFER AUTHORITY**¹⁰⁷

- (a) TRANSFER TO OTHER FEDERAL AGENCIES—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.
- (b) TRANSFER WITHIN DEPARTMENT OF ENERGY
- (1) TRANSFERS PERMITTED—Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.
 - (2) MAXIMUM AMOUNTS—Not more than 5 percent of any such authorization may be transferred to another authorization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.
- (c) LIMITATIONS—The authority provided by this subsection to transfer authorizations--
- (1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and
 - (2) may not be used to provide funds for an item for which Congress has specifically denied funds.
- (d) NOTICE TO CONGRESS—The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

¹⁰⁷ Formerly Sec. 3624; renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003).

(a) CONCEPTUAL DESIGN

- (1) REQUIREMENT—Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.
- (2) REQUESTS FOR CONCEPTUAL DESIGN FUNDS—If the estimated cost of completing a conceptual design for a construction project exceeds \$5,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.
- (3) EXCEPTIONS—The requirement in paragraph (1) does not apply to a request for funds—
 - (A) for a construction project the total estimated cost of which is less than the minor construction threshold; or
 - (B) for emergency planning, design, and construction activities under section 2747 of this title.

(b) CONSTRUCTION DESIGN

- (1) AUTHORITY—Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$2,000,000.
- (2) LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PROJECTS—If the total estimated cost for construction design in connection with any construction project exceeds \$2,000,000, funds for that design must be specifically authorized by law.

- (a) AUTHORITY—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.
- (b) LIMITATION—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense

¹⁰⁸ Formerly Sec. 3625; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(C), (D)(ii) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3120 (2013) (increasing amount in subsection (b) from \$600,000 to \$1,000,000); Pub. L. 114-328 § 3121 (2016) (increasing amounts in subsection (a) from \$3,000,000 to \$5,000,000 and in subsection (b) from \$1,000,000 to \$2,000,000).

¹⁰⁹ Formerly Sec. 3626; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(C), (D)(iii) (2003) (consolidating transfer).

committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

- (c) **SPECIFIC AUTHORITY**—The requirement of section 2746(b)(2) of this title does not apply to emergency planning, design, and construction activities conducted under this section.

50 U.S.C. § 2748 | Sec. 4708. **SCOPE OF AUTHORITY TO CARRY OUT PLANT PROJECTS**¹¹⁰

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

50 U.S.C. § 2749 | Sec. 4709. **AVAILABILITY OF FUNDS**¹¹¹

- (a) **IN GENERAL**—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.
- (b) **EXCEPTION FOR PROGRAM DIRECTION FUNDS**—Amounts appropriated for program direction pursuant to a DOE national security authorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

50 U.S.C. § 2750 | Sec. 4710. **TRANSFER OF DEFENSE ENVIRONMENTAL CLEANUP FUNDS**¹¹²

- (a) **TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL CLEANUP FUNDS**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental cleanup funds from a program or project under the jurisdiction of that office to another such program or project.
- (b) **LIMITATIONS**
- (1) **NUMBER OF TRANSFERS**—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.
 - (2) **AMOUNTS TRANSFERRED**—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.
 - (3) **DETERMINATION REQUIRED**—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary--
 - (A) to address a risk to health, safety, or the environment; or
 - (B) to assure the most efficient use of defense environmental cleanup funds at the field office.

¹¹⁰ Formerly Sec. 3627; renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003).

¹¹¹ Formerly Sec. 3628; renumbered by Pub. L. 108-136 § 3141(j)(2)(A)-(C) (2003); amended by Pub. L. 113-291 § 3142(p) (2014) (correcting typo).

¹¹² Formerly Sec. 3629; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(C), (D)(iv) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(h)(2) (2013) (replacing “management” with “cleanup” throughout; and generally changing terminology to “defense environmental cleanup”); Pub. L. 113-291 § 3142(q) (2014) (replacing “management” with “cleanup” in subparagraph (b)(3)(B)).

- (4) **IMPERMISSIBLE USES**—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.
- (c) **EXEMPTION FROM REPROGRAMMING REQUIREMENTS**—The requirements of section 2742 of this title shall not apply to transfers of funds pursuant to subsection (a).
- (d) **NOTIFICATION**—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.
- (e) **DEFINITIONS**—In this section:
 - (1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for defense environmental cleanup activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental cleanup funds have been authorized and appropriated.
 - (2) The term “defense environmental cleanup funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out defense environmental cleanup activities necessary for national security programs.

50 U.S.C. § 2751 | Sec. 4711. **TRANSFER OF WEAPONS ACTIVITIES FUNDS**¹¹³

- (a) **TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.
- (b) **LIMITATIONS**
 - (1) **NUMBER OF TRANSFERS**—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.
 - (2) **AMOUNTS TRANSFERRED**—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.
 - (3) **DETERMINATION REQUIRED**—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer--
 - (A) is necessary to address a risk to health, safety, or the environment; or
 - (B) will result in cost savings and efficiencies.
 - (4) **LIMITATION**—A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.
 - (5) **IMPERMISSIBLE USES**—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.
- (c) **EXEMPTION FROM REPROGRAMMING REQUIREMENTS**—The requirements of section 2742 of this title shall not apply to transfers of funds pursuant to subsection (a).

¹¹³ Formerly Sec. 3630; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(C), (D)(v) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(h)(3) (2013) (technical correction in subsection (d) striking “for Nuclear Security” a fter “Administrator”).

(d) NOTIFICATION—The Secretary, acting through the Administrator, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS—In this section:

- (1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.
- (2) The term “weapons activities funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

50 U.S.C. § 2752 | Sec. 4712. **FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY**¹¹⁴

Subject to the provisions of appropriation Acts and section 2742 of this title, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

50 U.S.C. § 2753 | Sec. 4713. **NOTIFICATION OF COST OVERRUNS FOR CERTAIN DEPARTMENT OF ENERGY PROJECTS**¹¹⁵

(a) ESTABLISHMENT OF COST AND SCHEDULE BASELINES

(1) STOCKPILE LIFE EXTENSION PROJECTS

- (A) IN GENERAL—The Administrator shall establish a cost and schedule baseline for each nuclear stockpile life extension project of the Administration. In addition to the requirement under subparagraph (B), the cost and schedule baseline of a nuclear stockpile life extension project established under this subparagraph shall be the cost and schedule as described in the first Selected Acquisition Report submitted under section 2537(a) of this title for the project.
- (B) PER UNIT COST—The cost baseline developed under subparagraph (A) shall include, with respect to each life extension project, an estimated cost for each warhead in the project.
- (C) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A),

¹¹⁴ Formerly Sec. 3631; renumbered and amended by Pub. L. 108-136 § 3141(j)(2)(A)-(C), (D)(vi) (2003) (consolidating transfer).

