

1765, and is classified to section 2585 of Title 50, War and National Defense.

§ 7274l. Authority to transfer certain Department of Energy property

(a) Authority to transfer

(1) Notwithstanding any other provision of law, the Secretary of Energy may transfer, for consideration, all right, title, and interest of the United States in and to the property referred to in subsection (b) of this section to any person if the Secretary determines that such transfer will mitigate the adverse economic consequences that might otherwise arise from the closure of a Department of Energy facility.

(2) The amount of consideration received by the United States for a transfer under paragraph (1) may be less than the fair market value of the property transferred if the Secretary determines that the receipt of such lesser amount by the United States is in accordance with the purpose of such transfer under this section.

(3) The Secretary may require any additional terms and conditions with respect to a transfer of property under paragraph (1) that the Secretary determines appropriate to protect the interests of the United States.

(b) Covered property

Property referred to in subsection (a) of this section is the following property of the Department of Energy that is located at a Department of Energy facility to be closed or reconfigured:

(1) The personal property and equipment at the facility that the Secretary determines to be excess to the needs of the Department of Energy.

(2) Any personal property and equipment at the facility (other than the property and equipment referred to in paragraph (1)) the replacement cost of which does not exceed an amount equal to 110 percent of the costs of relocating the property or equipment to another facility of the Department of Energy.

(Pub. L. 103-160, div. C, title XXXI, §3155, Nov. 30, 1993, 107 Stat. 1953.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of the Department of Energy Organization Act which comprises this chapter.

§§ 7274m to 7274o. Transferred

CODIFICATION

Section 7274m, Pub. L. 103-337, div. C, title XXXI, §3163, Oct. 5, 1994, 108 Stat. 3097, which related to safety oversight and enforcement at defense nuclear facilities, was renumbered section 4642 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(13)(A)-(C), Nov. 24, 2003, 117 Stat. 1779, and is classified to section 2732 of Title 50, War and National Defense.

Section 7274n, Pub. L. 104-201, div. C, title XXXI, §3143, Sept. 23, 1996, 110 Stat. 2836, which related to projects to accelerate closure activities at defense nuclear facilities, was renumbered section 4421 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(g)(11)(A)-(C), Nov. 24, 2003, 117 Stat. 1766, and is classified to section 2601 of Title 50, War and National Defense.

Section 7274o, Pub. L. 104-201, div. C, title XXXI, §3159, Sept. 23, 1996, 110 Stat. 2842; Pub. L. 105-85, div. A, title XIII, §1305(c), (d), Nov. 18, 1997, 111 Stat. 1954; Pub. L. 106-65, div. C, title XXXI, §3163(f), Oct. 5, 1999, 113 Stat. 946, which related to reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants, was renumbered section 4213 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(14), Nov. 24, 2003, 117 Stat. 1760, and is classified to section 2533 of Title 50, War and National Defense.

SUBMITTAL OF ANNUAL REPORT ON STATUS OF SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES

Pub. L. 105-85, div. C, title XXXI, §3162, Nov. 18, 1997, 111 Stat. 2049, as amended by Pub. L. 106-65, div. C, title XXXI, §3142(h)(2), Oct. 5, 1999, 113 Stat. 934, which was formerly set out as a note under section 7274m of this title, was renumbered section 4506 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(7)(A)-(C), Nov. 24, 2003, 117 Stat. 1773, and is classified to section 2657 of Title 50, War and National Defense.

EMPLOYEE INCENTIVES FOR EMPLOYEES AT CLOSURE PROJECT FACILITIES

Pub. L. 106-398, §1 [div. C, title XXXI, §3136], Oct. 30, 2000, 114 Stat. 1654, 1654A-458, which was formerly set out as a note under section 7274n of this title, was renumbered section 4603 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(4)(A)-(C), Nov. 24, 2003, 117 Stat. 1777, and is classified to section 2703 of Title 50, War and National Defense.

§ 7274p. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile

(a) Findings

Congress makes the following findings:

(1) Nuclear weapons are the most destructive weapons on earth. The United States and its allies continue to rely on nuclear weapons to deter potential adversaries from using weapons of mass destruction. The safety and reliability of the nuclear weapons stockpile are essential to ensure its credibility as a deterrent.

(2) On September 24, 1996, President Clinton signed the Comprehensive Test Ban Treaty.

(3) Effective as of September 30, 1996, the United States is prohibited by section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377; 42 U.S.C. 2121 note)¹ from conducting underground nuclear tests “unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted”.

(4) Section 1436(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 42 U.S.C. 2121 note)¹ requires the Secretary of Energy to “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 test ban on nuclear explosive testing is negotiated and ratified.”.

¹ See References in Text note below.

(5) Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994¹ (Public Law 103-160; 42 U.S.C. 2121 note) required the President to submit an annual report to Congress which sets forth “any concerns with respect to the safety, security, effectiveness, or reliability of existing United States nuclear weapons raised by the Stockpile Stewardship Program of the Department of Energy”.

(6) President Clinton declared in July 1993 that “to assure that our nuclear deterrent remains unquestioned under a test ban, we will explore other means of maintaining our confidence in the safety, reliability, and the performance of our weapons”. This decision was incorporated in a Presidential Directive.

(7) Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 42 U.S.C. 2121 note)¹ also requires that the Secretary of Energy establish a “stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons”.

