

this section [amending this section] shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act [Oct. 24, 1992].”

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§ 5852. Availability of funds

(a) Appropriations for salaries and expenses; additional purposes

Funds appropriated for “Nuclear Regulatory Commission—Salaries and Expenses” shall be available to the Commission for the following additional purposes:

- (1) Employment of aliens.
- (2) Services authorized by section 3109 of title 5.
- (3) Publication and dissemination of atomic information.
- (4) Purchase, repair, and cleaning of uniforms.
- (5) Reimbursements to the General Services Administration for security guard services.
- (6) Hire of passenger motor vehicles and aircraft.
- (7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.
- (8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.

(b) Appropriations for Office of Inspector General; additional purposes

Funds appropriated for “Nuclear Regulatory Commission—Office of Inspector General” shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a) of this section.

(c) Use of program funds for salaries and expenses

Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 2169 of this title¹ may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, and shall remain available until expended.

(d) Use of funds to provide voluntary separation incentive payments

Notwithstanding section 663(c)(2)(D) of Public Law 104-208, and to facilitate targeted workforce downsizing and restructuring, the Chairman of

the Nuclear Regulatory Commission may use funds appropriated in this Act to exercise the authority provided by section 663 of that Act with respect to employees who voluntarily separate from October 7, 1998, through December 31, 2000. All of the requirements in section 663 of Public Law 104-208, except for section 663(c)(2)(D), apply to the exercise of authority under this section.

(e) Fiscal year applicability

Subsections (a), (b), and (c) of this section shall apply to fiscal year 1999 and each succeeding fiscal year.

(Pub. L. 105-245, title V, §506, Oct. 7, 1998, 112 Stat. 1856.)

REFERENCES IN TEXT

Section 663 of Public Law 104-208, referred to in subsection (d), is section 663 of Pub. L. 104-208, div. A, title I, §101(f) [title VI], Sept. 30, 1996, 110 Stat. 3009-314, 3009-383, which is set out as a note under section 5597 of Title 5, Government Organization and Employees.

This Act, referred to in subsection (d), is Pub. L. 105-245, Oct. 7, 1998, 112 Stat. 1838, known as the Energy and Water Development Appropriations Act, 1999. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1999, and not as part of the Energy Reorganization Act of 1974 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 105-62, title IV, Oct. 13, 1997, 111 Stat. 1336.
- Pub. L. 104-206, title IV, Sept. 30, 1996, 110 Stat. 3000.
- Pub. L. 104-46, title IV, Nov. 13, 1995, 109 Stat. 417.
- Pub. L. 103-316, title IV, Aug. 26, 1994, 108 Stat. 1721.
- Pub. L. 103-126, title IV, Oct. 28, 1993, 107 Stat. 1332.
- Pub. L. 102-377, title IV, Oct. 2, 1992, 106 Stat. 1340.
- Pub. L. 102-104, title IV, Aug. 17, 1991, 105 Stat. 534.
- Pub. L. 101-514, title IV, Nov. 5, 1990, 104 Stat. 2096.
- Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 664.
- Pub. L. 100-371, title IV, July 19, 1988, 102 Stat. 872.
- Pub. L. 100-202, §101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329-104, 1329-128.
- Pub. L. 99-500, §101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783-194, 1783-211, and Pub. L. 99-591, §101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341-194, 3341-211.
- Pub. L. 99-141, title IV, Nov. 1, 1985, 99 Stat. 577.
- Pub. L. 98-360, title IV, July 16, 1984, 98 Stat. 419.
- Pub. L. 98-50, title IV, July 14, 1983, 97 Stat. 260.
- Pub. L. 97-88, title IV, Dec. 4, 1981, 95 Stat. 1147.
- Pub. L. 96-367, title IV, Oct. 1, 1980, 94 Stat. 1344.
- Pub. L. 96-69, title IV, Sept. 25, 1979, 93 Stat. 449.

§ 5853. Limitation on legal fee reimbursement

The Department of Energy shall not, except as required under a contract entered into before August 8, 2005, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

- (1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy’s Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 5851 of this title; or
- (2) an adverse final judgment by any State or Federal court with respect to such com-

¹ So in original. Probably should be followed by a comma.

plaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, section 5851 of this title, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.

(Pub. L. 93-438, title II, §212, as added Pub. L. 109-58, title VI, §627, Aug. 8, 2005, 119 Stat. 784.)

SUBCHAPTER III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

§ 5871. Transitional provisions

(a) Lapse of agency or other body from which functions or programs have been transferred and positions or offices therein

Except as otherwise provided in this chapter, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this chapter, have been transferred from that agency, or other body, or any component thereof by this chapter, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

(b) Continuation of orders, determinations, rules, etc.

All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter, and

(2) which are in effect at the time this chapter takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) Effect of chapter on proceedings pending before Atomic Energy Commission or other department or agency

The provisions of this chapter shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (or component thereof) functions of which are transferred by this chapter; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, termi-

nated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this chapter had not been enacted.

(d) Effect of chapter on suits commenced prior to effective date

Except as provided in subsection (f) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to the date this chapter takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this chapter had not been enacted.

(e) Abatement of suits, actions, or other proceedings by or against officer, department, or agency

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) Continuation of suits; substitution of parties

If, before the date on which this chapter takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Administrator or Commission, or any other official, then such suit shall be continued as if this chapter had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Judicial review of orders and actions in performance of transferred functions; statutory requirements relating to notices, hearings, action upon record, or administrative review

Final orders and actions of any official or component in the performance of functions transferred by this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this chapter. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this chap-