¹¹⁵ Added by Pub. L. 111-383 § 3114(a) (2011); amended by Pub. L. 112-239 § 3131(t) (2003) (technical corrections clarifying references to the Administrator); Pub. L. 113-66 § 3146(h)(4) (2013) (replacing “management” with “cleanup” throughout); Pub. L. 113-291 § 3115 (2014) (adding language in subsection (a)(1)(A) starting at “In addition”; amending baseline percentage amount in subsection (b)(2) from 200 to 150 percent); Pub. L. 114-92 §§ 3113(a), 3114 (2015) (adding subsections (a)(1)(B)-(C), (c)(3); and adding language related to major alterations projects).

the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

(2) MAJOR ALTERATION PROJECTS

- (A) IN GENERAL—The Administrator shall establish a cost and schedule baseline for each major alteration project.
- (B) PER UNIT COST—The cost baseline developed under subparagraph (A) shall include, with respect to each major alteration project, an estimated cost for each warhead in the project.
- (C) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.
- (D) MAJOR ALTERATION PROJECT DEFINED—In this paragraph, the term “major alteration project” means a nuclear weapon system alteration project of the Administration the cost of which exceeds \$750,000,000.

(3) DEFENSE-FUNDED CONSTRUCTION PROJECTS

- (A) IN GENERAL—The Secretary of Energy shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each construction project that is—
 - (i) in excess of \$50,000,000; and
 - (ii) carried out by the Department using funds authorized to be appropriated for a fiscal year pursuant to a DOE national security authorization.
- (B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(4) DEFENSE ENVIRONMENTAL CLEANUP PROJECTS

- (A) IN GENERAL—The Secretary shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each defense environmental cleanup project that is—
 - (i) in excess of \$50,000,000; and
 - (ii) carried out by the Department pursuant to such protocols.
- (B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(b) NOTIFICATION OF COSTS EXCEEDING BASELINE—The Administrator or the Secretary, as applicable, shall notify the congressional defense committees not later than 30 days after determining that—

- (1) the total cost for a project referred to in paragraph (1), (2), (3), or (4) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and

- (2) in the case of a stockpile life extension project referred to in subsection (a)(1) or a major alteration project referred to in subsection (a)(2), the cost for any warhead in the project will exceed an amount that is equal to 150 percent of the cost baseline established under subsection (a)(1)(B) or (a)(2)(B), as applicable, for each warhead in that project.
- (c) NOTIFICATION OF DETERMINATION WITH RESPECT TO TERMINATION OR CONTINUATION OF PROJECTS AND ROOT CAUSE ANALYSES—Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—
- (1) notify the congressional defense committees with respect to whether the project will be terminated or continued;
 - (2) if the project will be continued, certify to the congressional defense committees that—
 - (A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension project referred to in subparagraph (A) or (B) of subsection (a)(1) or a major alteration project referred to in subsection (a)(2), a revised estimate of the cost for each warhead in the project has been made;
 - (B) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and
 - (C) a management structure is in place adequate to manage and control the cost and schedule of the project; and
 - (3) submit to the congressional defense committees an assessment of the root cause or causes of the growth in the total cost of the project, including the contribution of any shortcomings in cost, schedule, or performance of the program, including the role, if any, of—
 - (A) unrealistic performance expectations;
 - (B) unrealistic baseline estimates for cost or schedule;
 - (C) immature technologies or excessive manufacturing or integration risk;
 - (D) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;
 - (E) changes in procurement quantities;
 - (F) inadequate program funding or funding instability;
 - (G) poor performance by personnel of the Federal Government or contractor personnel responsible for program management; or
 - (H) any other matters.
- (d) APPLICABILITY OF REQUIREMENTS TO REVISED COST AND SCHEDULE BASELINES—A revised cost and schedule baseline established under subsection (c) shall—
- (1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2); and
 - (2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).

- (a) **IN GENERAL**—The Secretary of Energy shall ensure that an independent life-cycle cost estimate under Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets, or a successor order) of each capital asset described in subsection (b) is conducted before the asset achieves critical decision 2 in the acquisition process.
- (b) **CAPITAL ASSETS DESCRIBED**—A capital asset described in this subsection is an atomic energy defense capital asset—
 - (1) the total project cost of which exceeds \$100,000,000; and
 - (2) the purpose of which is to perform a limited-life, single-purpose mission.
- (c) **INDEPENDENT DEFINED**—For purposes of subsection (a), the term “independent”, with respect to a life-cycle cost estimate of a capital asset, means that the life-cycle cost estimate is prepared by an organization independent of the project sponsor, using the same detailed technical and procurement information as the sponsor, to determine if the life-cycle cost estimate of the sponsor is accurate and reasonable.

- (a) **POST-CRITICAL DECISION 2 CHANGES.** -- After the date on which a plant project specifically authorized by law and carried out under Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets), or a successor order, achieves critical decision 2, the Administrator may not change the requirements for such project if such change increases the cost of such project by more than the lesser of \$5,000,000 or 15 percent, unless—
 - (1) the Administrator submits to the congressional defense committees –
 - (A) a certification that the Administrator, without delegation, authorizes such proposed change; and
 - (B) a cost-benefit and risk analysis of such proposed change, including with respect to –
 - (i) the effects of such proposed change on the project cost and schedule; and
 - (ii) any mission risks and operational risks from making such change or not making such change; and
 - (2) a period of 15 days elapses following the date of such submission.
- (b) **REVIEW AND APPROVAL.** – The Administrator shall ensure that critical decision packages are timely reviewed and either approved or disapproved.

¹¹⁶ Added by Pub. L. 113-291 § 3113(a) (2014).

¹¹⁷ Added by Pub L. 115-91 § 3111(d) (2017).

- (a) **ANNUAL REPORT OR CERTIFICATION.**—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Administrator shall submit to the Secretary of Energy and the congressional defense committees either –
- (1) a report on the unfunded priorities of the Administrator; or
 - (2) if the Administrator determines that there are no unfunded priorities to include in such a report, a certification and explanation by the Administrator, without delegation, of the determination.
- (b) **ELEMENTS.** –
- (1) **IN GENERAL.** – Each report under subsection (a)(1) shall specify, for each unfunded priority covered by the report, the following:
 - (A) A summary description of that priority, including the objectives to be achieved if that priority is funded (whether in whole or in part).
 - (B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).
 - (C) Account information with respect to that priority.
 - (2) **PRIORITIZATION OF PRIORITIES.** -- Each report under subsection (a)(1) shall present the unfunded priorities covered by the report in order of urgency of priority.
- (c) **LIMITATION.** – If the Administrator fails to submit to the congressional defense committees a report required by subsection (a) for any of fiscal years 2020 through 2024 that includes the matters specified in subsection (b)(1) for at least one unfunded priority by the dead line specified in subsection (a), not more than 65 percent of the funds authorized to be appropriated or otherwise made available for the fiscal year in which such failure occurs for travel and transportation of persons under the Federal salaries and expenses account of the Administration may be obligated or expended until the date on which the Administrator submits such report.
- (d) **UNFUNDED PRIORITY DEFINED.** -- In this section, the term ‘unfunded priority’, in the case of a fiscal year, means a program, activity, or mission requirement that—
- (1) is not funded in the budget of the President for that fiscal year as submitted to Congress pursuant to section 1105(a) of title 31, United States Code;
 - (2) is necessary to fulfill a requirement associated with the mission of the Administration; and
 - (3) would have been recommended for funding through the budget referred to in paragraph (1) by the Administrator—
 - (A) if additional resources were available for the budget to fund the program, activity, or mission requirement; or

¹¹⁸ Added by Pub L. 115-91 § 3132 (2017); amended by Pub. L. 115-232 § 3124 (2018) (redesignating subsection (c) as subsection (d) and adding a new subsection (c)).
2020- Pub. L. 116-92 amended Sec. 4716(a) and (b).

