

(Pub. L. 103-382, title V, §516, Oct. 20, 1994, 108 Stat. 4044.)

## REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5, Government Organization and Employees.

**§ 7382e. Waste management education research consortium (WERC)**

**(a)<sup>1</sup> In general**

The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally-related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

(Pub. L. 103-382, title V, §517, Oct. 20, 1994, 108 Stat. 4044.)

**§ 7382f. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated for the Program \$700,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

**(b) WERC program**

There are authorized to be appropriated for the WERC program under section 7382e of this title such sums as may be necessary for fiscal year 1995 and each of the four succeeding fiscal years.

(Pub. L. 103-382, title V, §518, Oct. 20, 1994, 108 Stat. 4044.)

**SUBCHAPTER XV—MATTERS RELATING TO SAFEGUARDS, SECURITY, AND COUNTER-INTELLIGENCE**

## CODIFICATION

This subchapter was enacted as part of subtitle D (§§3141-3156) of title XXXI of div. C of the National Defense Authorization Act for Fiscal Year 2000, known as the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7383. Commission on Safeguards, Security, and Counterintelligence at Department of Energy Facilities**

**(a) Establishment**

There is hereby established a commission to be known as the Commission on Safeguards, Security, and Counterintelligence at Department of Energy Facilities (in this section referred to as the "Commission").

**(b) Membership and organization**

(1) The Commission shall be composed of nine members appointed from among individuals in the public and private sectors who have significant experience in matters related to the security of nuclear weapons and materials, the clas-

sification of information, or counterintelligence matters, as follows:

(A) Two shall be appointed by the chairman of the Committee on Armed Services of the Senate, in consultation with the ranking member of that Committee.

(B) One shall be appointed by the ranking member of the Committee on Armed Services of the Senate, in consultation with the chairman of that Committee.

(C) Two shall be appointed by the chairman of the Committee on Armed Services of the House of Representatives, in consultation with the ranking member of that Committee.

(D) One shall be appointed by the ranking member of the Committee on Armed Services of the House of Representatives, in consultation with the chairman of that Committee.

(E) One shall be appointed by the Secretary of Defense.

(F) One shall be appointed by the Director of the Federal Bureau of Investigation.

(G) One shall be appointed by the Director of Central Intelligence.

(2) Members of the Commission shall be appointed for four year terms, except as follows:

(A) One member initially appointed under paragraph (1)(A) shall serve a term of two years, to be designated at the time of appointment.

(B) One member initially appointed under paragraph (1)(C) shall serve a term of two years, to be designated at the time of appointment.

(C) The member initially appointed under paragraph (1)(E) shall serve a term of two years.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment and shall not affect the powers of the Commission.

(4)(A) After five members of the Commission have been appointed under paragraph (1), the chairman of the Committee on Armed Services of the Senate, in consultation with the chairman of the Committee on Armed Services of the House of Representatives, shall designate the chairman of the Commission from among the members appointed under paragraph (1)(A).

(B) The chairman of the Commission may be designated once five members of the Commission have been appointed under paragraph (1).

(5) The initial members of the Commission shall be appointed not later than 60 days after October 5, 1999.

(6) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(7) The Commission shall meet not less often than once every three months.

(8) The Commission may commence its activities under this section upon the designation of the chairman of the Commission under paragraph (4).

**(c) Duties**

(1) The Commission shall, in accordance with this section, review the safeguards, security,

<sup>1</sup> So in original. No subsec. (b) has been enacted.

and counterintelligence activities (including activities relating to information management, computer security, and personnel security) at Department of Energy facilities to—

(A) determine the adequacy of those activities to ensure the security of sensitive information, processes, and activities under the jurisdiction of the Department against threats to the disclosure of such information, processes, and activities; and

(B) make recommendations for actions the Commission determines as being necessary to ensure that such security is achieved and maintained.

