

cause of the repeal of subsec. (b) by Pub. L. 106-65. See 1999 Amendment note below.

1999—Pub. L. 106-65 struck out subsec. (a) designation and heading and struck out heading and text of subsec. (b). Text read as follows: “The Secretary shall include with each report submitted under subsection (a) in fiscal years 1998 through 2000 any comments on such report by the members of the Department of Energy Security Management Board established under section 3161 that such members consider appropriate.”

**§ 2658. Report on counterintelligence and security practices at national security laboratories**

**(a) In general**

Not later than March 1 of each year, the Secretary of Energy shall submit to the Congress a report for the preceding year on counterintelligence and security practices at the facilities of the national security laboratories (whether or not classified activities are carried out at the facility).

**(b) Content of report**

The report shall include, with respect to each national security laboratory, the following:

- (1) The number of employees, including full-time counterintelligence and security professionals and contractor employees.
- (2) A description of the counterintelligence and security training courses conducted and, for each such course, any requirement that employees successfully complete that course.
- (3) A description of each contract awarded that provides an incentive for the effective performance of counterintelligence or security activities.
- (4) A description of the requirement that an employee report the travel to sensitive countries of that employee (whether or not the travel was for official business).
- (5) The number of trips by individuals who traveled to sensitive countries, with identification of the sensitive countries visited.

(Pub. L. 107-314, div. D, title XLV, § 4507, formerly Pub. L. 106-65, div. C, title XXXI, § 3152, Oct. 5, 1999, 113 Stat. 940; renumbered Pub. L. 107-314, div. D, title XLV, § 4507, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(8), Nov. 24, 2003, 117 Stat. 1773; Pub. L. 112-239, div. C, title XXXI, § 3131(n)(1), Jan. 2, 2013, 126 Stat. 2183.)

CODIFICATION

Section was formerly classified to section 7383f of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 112-239, § 3131(n)(1)(A), substituted “national security laboratories” for “national laboratories” in section catchline.

Subsec. (a). Pub. L. 112-239, § 3131(n)(1)(B), substituted “national security laboratories” for “national laboratories”.

Subsec. (b). Pub. L. 112-239, § 3131(n)(1)(C), substituted “national security laboratory” for “national laboratory” in introductory provisions.

Subsec. (c). Pub. L. 112-239, § 3131(n)(1)(D), struck out subsec. (c), which defined “national laboratory”.

2003—Subsec. (c). Pub. L. 108-136, § 3141(h)(8)(D), added subsec. (c).

**§ 2659. Report on security vulnerabilities of national security laboratory computers**

**(a) Report required**

Not later than March 1 of each year, the National Counterintelligence Policy Board shall prepare a report on the security vulnerabilities of the computers of the national security laboratories.

**(b) Preparation of report**

In preparing the report, the National Counterintelligence Policy Board shall establish a so-called “red team” of individuals to perform an operational evaluation of the security vulnerabilities of the computers of one or more national security laboratories, including by direct experimentation. Such individuals shall be selected by the National Counterintelligence Policy Board from among employees of the Department of Defense, the National Security Agency, the Central Intelligence Agency, the Federal Bureau of Investigation, and of other agencies, and may be detailed to the National Counterintelligence Policy Board from such agencies without reimbursement and without interruption or loss of civil service status or privilege.

**(c) Submission of report to Secretary of Energy and to FBI Director**

Not later than March 1 of each year, the report shall be submitted in classified and unclassified form to the Secretary of Energy and the Director of the Federal Bureau of Investigation.

**(d) Forwarding to congressional committees**

Not later than 30 days after the report is submitted, the Secretary and the Director shall each separately forward that report, with the recommendations in classified and unclassified form of the Secretary or the Director, as applicable, in response to the findings of that report, to the following:

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

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

(Pub. L. 107-314, div. D, title XLV, § 4508, formerly Pub. L. 106-65, div. C, title XXXI, § 3153, Oct. 5, 1999, 113 Stat. 940; renumbered Pub. L. 107-314, div. D, title XLV, § 4508, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(9), Nov. 24, 2003, 117 Stat. 1774; Pub. L. 112-239, div. C, title XXXI, § 3131(o)(1), Jan. 2, 2013, 126 Stat. 2183.)

CODIFICATION

Section was formerly classified to section 7383g of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 112-239, § 3131(o)(1)(A), substituted “national security laboratory” for “national laboratory” in section catchline.

Subsecs. (a), (b). Pub. L. 112-239, § 3131(o)(1)(B), substituted “national security laboratories” for “national laboratories”.

Subsecs. (e), (f). Pub. L. 112-239, § 3131(o)(1)(C), struck out subsecs. (e) and (f), which provided, respectively, that first report under this section would be for the year 2000 and for definition of “national laboratory”.

2003—Subsec. (f). Pub. L. 108-136, §3141(h)(9)(D), added subsec. (f).

**§ 2660. Design and use of prototypes of nuclear weapons for intelligence purposes**

**(a) Prototypes**

The Administrator shall develop and carry out a plan for the national security laboratories and nuclear weapons production facilities to design and build prototypes of nuclear weapons to further intelligence estimates with respect to foreign nuclear weapons activities.

**(b) Prohibition on production of nuclear yields**

In carrying out subsection (a), the Administrator may not conduct any experiments that produce a nuclear yield.

(Pub. L. 107-314, div. D, title XLV, §4509, as added Pub. L. 112-239, div. C, title XXXI, §3115(a), Jan. 2, 2013, 126 Stat. 2172.)

PART B—CLASSIFIED INFORMATION

**§ 2671. Review of certain documents before declassification and release**

**(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 12958 if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing restricted data.

(Pub. L. 107-314, div. D, title XLV, §4521, formerly Pub. L. 104-106, div. C, title XXXI, §3155, Feb. 10, 1996, 110 Stat. 625; renumbered Pub. L. 107-314, div. D, title XLV, §4521, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(11), Nov. 24, 2003, 117 Stat. 1774; amended Pub. L. 112-239, div. C, title XXXI, §3131(p), Jan. 2, 2013, 126 Stat. 2183.)

REFERENCES IN TEXT

Executive Order 12958, referred to in subsec. (b), which was formerly set out as a note under section 435 of this title, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly set out as a note under section 2162 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (c). Pub. L. 112-239 struck out subsec. (c), which defined “restricted data”.

**§ 2672. Protection against inadvertent release of Restricted Data and Formerly Restricted Data**

**(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. 12958 (50 U.S.C. 435 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. 12958 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 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