(B) in the case of a program, activity, or mission requirement that emerged after the budget was formulated, if the program, activity, or mission requirement had emerged before the budget was formulated.

TBD | Sec. 4717. **REVIEW OF ADEQUACY OF NUCLEAR WEAPONS BUDGET**¹¹⁹

(a) REVIEW OF ADEQUACY OF ADMINISTRATION BUDGET BY NUCLEAR WEAPONS COUNCIL. --

(1) TRANSMISSION TO COUNCIL. -- The Secretary of Energy shall transmit to the Nuclear Weapons Council (in this section referred to as the ‘Council’) a copy of the proposed budget request of the Administration for each fiscal year before that budget request is submitted to the Director of the Office of Management and Budget in relation to the preparation of the budget of the President to be submitted to Congress under section 1105(a) of title 31, United States Code.

(2) REVIEW AND DETERMINATION OF ADEQUACY.—

(A) REVIEW.—The Council shall review each budget request transmitted to the Council under paragraph (1).

(B) DETERMINATION OF ADEQUACY.—

(i) INADEQUATE REQUESTS.—If the Council determines that a budget request for a fiscal year transmitted to the Council under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the Department of Defense with respect to nuclear weapons for that fiscal year, the Council shall submit to the Secretary of Energy a written description of funding levels and specific initiatives that would, in the determination of the Council, make the budget request adequate to implement those objectives.

(ii) ADEQUATE REQUESTS.—If the Council determines that a budget request for a fiscal year transmitted to the Council under paragraph (1) is adequate to implement the objectives described in clause (i) for that fiscal year, the Council shall submit to the Secretary of Energy a written statement confirming the adequacy of the request.

(iii) RECORDS.—The Council shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(3) DEPARTMENT OF ENERGY RESPONSE.—

(A) IN GENERAL.—If the Council submits to the Secretary of Energy a written description under paragraph (2)(B)(i) with respect to the budget request of the Administration for a fiscal year, the Secretary shall include as an appendix to the budget request submitted to the Director of the Office of Management and Budget—

(i) the funding levels and initiatives identified in the description under paragraph (2)(B)(i); and

(ii) any additional comments the Secretary considers appropriate.

(B) TRANSMISSION TO CONGRESS.—The Secretary of Energy shall transmit to Congress, with the budget justification materials submitted in support of the Department of Energy budget for a fiscal year (as submitted with the budget of the

¹¹⁹ Added by Pub L. 116-283 § 1632 (2020).
2020-Pub. L. 116-92 amended Sec. 4716(a) and (b).

President under section 1105(a) of title 31, United States Code), a copy of the appendix described in subparagraph (A).

(b) REVIEW AND CERTIFICATION OF DEPARTMENT OF ENERGY BUDGET BY NUCLEAR WEAPONS COUNCIL.—

(1) **IN GENERAL.**—At the time the Secretary of Energy submits the budget request of the Department of Energy for that fiscal year to the Director of the Office of Management and Budget in relation to the preparation of the budget of the President, the Secretary shall transmit a copy of the budget request of the Department to the Council.

(2) **CERTIFICATION.**—The Council shall—

- (A) review the budget request transmitted to the Council under paragraph (1);
- (B) based on the review under subparagraph (A), make a determination with respect to whether the budget request includes the funding levels and initiatives described in subsection (a)(2)(B)(i); and
- (C) submit to Congress—
 - (i)(I) a certification that the budget request is adequate to implement the objectives described in subsection (a)(2)(B)(i); or
 - (II) a statement that the budget request is not adequate to implement those objectives; and
 - (ii) a copy of the written description submitted by the Council to the Secretary under subsection (a)(2)(B)(i), if any.

Subtitle B—Penalties

50 U.S.C. § 2761 | Sec. 4721. **RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS¹²⁰**

- (a) **RESTRICTION**—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.
- (b) **EXCEPTION**—Subsection (a) shall not apply with respect to an environmental requirement if --
 - (1) the President fails to request funds for compliance with the environmental requirement; or
 - (2) Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

¹²⁰ Formerly Pub. L. 99-661 § 3132 (1986); renumbered and amended by Pub. L. 108-136 § 3141(j)(4) (2003) (consolidating transfer); Pub. L. 113-66 § 3146(h)(5) (2013) (minor grammatical correction).

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540; 94 Stat. 3197) or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if--

- (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance; or
- (2) the President has specifically requested appropriations for compliance and Congress has failed to appropriate funds for such purpose.

Subtitle C—Other Matters

(a) **REPORTS REQUIRED.**—

(1) **IN GENERAL.**—Concurrent with the submission of the budget justification materials submitted to Congress in support of the budget of the President for a fiscal year (submitted to Congress pursuant to section 1105(a) of title 31, United States Code), the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program.

(2) **PRESENTATION OF INFORMATION.**—In each report required by paragraph (1), the Secretary shall—

- (A) present information on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development; and
- (B) present financial balances in connection with funding under recurring DOE national security authorizations (as defined in section 4701) separately from balances in connection with funding under any other provision of law.

(b) **ELEMENTS.**—

(1) **FORMAT.**—Each report required by subsection (a) shall—

- (A) be divided into two parts, as specified in paragraphs (2) and (3); and
- (B) set forth the information required by those paragraphs in summary form and by fiscal year.

(2) **PART 1.**—The first part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information, as of the end of the most recently completed fiscal year:

¹²¹ Formerly Pub. L. 96-540 § 211 (1980); renumbered and amended Pub. L. 108-136 § 3141(j)(5) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(h)(6) (2013) (technical correction); Pub. L. 113-291 § 3142(r) (2014) (minor grammatical correction).

¹²² Added by Pub. L. 112-239 § 3143(a) (2003); Pub. L. 116-283 (2020) § 3151 amended by adding new language.

- (A) The balance of any unobligated funds and an explanation for why those funds are unobligated.
 - (B) The total funds available to cost.
 - (C) The total balance of costed funds.
 - (D) The total balance of uncosted funds.
 - (E) The threshold for the balance of uncosted funds, stated in dollars.
 - (F) The amount of any balance of uncosted funds that is over or under that threshold and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.
 - (G) The total balance of committed, uncosted funds.
 - (H) The total balance of uncommitted, uncosted funds.
 - (I) The amount of any balance of uncommitted, uncosted funds that is over or under the threshold described in subparagraph (E) and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.
- (3) PART 2.—The second part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information:
- (A) The balance of any unobligated funds, as of the end of the first quarter of the current fiscal year.
 - (B) The total balance of uncosted funds, as of the end of the first quarter of the current fiscal year.
 - (C) Unallotted budget authority.