(8) The plan of the Department of Energy to maintain the safety and reliability of the United States nuclear weapons stockpile is known as the Stockpile Stewardship and Management Program. The ability of the United States to maintain and certify the safety, security, effectiveness, and reliability of the nuclear weapons stockpile without testing will require utilization of new and sophisticated computational capabilities and diagnostic technologies, methods, and procedures. Current diagnostic technologies and laboratory testing techniques are insufficient to certify the safety and reliability of the United States nuclear weapons stockpile into the future. Whereas in the past laboratory and diagnostic tools were used in conjunction with nuclear testing, in the future they will provide, under the Department of Energy’s stockpile stewardship plan, the sole basis for assessing past test data and for making judgments on phenomena observed in connection with the aging of the stockpile.

(9) Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) requires that the directors of the nuclear weapons laboratories and the nuclear weapons production plants submit a report to the Assistant Secretary of Energy for Defense Programs if they identify a problem that has significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, that the Assistant Secretary must transmit that report, along with any comments, to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense, and that the Joint Nuclear Weapons Council advise Congress regarding its analysis of any such problems.

(10) On August 11, 1995, President Clinton directed “the establishment of a new annual reporting and certification requirement [to] ensure that our nuclear weapons remain safe and reliable under a comprehensive test ban”.

(11) On the same day, the President noted that the Secretary of Defense and the Sec-

retary of Energy have the responsibility, after being “advised by the Nuclear Weapons Council, the Directors of DOE’s nuclear weapons laboratories, and the Commander of United States Strategic Command”, to provide the President with the information regarding the certification referred to in paragraph (10).

(12) The Joint Nuclear Weapons Council established by section 179 of title 10 is responsible for providing advice to the Secretary of Energy and the Secretary of Defense regarding nuclear weapons issues, including “considering safety, security, and control issues for existing weapons”. The Council plays a critical role in advising Congress in matters relating to nuclear weapons.

(13) It is essential that the President receive well-informed, objective, and honest opinions, including dissenting views, from his advisers and technical experts regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(b) 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
- (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 nuclear weapons laboratories and nuclear weapons production plants.

(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.

(c), (d) Omitted

(e) Advice and opinions regarding nuclear weapons stockpile

In addition to a director of a nuclear weapons laboratory or a nuclear weapons production plant (under section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o)),¹ any member of the Joint Nuclear Weapons Council or the commander of the United States Strategic Command 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.

(f) Expression of individual views

A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(g) Definitions

In this section:

(1) The term “representative of the President” means the following:

(A) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(B) Any member of the National Security Council.

(C) Any member of the Joint Chiefs of Staff.

(D) Any official of the Office of Management and Budget.

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

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term “nuclear weapons production plant” means any of the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y-12 Plant, Oak Ridge, Tennessee.

(Pub. L. 105-85, div. A, title XIII, § 1305, Nov. 18, 1997, 111 Stat. 1952.)

REFERENCES IN TEXT

Section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), referred to in subsec. (a)(3), which is set out as a note under section 2121 of this title, was amended by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(11), Nov. 24, 2003, 117 Stat. 1760, and no longer contains the words “unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted”. Those words were transferred to section 2530 of Title 50, War and National Defense.

Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456), referred to in subsec. (a)(4), was set out as a note under section 2121 of this title and was renumbered section 4207 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(8)(A)-(C), Nov. 24, 2003, 117 Stat. 1759, which is classified to section 2527 of Title 50, War and National Defense.

Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), referred to in subsec. (a)(5) and (7), was amended by Pub. L. 105-85, div. C, title XXXI, § 3152(e)(1), Nov. 18, 1997, 111

Stat. 2042, to strike out subsec. (d) and subsequently renumbered section 4201 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(2), Nov. 24, 2003, 117 Stat. 1758, which is classified to section 2521 of Title 50, War and National Defense.

Section 3159 of the National Defense Authorization Act for Fiscal Year 1997, referred to in subsecs. (a)(9) and (e), was classified to section 7274o of this title and was renumbered section 4213 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(14), Nov. 24, 2003, 117 Stat. 1760, which is classified to section 2533 of Title 50, War and National Defense.

CODIFICATION

Section is comprised of section 1305 of Pub. L. 105-85. Subsecs. (c) and (d) of section 1305 of Pub. L. 105-85 amended section 2533 of Title 50, War and National Defense.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Department of Energy Organization Act which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production plants defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 105-85, 111 Stat. 1645, as amended by Pub. L. 106-65, div. A, title X, § 1067(4), Oct. 5, 1999, 113 Stat. 774. See note under section 101 of Title 10, Armed Forces.

§ 7274q. Transferred

CODIFICATION

Section, Pub. L. 105-85, div. C, title XXXI, § 3158, Nov. 18, 1997, 111 Stat. 2046; Pub. L. 108-7, div. D, title V, § 506, Feb. 20, 2003, 117 Stat. 158, which related to transfers of real property at certain Department of Energy facilities, was renumbered section 4831 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(k)(11), Nov. 24, 2003, 117 Stat. 1785, and is classified to section 2811 of Title 50, War and National Defense.

§ 7274r. Transferred

CODIFICATION

Section, Pub. L. 108-7, div. D, title III, § 308, Feb. 20, 2003, 117 Stat. 154, which related to research, development, and demonstration activities with respect to engineering and manufacturing capabilities at covered nuclear weapons production plants, was transferred and is listed in a similar provisions note under the heading