

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 (b), which was formerly set out as a note under section 435 of this title, was revoked by Ex.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