

trator shall prescribe. The Administrator shall assign to the staff responsibility for the following functions:

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

(Pub. L. 106-65, div. C, title XXXII, §3218, Oct. 5, 1999, 113 Stat. 960; Pub. L. 109-364, div. C, title XXXI, §3117(e), Oct. 17, 2006, 120 Stat. 2508.)

#### AMENDMENTS

2006—Subsec. (b)(4), (5). Pub. L. 109-364 added par. (4) and redesignated former par. (4) as (5).

#### § 2409. Scope of authority of Secretary of Energy to modify organization of Administration

Notwithstanding the authority granted by section 7253 of title 42 or any other provision of law, the Secretary of Energy may not establish, abolish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 2481 of this title.

(Pub. L. 106-65, div. C, title XXXII, §3219, as added Pub. L. 106-377, §1(a)(2) [title III, §314(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A-81.)

#### § 2410. Status of Administration and contractor personnel within Department of Energy

##### (a) Status of Administration personnel

Each officer or employee of the Administration—

- (1) shall be responsible to and subject to the authority, direction, and control of—
  - (A) the Secretary acting through the Administrator and consistent with section 7132(c)(3) of title 42;
  - (B) the Administrator; or
  - (C) the Administrator's designee within the Administration; and

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

##### (b) Status of contractor personnel

Each officer or employee of a contractor of the Administration shall not be responsible to, or subject to the authority, direction, or control of, any officer, employee, or agent of the Department of Energy who is not an employee of the Administration, except for the Secretary of Energy consistent with section 7132(c)(3) of title 42.

##### (c) Construction of section

Subsections (a) and (b) of this section may not be interpreted to in any way preclude or interfere with the communication of technical findings derived from, and in accord with, duly authorized activities between (1) the head, or any contractor employee, of a national security laboratory or of a nuclear weapons production facility, and (2) the Department of Energy, the President, or Congress.

##### (d) Prohibition on dual office holding

Except in accordance with sections 2402(a)(2) and 2406(a)(1) of this title:

- (1) An individual may not concurrently hold or carry out the responsibilities of—
  - (A) a position within the Administration; and
  - (B) a position within the Department of Energy not within the Administration.

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

##### (e) Status of intelligence and counterintelligence personnel

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

(Pub. L. 106-65, div. C, title XXXII, §3220, formerly §3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398, §1 [div. C, title XXXI, §3157], Oct. 30, 2000, 114 Stat. 1654, 1654A-468; renumbered §3220, Pub. L. 107-107, div. C, title XXXI, §3141(a)(1), Dec. 28, 2001, 115 Stat. 1370; Pub. L. 109-364, div. C, title XXXI, §3117(a)(2)(B), (d), Oct. 17, 2006, 120 Stat. 2507, 2508; Pub. L. 111-84, div. C, title XXXI, §3121, Oct. 28, 2009, 123 Stat. 2710.)

#### CODIFICATION

Section was formerly classified to section 2403 of this title.

#### AMENDMENTS

2009—Subsec. (e). Pub. L. 111-84 amended Pub. L. 109-364, §3117(a). See 2006 Amendment note below.

2006—Subsec. (e). Pub. L. 109-364, §3117(a), which, in par. (2), directed repeal of subsec. (e) effective Sept. 30, 2010, was amended generally by Pub. L. 111-84, and as so amended, no longer contains a par. (2) or amends this section.

Pub. L. 109-364, §3117(d), added subsec. (e).

2000—Subsec. (a). Pub. L. 106-398, §1 [div. C, title XXXI, §3157(1)], struck out “Administration, in carrying out any function of the” after “employee of the” in introductory provisions.

Subsec. (b). Pub. L. 106-398, §1 [div. C, title XXXI, §3157(2)], struck out “, in carrying out any function of the Administration,” after “contractor of the Administration”.

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

#### SUBCHAPTER II—MATTERS RELATING TO SECURITY

#### § 2421. Protection of national security information

##### (a) Policies and procedures required

The Administrator shall establish procedures to ensure the maximum protection of classified information in the possession of the Administration.

**(b) Prompt reporting**

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

(Pub. L. 106-65, div. C, title XXXII, § 3231, Oct. 5, 1999, 113 Stat. 960.)

**§ 2422. Office of Defense Nuclear Security****(a) Establishment**

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

**(b) Chief of Defense Nuclear Security**

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

(2) The Chief shall have direct access to the Secretary and all other officials of the Department and the contractors of the Department concerning security matters.

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

(Pub. L. 106-65, div. C, title XXXII, § 3232, Oct. 5, 1999, 113 Stat. 960; Pub. L. 109-364, div. C, title XXXI, § 3117(b)(1), Oct. 17, 2006, 120 Stat. 2507.)

## AMENDMENTS

2006—Pub. L. 109-364, § 3117(b)(1)(A), struck out “Office of Defense Nuclear Counterintelligence and” before “Office of Defense Nuclear Security” in section catchline.

Subsec. (a). Pub. L. 109-364, § 3117(b)(1)(B), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

“(1) There are within the Administration—

“(A) an Office of Defense Nuclear Counterintelligence; and

“(B) an Office of Defense Nuclear Security.

“(2) Each office established under paragraph (1) shall be headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for each such position.”

Subsecs. (b), (c). Pub. L. 109-364, § 3117(b)(1)(C), (D), re-designated subsec. (c) as (b) and struck out former subsec. (b) which related to the Chief of Defense Nuclear Counterintelligence.

**§ 2423. Counterintelligence programs****(a) National security laboratories and nuclear weapons production facilities**

The Secretary of Energy shall, at each national security laboratory and nuclear weapons production facility, establish and maintain a counterintelligence program adequate to protect national security information at that laboratory or production facility.

**(b) Other facilities**

The Secretary of Energy shall, at each Administration facility not described in subsection (a)

of this section at which Restricted Data is located, assign an employee of the Office of Counterintelligence of the Department of Energy who shall be responsible for and assess counterintelligence matters at that facility.

(Pub. L. 106-65, div. C, title XXXII, § 3233, Oct. 5, 1999, 113 Stat. 961; Pub. L. 109-364, div. C, title XXXI, § 3117(a)(2)(C), (c), Oct. 17, 2006, 120 Stat. 2507, 2508; Pub. L. 111-84, div. C, title XXXI, § 3121, Oct. 28, 2009, 123 Stat. 2710.)

## AMENDMENTS

2009—Pub. L. 111-84 amended Pub. L. 109-364, § 3117(a), see 2006 Amendment note below.

2006—Pub. L. 109-364, § 3117(a), which, in par. (2), directed amendment of this section by substituting “Administrator” for “Secretary of Energy” in subsecs. (a) and (b) and “Administration” for “Office of Counterintelligence of the Department of Energy” in subsec. (b), effective Sept. 30, 2010, was amended generally by Pub. L. 111-84, and as so amended, no longer contains a par. (2) or amends this section.

Pub. L. 109-364, § 3117(c), substituted “Secretary of Energy” for “Administrator” in subsecs. (a) and (b) and “Office of Counterintelligence of the Department of Energy” for “Office of Defense Nuclear Counterintelligence” in subsec. (b).

**§ 2424. Procedures relating to access by individuals to classified areas and information of Administration**

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

(Pub. L. 106-65, div. C, title XXXII, § 3234, Oct. 5, 1999, 113 Stat. 961.)

**§ 2425. Government access to information on Administration computers****(a) Procedures required**

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

**(b) Expectation of privacy in Administration computers**

Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no user of an Administration computer shall have any expectation of privacy in the use of that computer.

**(c) Definition**

For purposes of this section, the term “authorized investigative agency” means an agency