(c) DEFINITIONS.—In this section:

- (1) COMMITTED.—The term ‘committed’, with respect to funds, means the funds are associated with a legally enforceable agreement, such as a purchase order or contract, that has been entered into.
- (2) COSTED.—The term ‘costed’, with respect to funds, means the funds have been obligated to a contract and goods or services have been received by the contractor in exchange for the funds.
- (3) UNCOMMITTED.—The term ‘uncommitted’, with respect to funds, means the funds are not committed.
- (4) UNCOSTED.—The term ‘uncosted’, with respect to funds, means the funds have been obligated to a contract and goods or services have not been received by the contractor in exchange for the funds.
- (5) THRESHOLD.—The term ‘threshold’ means a benchmark over which a balance carried over at the end of a fiscal year should be given greater scrutiny by Congress.
- (6) TOTAL FUNDS AVAILABLE TO COST.—The term ‘total funds available to cost’ means the sum of—
 - (A) total uncosted obligations from prior fiscal years;
 - (B) current fiscal year obligations; and
 - (C) current fiscal year deobligations.

- (a) **REVIEWS**—The appropriate head shall ensure that an independent entity conducts reviews of each capital assets acquisition project as the project moves toward the approval of each of critical decision 0, critical decision 1, and critical decision 2 in the acquisition process.
- (b) **PRE-CRITICAL DECISION 1 REVIEWS**—In addition to any other matters, with respect to each review of a capital assets acquisition project under subsection (a) that has not reached critical decision 1 approval in the acquisition process, such review shall include--
 - (1) a review using best practices of the analysis of alternatives for the project; and
 - (2) identification of any deficiencies in such analysis of alternatives for the appropriate head to address.
- (c) **INDEPENDENT ENTITIES**—The appropriate head shall ensure that each review of a capital assets acquisition project under subsection (a) is conducted by an independent entity with the appropriate expertise with respect to the project and the stage in the acquisition process of the project.
- (d) **DEFINITIONS**—In this section:
 - (1) The term “acquisition process” means the acquisition process for a project, as defined in Department of Energy Order 413.3B (relating to project management and project management for the acquisition of capital assets), or a successor order.
 - (2) The term “appropriate head” means--
 - (A) the Administrator, with respect to capital assets acquisition projects of the Administration; and
 - (B) the Assistant Secretary of Energy for Environmental Management, with respect to capital assets acquisition projects of the Office of Environmental Management.
 - (3) The term “capital assets acquisition project” means a project--
 - (A) the total project cost of which is more than \$500,000,000; and
 - (B) that is covered by Department of Energy Order 413.3B, or a successor order, for the acquisition of capital assets for atomic energy defense activities.

¹²³ Added by Pub. L. 114-328 § 3111(a) (2016).

TITLE XLVIII—ADMINISTRATIVE MATTERS

Subtitle A—Contracts

50 U.S.C. § 2781 | Sec. 4801. **COSTS NOT ALLOWED UNDER COVERED CONTRACTS**¹²⁴

(a) IN GENERAL—The following costs are not allowable under a covered contract:

- (1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).
- (2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.
- (3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).
- (4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.
- (5) Costs of membership in any social, dining, or country club or organization.
- (6) Costs of alcoholic beverages.
- (7) Contributions or donations, regardless of the recipient.

¹²⁴ Formerly Pub. L. 99-145 § 1534 (1985) (as amended by Pub. L. 100-180 (1987) § 3131(a) (adding paragraph (b)(2)); renumbered and amended Pub. L. 108-136 § 3141(k)(2) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(i)(1) (2013) (technical correction).

- (8) Costs of advertising designed to promote the contractor or its products.
 - (9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.
 - (10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.
- (b) REGULATIONS; COSTS OF INFORMATION PROVIDED TO CONGRESS OR STATE LEGISLATURES AND RELATED COSTS
- (1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of Title 41.
 - (2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:
 - (A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.
 - (B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.
- (c) “COVERED CONTRACT” DEFINED—In this section, “covered contract” means a contract for an amount more than \$100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.
- (d) EFFECTIVE DATE—Subsection (a) shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) are issued.

50 U.S.C. § 2782 | Sec. 4802. **PROHIBITION AND REPORT ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES**¹²⁵

- (a) PROHIBITION—The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.
- (b) REGULATIONS—The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than March 1, 1990.

¹²⁵ Formerly Pub. L. 101-189 § 3151 (1989); renumbered and amended by Pub. L. 108-136 § 3141(k)(3) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(v) (2003) (striking former subsection (b) and redesignating other subsections accordingly); Pub. L. 113-66 § 3146(a)(2)(J) (2013) (striking former subsection (b) and redesignating other subsections accordingly).

50 U.S.C. § 2782a | Sec. 4802a. **ASSESSMENTS OF EMERGENCY PREPAREDNESS OF DEFENSE
NUCLEAR FACILITIES**¹²⁶

The Secretary of Energy shall include, in each award-fee evaluation conducted under section 16.401 of title 48, Code of Federal Regulations, of a management and operating contract for a Department of Energy defense nuclear facility in 2016 or any even-numbered year thereafter, an assessment of the adequacy of the emergency preparedness of that facility, including an assessment of the seniority level of management and operating contractor employees that participate in emergency preparedness exercises at that facility.

50 U.S.C. § 2783 | Sec. 4803. **CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY
ARISING OUT OF ATOMIC WEAPON TESTING PROGRAMS**¹²⁷

(a) **SHORT TITLE**—This section may be cited as the “Atomic Testing Liability Act”.

(b) **FEDERAL REMEDIES APPLICABLE; EXCLUSIVENESS OF REMEDIES**

(1) **REMEDY**—The remedy against the United States provided by sections 1346(b) and 2672 of Title 28, or by chapter 309 or 311 of Title 46, as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) **EXCLUSIVITY**—The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of Title 28, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) **PROCEDURE**—A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of Title 28. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) **ACTIONS COVERED**—The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on November 5, 1990, or commenced on or

¹²⁶ Added by Pub. L. 114-92 § 3134(a) (2015).

¹²⁷ Formerly Pub. L. 101-510 § 3141 (1990); renumbered and amended by Pub. L. 108-136 § 3141(k)(4) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(i)(2) (2013) (technical correction).

after such date. Notwithstanding section 2401(b) of Title 28, if a civil action or proceeding to which this section applies is pending on November 5, 1990, and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of Title 28.

- (e) “CONTRACTOR” DEFINED—For purposes of this section, the term “contractor” includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

50 U.S.C. § 2784 | Sec. 4804. **NOTICE-AND-WAIT REQUIREMENT APPLICABLE TO CERTAIN THIRD-PART FINANCING ARRANGEMENTS**¹²⁸

- (a) NOTICE-AND-WAIT REQUIREMENT—The Secretary of Energy may not enter into an arrangement described in subsection (b) until 30 days after the date on which the Secretary notifies the congressional defense committees in writing of the proposed arrangement.