(2) The activities of the Commission under paragraph (1) shall include the following:

(A) An analysis of the sufficiency of the Design Threat Basis documents as a basis for the allocation of resources for safeguards, security, and counterintelligence activities at the Department facilities in light of applicable guidance with respect to such activities, including applicable laws, Department of Energy orders, Presidential Decision Directives, and Executive orders.

(B) Visits to Department facilities to assess the adequacy of the safeguards, security, and counterintelligence activities at such facilities.

(C) Evaluations of specific concerns set forth in Department reports regarding the status of safeguards, security, or counterintelligence activities at particular Department facilities or at facilities throughout the Department.

(D) Reviews of relevant laws, Department orders, and other requirements relating to safeguards, security, and counterintelligence activities at Department facilities.

(E) Any other activities relating to safeguards, security, and counterintelligence activities at Department facilities that the Secretary of Energy considers appropriate.

**(d) Reports**

(1) Not later than February 15 each year, the Commission shall submit to the Secretary of Energy and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the activities of the Commission during the preceding year. The report shall be submitted in unclassified form, but may include a classified annex.

(2) Each report—

(A) shall describe the activities of the Commission during the year covered by the report;

(B) shall set forth proposals for any changes in safeguards, security, or counterintelligence activities at Department of Energy facilities that the Commission considers appropriate in light of such activities; and

(C) may include any other recommendations for legislation or administrative action that the Commission considers appropriate.

**(e) Personnel matters**

(1)(A) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive

Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(B) All members of the Commission who are officers or employees of the United States shall serve without compensation by reason of their service on the Commission.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Commission.

(3)(A) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties.

(B) The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates.

(4) Any officer or employee of the United States may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) The members and employees of the Commission shall hold security clearances appropriate for the matters considered by the Commission in the discharge of its duties under this section.

**(f) Applicability of FACA**

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

**(g) Funding**

(1) From amounts authorized to be appropriated by sections 3101 and 3103, the Secretary of Energy shall make available to the Commission not more than \$1,000,000 for the activities of the Commission under this section.

(2) Amounts made available to the Commission under this subsection shall remain available until expended.

(Pub. L. 106-65, div. C, title XXXI, §3142, Oct. 5, 1999, 113 Stat. 931.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 3101 and 3103, referred to in subsec. (g), are sections 3101 and 3103 of Pub. L. 106-65, div. C, title XXXI, Oct. 5, 1999, 113 Stat. 915, 919, which are not classified to the Code.

CODIFICATION

Section is comprised of section 3142 of Pub. L. 106-65. Subsec. (h)(1) of section 3142 of Pub. L. 106-65 repealed section 3161 of Pub. L. 105-85, formerly set out as a note under section 7251 of this title. Subsec. (h)(2) of section 3142 of Pub. L. 106-65 amended section 2657 of Title 50, War and National Defense.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the

Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

#### SHORT TITLE

Pub. L. 106-65, div. C, title XXXI, §3141, Oct. 5, 1999, 113 Stat. 931, provided that: "This subtitle [subtitle D, §§3141-3156, of title XXXI of div. C of Pub. L. 106-65, enacting this subchapter and section 2282b of this title, amending sections 2165, 2274, 2275, 2277, and 2282a of this title, enacting provisions set out as notes under sections 2165 and 2282b of this title and section 435 of Title 50, War and National Defense, amending provisions set out as a note under section 7274m of this title, and repealing provisions set out as a note under section 7251 of this title] may be cited as the 'Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999'."

#### §§ 7383a to 7383d. Transferred

##### CODIFICATION

Section 7383a, Pub. L. 106-65, div. C, title XXXI, §3143, Oct. 5, 1999, 113 Stat. 934, which related to background investigations of certain personnel at Department of Energy facilities, was renumbered section 4503 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)(4)(A)-(C), Nov. 24, 2003, 117 Stat. 1772, and is classified to section 2653 of Title 50, War and National Defense.

