

2000—Subsec. (f)(2). Pub. L. 106-398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Not later than 30 days after any such inadvertent release occurring after the date of the enactment of this Act, the Secretary of Energy shall notify the committees and Assistant to the President specified in subsection (d) of such releases.”

1999—Subsec. (d)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3193(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-481, provided that: “The amendment made by subsection (a) [amending this section] apply [sic] with respect to inadvertent releases of Restricted Data and Formerly Restricted Data that are discovered on or after the date of the enactment of this Act [Oct. 30, 2000].”

§ 2673. Supplement to plan for declassification of Restricted Data and Formerly Restricted Data

(a) Supplement to plan

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 supplement to the plan required under subsection (a) of section 2672 of this title.

(b) Contents of supplement

The supplement shall provide for the application of that plan (including in particular the element of the plan required by subsection (b)(1) of section 2672 of this title) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.

(c) Limitation on declassification of records

All records referred to in subsection (b) shall be treated, for purposes of subsection (c) of section 2672 of this title, in the same manner as records referred to in subsection (a) of such section.

(d) Submission of supplement

The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 2672 of this title.

(Pub. L. 107-314, div. D, title XLV, § 4523, formerly Pub. L. 106-65, div. C, title XXXI, § 3149, Oct. 5, 1999, 113 Stat. 938; renumbered Pub. L. 107-314, div. D, title XLV, § 4523, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(13), Nov. 24, 2003, 117 Stat. 1775.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (b), which was formerly set out as a note under section 435 (now section 3161) 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 435 of this title prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, § 3141(h)(13)(D)(i), substituted “subsection (a) of section 2672 of this title”

for “subsection (a) of section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2260; 50 U.S.C. 435 note)”.

Subsec. (b). Pub. L. 108-136, § 3141(h)(13)(D)(ii), substituted “subsection (b)(1) of section 2672 of this title” for “section 3161(b)(1) of that Act” and “October 17, 1998,” for “the date of the enactment of that Act”.

Subsec. (c). Pub. L. 108-136, § 3141(h)(13)(D)(iii), substituted “subsection (c) of section 2672 of this title” for “section 3161(c) of that Act” and “subsection (a) of such section” for “section 3161(a) of that Act”.

Subsec. (d). Pub. L. 108-136, § 3141(h)(13)(D)(iv), substituted “subsection (d) of section 2672 of this title” for “section 3161(d) of that Act”.

§ 2674. Protection of classified information during laboratory-to-laboratory exchanges

(a) Provision of training

The Secretary of Energy shall ensure that all Department of Energy employees and Department of Energy contractor employees participating in laboratory-to-laboratory cooperative exchange activities are fully trained in matters relating to the protection of classified information and to potential espionage and counterintelligence threats.

(b) Countering of espionage and intelligence-gathering abroad

(1) The Secretary shall establish a pool of Department employees and Department contractor employees who are specially trained to counter threats of espionage and intelligence-gathering by foreign nationals against Department employees and Department contractor employees who travel abroad for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(2) The Director of Counterintelligence of the Department of Energy may assign at least one employee from the pool established under paragraph (1) to accompany a group of Department employees or Department contractor employees who travel to any nation designated to be a sensitive country for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(Pub. L. 107-314, div. D, title XLV, § 4524, formerly Pub. L. 106-65, div. C, title XXXI, § 3145, Oct. 5, 1999, 113 Stat. 935; renumbered Pub. L. 107-314, div. D, title XLV, § 4524, by Pub. L. 108-136, div. C, title XXXI, § 3141(h)(14), Nov. 24, 2003, 117 Stat. 1775.)

CODIFICATION

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

§ 2675. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities

(a) Amounts for declassification of records

The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to

declassify records pursuant to Executive Order No. 12958 ([former] 50 U.S.C. 435 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.

(b) Certification required with respect to automatic declassification of records

No records of the Department of Energy that have not as of October 5, 1999, been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.

(Pub. L. 107-314, div. D, title XLV, §4525, formerly Pub. L. 106-65, div. C, title XXXI, §3173, Oct. 5, 1999, 113 Stat. 949; renumbered Pub. L. 107-314, div. D, title XLV, §4525, and amended Pub. L. 108-136, div. C, title XXXI, §3141(h)(15), Nov. 24, 2003, 117 Stat. 1775; Pub. L. 113-66, div. C, title XXXI, §3146(f)(4), Dec. 26, 2013, 127 Stat. 1079.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (a), which was formerly set out as a note under section 435 (now section 3161) 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 435 of this title prior to renumbering by Pub. L. 108-136.

PRIOR PROVISIONS

A prior section 2691, Pub. L. 107-314, div. D, title XLV, §4541, formerly Pub. L. 104-106, div. C, title XXXI, §3158, Feb. 10, 1996, 110 Stat. 626; renumbered Pub. L. 107-314, div. D, title XLV, §4541, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(17), Nov. 24, 2003, 117 Stat. 1776, related to responsibility for Defense Programs Emergency Response Program, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(f)(5)(A), Dec. 26, 2013, 127 Stat. 1079.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113-66 struck out subsec. (c) which required submission of a report on automatic declassification of Department of Energy records.

2003—Subsec. (b). Pub. L. 108-136, §3141(h)(15)(D), substituted “October 5, 1999,” for “the date of the enactment of this Act”.

SUBCHAPTER VI—PERSONNEL MATTERS

PART A—PERSONNEL MANAGEMENT

§ 2701. Authority for appointment of certain scientific, engineering, and technical personnel

(a) Authority

(1) Notwithstanding any provision of title 5 governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM review

(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5 or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) Termination

(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2016.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

(Pub. L. 107-314, div. D, title XLVI, §4601, formerly Pub. L. 103-337, div. C, title XXXI, §3161, Oct. 5, 1994, 108 Stat. 3095; Pub. L. 105-85, div. C, title XXXI, §3139, Nov. 18, 1997, 111 Stat. 2040; Pub. L. 105-261, div. C, title XXXI, §§3152, 3155, Oct. 17, 1998, 112 Stat. 2253, 2257; Pub. L. 106-398, §1 [div. C, title XXXI, §3191], Oct. 30, 2000, 114 Stat. 1654, 1654A-480; Pub. L. 107-314, div. C, title XXXI, §3174, Dec. 2, 2002, 116 Stat. 2745; renumbered Pub. L. 107-314, div. D, title XLVI, §4601, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(2), Nov. 24, 2003, 117 Stat. 1776; Pub. L. 108-375, div. C, title XXXI, §3112, Oct. 28, 2004, 118 Stat. 2160; Pub. L. 109-364, div. C, title XXXI, §3115, Oct. 17, 2006, 120 Stat. 2506; Pub. L. 111-32, title IV, §402, June 24, 2009, 123 Stat. 1877; Pub. L. 111-84, div. C, title XXXI, §3119, Oct. 28, 2009, 123 Stat. 2709; Pub. L. 111-383, div. C, title XXXI, §3117, Jan. 7, 2011, 124 Stat. 4513; Pub. L. 113-66, div. C, title XXXI, §3146(g)(1), Dec. 26, 2013, 127 Stat. 1079.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.