(b) COVERED ARRANGEMENTS

- (1) IN GENERAL—Except as provided in paragraph (2), an arrangement referred to in subsection (a) is any alternative financing arrangement, third-party financing arrangement, public-private partnership, privatization arrangement, private capital arrangement, or other financing arrangement that--

(A) is entered into in connection with a project conducted using funds authorized to be appropriated to the Department of Energy to carry out programs necessary for national security; and

(B) involves a contractor or Federal agency obtaining and charging to the Department of Energy as an allowable cost under a contract the use of office space, facilities, or other real property assets with a value of at least \$5,000,000.

- (2) EXCEPTION—An arrangement referred to in subsection (a) does not include an arrangement that--

(A) involves the Department of Energy or a contractor acquiring or entering into a capital lease for office space, facilities, or other real property assets; or

(B) is entered into in connection with a capital improvement project undertaken as part of an energy savings performance contract under section 8287 of Title 42.

¹²⁸ Added by Pub. L. 109-364 § 3118 (2006).

50 U.S.C. § 2785 | Sec. 4805. **PUBLICATION OF CONTRACTOR PERFORMANCE EVALUATIONS
LEADING TO AWARD FEES**¹²⁹

- (a) IN GENERAL—The Administrator shall take appropriate actions to make available to the public, to the maximum extent practicable, contractor performance evaluations conducted by the Administration of management and operating contractors of the nuclear security enterprise that results in the award of an award fee to the contractor concerned.
- (b) FORMAT—Performance evaluations shall be made public under this section in a common format that facilitates comparisons of performance evaluations between and among similar management and operating contracts.

50 U.S.C. § 2786 | Sec. 4806. **ENHANCED PROCUREMENT AUTHORITY TO MANAGE SUPPLY
CHAIN RISK**¹³⁰

- (a) AUTHORITY—Subject to subsection (b), the Secretary of Energy may--
- (1) carry out a covered procurement action or special exclusion action; and
 - (2) notwithstanding any other provision of law, limit, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action or special exclusion action.
- (b) REQUIREMENTS—The Secretary may exercise the authority under subsection (a) only after--
- (1) obtaining a risk assessment that demonstrates that there is a significant supply chain risk to a covered system;
 - (2) making a determination in writing, in unclassified or classified form, that--
 - (A) the use of the authority under subsection (a) is necessary to protect national security by reducing supply chain risk;
 - (B) less restrictive measures are not reasonably available to reduce the supply chain risk; and
 - (C) in a case in which the Secretary plans to limit disclosure of information under subsection (a)(2), the risk to national security of the disclosure of the information outweighs the risk of not disclosing the information; and
 - (3) submitting to the appropriate congressional committees, not later than seven days after the date on which the Secretary makes the determination under paragraph (2), a notice of such determination, in classified or unclassified form, that includes--
 - (A) the information required by section 3304(e)(2)(A) of Title 41;
 - (B) a summary of the risk assessment required under paragraph (1); and

¹²⁹ Added by Pub. L. 112-239 § 3117(a)(1) (2003).

¹³⁰ Added by Pub. L. 113-66 § 3113(a) (2013); amended by Pub. L. 113-291 § 3142(s) (2014) (changing effective date in subsection (g) from “180 days after December 26, 2013” to “June 24, 2014”); further amended by Pub. L. 115-232 § 3117 (2018) (rewriting subsection (g) and amending subsection (f)(5)(A) by striking “section 3542(b) of title 44” and inserting “section 3552(b) of title 44”).
2020 – Pub. L. 116-92 struck subsection 4806(e) and redesignated subparagraphs (f) and (g) as new (e) and (f), respectively.

- (C) a summary of the basis for the determination, including a discussion of less restrictive measures that were considered and why such measures were not reasonably available to reduce supply chain risk.
- (c) NOTIFICATIONS—If the Secretary has exercised the authority under subsection (a), the Secretary shall--
 - (1) notify appropriate parties of the covered procurement action or special exclusion action and the basis for the action only to the extent necessary to carry out the covered procurement action;
 - (2) notify other Federal agencies responsible for procurement that may be subject to the same or similar supply chain risk, in a manner and to the extent consistent with the requirements of national security; and
 - (3) ensure the confidentiality of any notifications under paragraph (1) or (2).
- (d) LIMITATION OF REVIEW—No action taken by the Secretary under the authority under subsection (a) shall be subject to review in any Federal court.
- (e) Delegation of Authority -- The Secretary may delegate the authority under this section to
 - (1) in the case of the Administration, the Administrator; and
 - (2) in the case of any other component of the Department of Energy, the Senior Procurement Executive of the Department.
- (f) DEFINITIONS—In this section:
 - (1) APPROPRIATE CONGRESSIONAL COMMITTEES—The term “appropriate congressional committees” means--
 - (A) the congressional defense committees; and
 - (B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.
 - (2) COVERED ITEM OF SUPPLY—The term “covered item of supply” means an item--
 - (A) that is purchased for inclusion in a covered system; and
 - (B) the loss of integrity of which could result in a supply chain risk for a covered system.
 - (3) COVERED PROCUREMENT—The term “covered procurement” means the following:
 - (A) A source selection for a covered system or a covered item of supply involving either a performance specification, as described in subsection (a)(3)(B) of section 3306 of Title 41, or an evaluation factor, as described in subsection (b)(1) of such section, relating to supply chain risk.
 - (B) The consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of Title 41, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk.
 - (C) Any contract action involving a contract for a covered system or a covered item of supply if the contract includes a clause establishing requirements relating to supply chain risk.

- (4) **COVERED PROCUREMENT ACTION**—The term “covered procurement action” means, with respect to an action that occurs in the course of conducting a covered procurement, any of the following:
- (A) The exclusion of a source that fails to meet qualification requirements established pursuant to section 3311 of Title 41 for the purpose of reducing supply chain risk in the acquisition of covered systems.
 - (B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.
 - (C) The withholding of consent for a contractor to subcontract with a particular source or the direction to a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.
- (5) **COVERED SYSTEM**—The term “covered system” means the following:
- (A) National security systems (as defined in section 3552(b) of title 44) and components of such systems.
 - (B) Nuclear weapons and components of nuclear weapons.
 - (C) Items associated with the design, development, production, and maintenance of nuclear weapons or components of nuclear weapons.
 - (D) Items associated with the surveillance of the nuclear weapon stockpile.
 - (E) Items associated with the design and development of nonproliferation and counterproliferation programs and systems.
- (6) **SPECIAL EXCLUSION ACTION**—The term ‘special exclusion action’ means an action to prohibit, for a period not to exceed two years, the award of any contracts or subcontracts by the Administration or any other component of the Department of Energy related to any covered system to a source the Secretary determines to represent a supply chain risk.
- (7) **SUPPLY CHAIN RISK**—The term “supply chain risk” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system or covered item of supply so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of the system or item of supply.
- (g) **TERMINATION**—The authority under this section shall terminate on June 30, 2023.

50 U.S.C. § 2787 | Sec. 4807. **COST-BENEFIT ANALYSES FOR COMPETITION OF MANAGEMENT AND OPERATING CONTRACTS**¹³¹

- (a) **BRIEFINGS ON REQUESTS FOR PROPOSALS**—Not later than 7 days after issuing a request for proposals for a contract to manage and operate a facility of the Administration, the Administrator shall brief the congressional defense committees on the preliminary assessment of the Administrator of the costs and benefits of the competition for the contract,

¹³¹ Added by Pub. L. 115-232 § 3131 (2018).

including a preliminary assessment of the matters described in subsection (c) with respect to the contract.