Section 7383b, Pub. L. 106-65, div. C, title XXXI, §3145, Oct. 5, 1999, 113 Stat. 935, which related to protection of classified information during laboratory-to-laboratory exchanges, was renumbered section 4524 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)(14), Nov. 24, 2003, 117 Stat. 1775, and is classified to section 2674 of Title 50, War and National Defense.

Section 7383c, Pub. L. 106-65, div. C, title XXXI, §3146, Oct. 5, 1999, 113 Stat. 935, which related to restrictions on access to national laboratories by foreign visitors from sensitive countries, was renumbered section 4502 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)(3)(A)-(C), Nov. 24, 2003, 117 Stat. 1771, and is classified to section 2652 of Title 50, War and National Defense.

Section 7383d, Pub. L. 106-65, div. C, title XXXI, §3150, Oct. 5, 1999, 113 Stat. 939, which related to notice to congressional committees of certain security and counterintelligence failures within nuclear energy defense programs, was renumbered section 4505 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)(6), Nov. 24, 2003, 117 Stat. 1773, and is classified to section 2656 of Title 50, War and National Defense.

#### § 7383e. Annual report by the President on espionage by the People's Republic of China

##### (a) Annual report required

The President shall transmit to Congress an annual report on the steps being taken by the Department of Energy, the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and all other relevant executive departments and agencies to respond to espionage and other intelligence activi-

ties by the People's Republic of China, particularly with respect to—

- (1) the theft of sophisticated United States nuclear weapons design information; and
- (2) the targeting by the People's Republic of China of United States nuclear weapons codes and other national security information of strategic concern.

##### (b) Initial report

The first report under this section shall be transmitted not later than March 1, 2000.

(Pub. L. 106-65, div. C, title XXXI, §3151, Oct. 5, 1999, 113 Stat. 939.)

#### §§ 7383f to 7383h-1. Transferred

##### CODIFICATION

Section 7383f, Pub. L. 106-65, div. C, title XXXI, §3152, Oct. 5, 1999, 113 Stat. 940, which related to the submission of annual reports on counterintelligence and security practices at national laboratories, was renumbered section 4507 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)(8)(A)-(C), Nov. 24, 2003, 117 Stat. 1773, and is classified to section 2658 of Title 50, War and National Defense.

Section 7383g, Pub. L. 106-65, div. C, title XXXI, §3153, Oct. 5, 1999, 113 Stat. 940, which related to the submission of annual reports on security vulnerabilities of national laboratory computers, was renumbered section 4508 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)(9)(A)-(C), Nov. 24, 2003, 117 Stat. 1774, and is classified to section 2659 of Title 50, War and National Defense.

Section 7383h, Pub. L. 106-65, div. C, title XXXI, §3154, Oct. 5, 1999, 113 Stat. 941; Pub. L. 106-398, §1 [div. C, title XXXI, §3135], Oct. 30, 2000, 114 Stat. 1654, 1654A-456, which related to a counterintelligence polygraph program for defense-related activities of the Department of Energy, was renumbered section 4504A 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)(5)(B)(i)-(iii), Nov. 24, 2003, 117 Stat. 1773, and is classified to section 2655 of Title 50, War and National Defense.

Section 7383h-1, Pub. L. 107-107, div. C, title XXXI, §3152, Dec. 28, 2001, 115 Stat. 1376, which related to a new counterintelligence polygraph program for the Department of Energy, was renumbered section 4504 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)(5)(A)(i)-(iii), Nov. 24, 2003, 117 Stat. 1772, and is classified to section 2654 of Title 50, War and National Defense.

#### § 7383i. Definitions of national laboratory and nuclear weapons production facility

For purposes of this subchapter:

(1) The term "national laboratory" means any of the following:

(A) The Lawrence Livermore National Laboratory, Livermore, California.

(B) The Los Alamos National Laboratory, Los Alamos, New Mexico.

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

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

(A) The Kansas City Plant, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

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