- (b) **REPORTS AFTER TRANSITION TO NEW CONTRACTS**—If the Administrator awards a new contract to manage and operate a facility of the Administration, the Administrator shall submit to the congressional defense committees a report that includes the matters described in subsection (c) with respect to the contract by not later than 30 days after the completion of the period required to transition to the contract.
- (c) **MATTERS DESCRIBED**—The matters described in this subsection, with respect to a contract, are the following:
 - (1) A clear and complete description of the cost savings the Administrator expects to result from the competition for the contract over the life of the contract, including associated analyses, assumptions, and information sources used to determine such expected cost savings.
 - (2) A description of any key limitations or uncertainties that could affect such costs savings, including costs savings that are anticipated but not fully known.
 - (3) The costs of the competition for the contract, including the immediate costs of conducting the competition, the costs of the transition to the contract from the previous contract, and any increased costs over the life of the contract.
 - (4) A description of any disruptions or delays in mission activities or deliverables resulting from the competition for the contract.
 - (5) A clear and complete description of the benefits expected by the Administrator with respect to mission performance or operations resulting from the competition.
 - (6) How the competition for the contract complied with the Federal Acquisition Regulation regarding federally funded research and development centers, if applicable.
 - (7) The factors considered and processes used by the Administrator to determine --
 - (A) whether to compete or extend the previous contract; and
 - (B) which activities at the facility should be covered under the contract rather than under a different contract.
 - (8) With respect to the matters included under paragraphs (1) through (7), a detailed description of the analyses conducted by the Administrator to reach the conclusions presented in the report, including any assumptions, limitations, and uncertainties relating to such conclusions.
 - (9) Any other matters the Administrator considers appropriate.
- (d) **INFORMATION QUALITY**—Each briefing required by subsection (a) and report required by subsection (b) shall be prepared in accordance with--
 - (1) the information quality guidelines of the Department of Energy that are relevant to the clear and complete presentation of the matters described in subsection (c); and
 - (2) best practices of the Government Accountability Office and relevant industries for cost estimating, if appropriate.
- (e) **REVIEW OF REPORTS BY COMPTROLLER GENERAL OF THE UNITED STATES.**
 - (1) **INITIAL REVIEW**—The Comptroller General of the United States shall provide a briefing to the congressional defense committees that includes a review of each report

required by subsection (b) not later than 180 days after the report is submitted to such committees.

(2) COMPREHENSIVE REVIEW.

- (A) DETERMINATION—The Comptroller General shall determine, in consultation with the congressional defense committees, whether to conduct a comprehensive review of a report required by subsection (b).
- (B) SUBMISSION—The Comptroller General shall submit a comprehensive review conducted under subparagraph (A) of a report required by subsection (b) to the congressional defense committees not later than 3 years after that report is submitted to such committees.
- (C) ELEMENTS—A comprehensive review conducted under subparagraph (A) of a report required by subsection (b) shall include an assessment, based on the most current information available, of the following:
 - (i) The actual cost savings achieved compared to cost savings estimated under subsection (c)(1), and any increased costs incurred under the contract that were unexpected or uncertain at the time the contract was awarded.
 - (ii) Any disruptions or delays in mission activities or deliverables resulting from the competition for the contract compared to the disruptions and delays estimated under subsection (c)(4).
 - (iii) Whether expected benefits of the competition with respect to mission performance or operations have been achieved.
 - (iv) Such other matters as the Comptroller General considers appropriate.

(f) APPLICABILITY.

- (1) IN GENERAL—The requirements for briefings under subsection (a) and reports under subsection (b) shall apply with respect to requests for proposals issued or contracts awarded, as applicable, by the Administrator during fiscal years 2019 through 2022.
- (2) NAVAL REACTORS—The requirements for briefings under subsection (a) and reports under subsection (b) shall not apply with respect to a management and operations contract for a Naval Reactor facility.

Subtitle B—Research and Development

50 U.S.C. § 2791 | Sec. 4811. **LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT PROGRAMS**¹³²

- (a) AUTHORITY—Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

¹³² Formerly Pub. L. 101-510 § 3132 (1990); renumbered and amended by Pub. L. 108-136 § 3141(k)(6) (2003) (consolidating transfer); further amended by Pub. L. 114-92 § 3115(a) (2015) (clarifying in subsection (c) references to “national security laboratories” and changing specific amount provided from “not to exceed 6 percent” to “not less than 5 percent and not more than 7 percent”).

- (b) REGULATIONS—The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.
- (c) FUNDING—Of the funds provided by the Department of Energy to a national security laboratory for national security activities, the Secretary shall provide a specific amount, of not less than 5 percent and not more than 7 percent of such funds, to be used by the laboratory for laboratory-directed research and development.
- (d) “LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT” DEFINED—For purposes of this section, the term “laboratory-directed research and development” means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

50 U.S.C. § 2791a.

LABORATORY DIRECTED RESEARCH AND DEVELOPMENT¹³³

Of the funds made available by the Department of Energy for activities at government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: Provided, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development: Provided further, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

50 U.S.C. § 2791b.

CHARGES TO INDIVIDUAL PROGRAM, PROJECT, OR ACTIVITY¹³⁴

Of the funds authorized by the Secretary of Energy for laboratory directed research and development, no individual program, project, or activity funded by this or any subsequent Act making appropriations for Energy and Water Development for any fiscal year may be charged more than the statutory maximum authorized for such activities: Provided, That this section shall take effect not earlier than October 1, 2015.

50 U.S.C. § 2792 | Sec. 4812.

LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT PURPOSES¹³⁵

- (a) LIMITATION ON USE OF WEAPONS ACTIVITIES FUNDS—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for weapons activities may be obligated or expended for activities under the

¹³³ Provision not incorporated into the Atomic Energy Defense Act. Pub. L. 111-8 § 308 (2009).

¹³⁴ Provision not incorporated into the Atomic Energy Defense Act. Pub. L. 113-235 § 311 (2014).

¹³⁵ Formerly Pub. L. 105-85 § 3137 (1997); renumbered and amended by Pub. L. 108-136 § 3141(k)(7)(A) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(w) (2003) (striking former subsections (b)-(d) and redesignating other subsections accordingly); Pub. L. 113-66 § 3146(i)(3) (2013) (striking former subsection (b) and redesignating other subsections accordingly; and generally changing terminology to “defense environmental cleanup”).

Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

- (b) **LIMITATION ON USE OF CERTAIN OTHER FUNDS**—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for defense environmental cleanup may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the defense environmental cleanup mission of the Department of Energy.

50 U.S.C. § 2793 | Sec. 4812A. **REPORT ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES**¹³⁶

- (a) **REPORT REQUIRED**—Not later than February 1 each year, the Secretary of Energy shall submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.
- (b) **PREPARATION OF REPORT**—Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.
- (c) **CRITERIA USED IN PREPARATION OF REPORT**—Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

50 U.S.C. § 2794 | Sec. 4813. **CRITICAL TECHNOLOGY PARTNERSHIPS AND COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS**¹³⁷

- (a) **PARTNERSHIPS**—For the purpose of facilitating the transfer of technology, the Secretary of Energy shall ensure, to the maximum extent practicable, that research on and development of dual-use critical technology carried out through atomic energy defense activities is conducted through cooperative research and development agreements, or other arrangements, that involve laboratories of the Department of Energy and other entities.
- (b) **COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS**

¹³⁶ Formerly Pub. L. 104-201 § 3136 (1996) (as amended by Pub. L. 105-85 § 3137(c) (1997) (setting February 1 and the annual submission date in subsection (b)); renumbered and amended Pub. L. 108-136 § 3141(k)(7)(B) (2003) (consolidating transfer); further amended by Pub. L. 113-66 § 3146(i)(4)(A) (2013) (striking former subsection (a) and redesignating other subsections accordingly).

¹³⁷ Formerly Pub. L. 102-190 § 3136 (1991) (as amended by Pub. L. 103-35 § 203(b)(3) (1993) (technical correction)); renumbered by Pub. L. 108-136 § 3141(k)(8) (2003); amended by Pub. L. 111-383 § 3115(a) (2011) (inserting new subsection (b) and redesignating other subsections accordingly); Pub. L. 112-239 § 3131(x) (2003) (striking former paragraph (c)(5)); Pub. L. 113-66 § 3146(i)(5) (2013) (technical correction; and rewriting subparagraph (c)(1)(C)); Pub. L. 113-291 § 3142(t) (2014) (replacing in subsection (a) “that atomic energy defense activities research on, and development of, any dual-use critical technology” with “that research on and development of dual-use critical technology carried out through atomic energy defense activities”).

- (1) Subject to the availability of appropriations provided for such purpose, the Administrator shall establish a cooperative research and development center described in paragraph (2) at each national security laboratory.
 - (2) A cooperative research and development center described in this paragraph is a center to foster collaborative scientific research, technology development, and the appropriate transfer of research and technology to users in addition to the national security laboratories.
 - (3) In establishing a cooperative research and development center under this subsection, the Administrator--
 - (A) shall enter into cooperative research and development agreements with governmental, public, academic, or private entities; and
 - (B) may enter into a contract with respect to constructing, purchasing, managing, or leasing buildings or other facilities.
- (c) DEFINITIONS—In this section:
- (1) The term “dual-use critical technology” means a technology--
 - (A) that is critical to atomic energy defense activities, as determined by the Secretary of Energy;
 - (B) that has military applications and nonmilitary applications; and
 - (C) that is a defense critical technology (as defined in section 2500 of Title 10).
 - (2) The term “cooperative research and development agreement” has the meaning given that term by section 3710a(d) of Title 15.
 - (3) The term “other entities” means--
 - (A) firms, or a consortium of firms, that are eligible to participate in a partnership or other arrangement with a laboratory of the Department of Energy, as determined in accordance with applicable law and regulations; or
 - (B) firms, or a consortium of firms, described in subparagraph (A) in combination with one or more of the following:
 - (i) Institutions of higher education in the United States.
 - (ii) Departments and agencies of the Federal Government other than the Department of Energy.
 - (iii) Agencies of State governments.
 - (iv) Any other persons or entities that may be eligible and appropriate, as determined in accordance with applicable laws and regulations.
 - (4) The term “atomic energy defense activities” does not include activities covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program.

- (a) FINDINGS—Congress makes the following findings:

¹³⁸ Formerly Pub. L. 105-85 § 3155 (1997); renumbered and amended by Pub. L. 108-136 § 3141(k)(9) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(y) (2003) (striking former subsection (c)).

- (1) The maintenance of scientific and engineering competence in the United States is vital to long-term national security and the defense and national security missions of the Department of Energy.
 - (2) Engaging the universities and colleges of the Nation in research on long-range problems of vital national security interest will be critical to solving the technology challenges faced within the defense and national security programs of the Department of Energy in the next century.
 - (3) Enhancing collaboration among the national laboratories, universities and colleges, and industry will contribute significantly to the performance of these Department of Energy missions.
- (b) PROGRAM—The Secretary of Energy shall establish a university program at a location that can develop the most effective collaboration among national laboratories, universities and colleges, and industry in support of scientific and engineering advancement in key Department of Energy defense and national security program areas.

Subtitle C—Facilities Management

50 U.S.C. § 2811 | Sec. 4831. **TRANSFERS OF REAL PROPERTY AT CERTAIN DEPARTMENT OF ENERGY FACILITIES**¹³⁹

(a) TRANSFER REGULATIONS

- (1) The Secretary of Energy shall prescribe regulations for the transfer by sale or lease of real property at Department of Energy defense nuclear facilities for the purpose of permitting the economic development of the property.
- (2) The Secretary may not transfer real property under the regulations prescribed under paragraph (1) until--
 - (A) the Secretary submits a notification of the proposed transfer to the congressional defense committees; and
 - (B) a period of 30 days has elapsed following the date on which the notification is submitted.

(b) INDEMNIFICATION

- (1) Except as provided in paragraph (3) and subject to subsection (c), in the sale or lease of real property pursuant to the regulations prescribed under subsection (a), the Secretary may hold harmless and indemnify a person or entity described in paragraph (2) against any claim for injury to person or property that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located. Before entering into any agreement for such a sale or lease, the Secretary shall notify the person or entity that the Secretary has authority to provide

¹³⁹ Formerly Pub. L. 105-85 § 3158 (1997) (as amended by Pub. L. 108-7 § 506 (2003) (adding subparagraph (b)(2)(D))); renumbered by Pub. L. 108-136 § 3141(k)(11) (2003); amended by Pub. L. 108-137 § 504(a) (2003) (clarifying that the renumbered section includes subparagraph (b)(2)(D) as added by Pub. L. 108-7); Pub. L. 113-66 § 3146(a)(2)(K) (2013) (technical correction); *id.* § 3146(i)(6) (replacing “Secretary of Energy” with “Secretary” after subsection (a)(1)).

indemnification to the person or entity under this subsection. The Secretary shall include in any agreement for such a sale or lease a provision stating whether indemnification is or is not provided.

(2) Paragraph (1) applies to the following persons and entities:

(A) Any State that acquires ownership or control of real property of a defense nuclear facility.

(B) Any political subdivision of a State that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(c) CONDITIONS

(1) No indemnification on a claim for injury may be provided under this section unless the person or entity making a request for the indemnification--

(A) notifies the Secretary in writing within two years after such claim accrues;

(B) furnishes to the Secretary copies of pertinent papers received by the person or entity;

(C) furnishes evidence or proof of the claim;

(D) provides, upon request by the Secretary, access to the records and personnel of the person or entity for purposes of defending or settling the claim; and

(E) begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2) For purposes of paragraph (1)(A), the date on which a claim accrues is the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property referred to in subsection (b)(1) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located.

(d) AUTHORITY OF SECRETARY

(1) In any case in which the Secretary determines that the Secretary may be required to indemnify a person or entity under this section for any claim for injury to person or property referred to in subsection (b)(1), the Secretary may settle or defend the claim on behalf of that person or entity.

(2) In any case described in paragraph (1), if the person or entity that the Secretary may be required to indemnify does not allow the Secretary to settle or defend the claim, the person or entity may not be indemnified with respect to that claim under this section.

(e) RELATIONSHIP TO OTHER LAW—Nothing in this section shall be construed as affecting or modifying in any way section 9620(h) of Title 42.

(f) DEFINITIONS—In this section, the terms “hazardous substance”, “release”, and “pollutant or contaminant” have the meanings provided by section 9601 of Title 42.

50 U.S.C. § 2812 | Sec. 4832. **ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION BY MANAGERS OF CERTAIN NUCLEAR WEAPONS PRODUCTION FACILITIES**¹⁴⁰

- (a) **AUTHORITY FOR PROGRAMS AT NUCLEAR WEAPONS PRODUCTIONS FACILITIES**—The Administrator shall authorize the head of each nuclear weapons production facility to establish an Engineering and Manufacturing Research, Development, and Demonstration Program under this section.
- (b) **PROJECTS AND ACTIVITIES**—The projects and activities carried out through the program at a nuclear weapons production facility under this section shall support innovative or high-risk design and manufacturing concepts and technologies with potentially high payoff for the nuclear security enterprise. Those projects and activities may include--
- (1) replacement of obsolete or aging design and manufacturing technologies;
 - (2) development of innovative agile manufacturing techniques and processes; and
 - (3) training, recruitment, or retention of essential personnel in critical engineering and manufacturing disciplines.

50 U.S.C. § 2813 | Sec. 4833. **PILOT PROGRAM RELATING TO USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN DEPARTMENT OF ENERGY ASSETS**¹⁴¹

- (a) **PURPOSE**—The purpose of this section is to encourage the Secretary of Energy to dispose of or otherwise utilize certain assets of the Department of Energy by making available to the Secretary the proceeds of such disposal or utilization for purposes of defraying the costs of such disposal or utilization.
- (b) **USE OF PROCEEDS TO DEFRAY COSTS**
- (1) Notwithstanding section 3302 of Title 31, the Secretary may retain from the proceeds of the sale, lease, or disposal of an asset under subsection (c) an amount equal to the cost of the sale, lease, or disposal of the asset. The Secretary shall utilize amounts retained under this paragraph to defray the cost of the sale, lease, or disposal.
 - (2) For purposes of paragraph (1), the cost of a sale, lease, or disposal shall include--
 - (A) the cost of administering the sale, lease, or disposal;
 - (B) the cost of recovering or preparing the asset concerned for the sale, lease, or disposal; and
 - (C) any other cost associated with the sale, lease, or disposal.
- (c) **COVERED TRANSACTIONS**—Subsection (b) applies to the following transactions:

¹⁴⁰ Formerly Pub. L. 106-398 § 3156 (2000); renumbered by Pub. L. 108-136 § 3141(k)(12) (2003); amended by Pub. L. 112-239 § 3131(z) (2003) (replacing “nuclear weapons complex” with “nuclear security enterprise”; and striking former subsections (c)-(e)); Pub. L. 113-66 § 3146(i)(7)(A) (2013) (changing heading to describe production “facilities” instead of “plants”); Pub. L. 113-291 § 3142(u) (2014) (technical correction striking “for Nuclear Security” after “Administrator” in subsection (a)).

¹⁴¹ Formerly Pub. L. 105-85 § 3138 (1997); renumbered and amended Pub. L. 108-136 § 3141(k)(13) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(aa) (2003) (striking former subsection (e)).

- (1) The sale of heavy water at the Savannah River Site, South Carolina, that is under the jurisdiction of the Defense Environmental Management Program.
 - (2) The sale of precious metals that are under the jurisdiction of the Defense Environmental Management Program.
 - (3) The lease of buildings and other facilities located at the Hanford Reservation, Washington, that are under the jurisdiction of the Defense Environmental Management Program.
 - (4) The lease of buildings and other facilities located at the Savannah River Site that are under the jurisdiction of the Defense Environmental Management Program.
 - (5) The disposal of equipment and other personal property located at the Rocky Flats Defense Environmental Technology Site, Colorado, that is under the jurisdiction of the Defense Environmental Management Program.
 - (6) The disposal of materials at the National Electronics Recycling Center, Oak Ridge, Tennessee that are under the jurisdiction of the Defense Environmental Management Program.
- (d) **APPLICABILITY OF DISPOSAL AUTHORITY**—Nothing in this section shall be construed to limit the application of subchapter II of chapter 5 and section 549 of Title 40, to the disposal of equipment and other personal property covered by this section.

50 U.S.C. § 2814

DEPARTMENT OF ENERGY PARKS PROGRAM¹⁴²

- (a) **IN GENERAL**—The Secretary of Energy may establish a program to permit the establishment of energy parks on former defense nuclear facilities.
- (b) **OBJECTIVES**—The objectives for establishing energy parks pursuant to subsection (a) are the following:
- (1) To provide locations to carry out a broad range of projects relating to the development and deployment of energy technologies and related advanced manufacturing technologies.
 - (2) To provide locations for the implementation of pilot programs and demonstration projects for new and developing energy technologies and related advanced manufacturing technologies.
 - (3) To set a national example for the development and deployment of energy technologies and related advanced manufacturing technologies in a manner that will promote energy security, energy sector employment, and energy independence.
 - (4) To create a business environment that encourages collaboration and interaction between the public and private sectors.
- (c) **CONSULTATION**—In establishing an energy park pursuant to subsection (a), the Secretary shall consult with--
- (1) the local government with jurisdiction over the land on which the energy park will be located;
 - (2) the local governments of adjacent areas; and

¹⁴² Provision not incorporated into the Atomic Energy Defense Act. Pub. L. 111-383 § 3124 (2011).

- (3) any community reuse organization recognized by the Secretary at the former defense nuclear facility on which the energy park will be located.
- (d) **REPORT REQUIRED**—Not later than 120 days after January 7, 2011, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the program under subsection (a). The report shall include such recommendations for additional legislative actions as the Secretary considers appropriate to facilitate the development of energy parks on former defense nuclear facilities.
- (e) **DEFENSE NUCLEAR FACILITY DEFINED**—In this section, the term “defense nuclear facility” has the meaning given the term “Department of Energy defense nuclear facility” in section 2286g of Title 42.

Subtitle D—Other Matters

50 U.S.C. § 2822 | Sec. 4852. **PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA NATIONAL SECURITY SITE**¹⁴³

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada National Security Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada National Security Site.

¹⁴³ Formerly Pub. L. 104-201 § 3144 (1996); renumbered by Pub. L. 108-136 § 3141(k)(16) (2003) (consolidating transfer); further amended by Pub. L. 112-239 § 3131(bb)(1)(B), (C) (2003) (updating reference to “Nevada National Security Site” and replacing “Director of Central Intelligence” with “Director of National Intelligence” throughout).