

section 2014(e)(2) of this title, is carried out in such manner as—

(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and non-radiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,¹

(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 2022 of this title, and

(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.].

(b) Rules, regulations, or orders for certain activities; civil penalty

In carrying out its authority under this section, the Commission is authorized to—

(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 2111 of this title to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 2113 of this title shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 2282 of this title. Nothing in this section affects any authority of the Commission under any other provision of this chapter.

(c) Alternative requirements or proposals

In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this chapter. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for

public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title.

(Aug. 1, 1946, ch. 724, title I, §84, as added Pub. L. 95-604, title II, §205(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97-415, §§20, 22(a), Jan. 4, 1983, 96 Stat. 2079, 2080; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, as amended, referred to in subsec. (a)(3), is title II of Pub. L. 89-272, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97-415, §22(a), inserted provision that the Commission is to take into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate.

Subsec. (c). Pub. L. 97-415, §20, added subsec. (c).

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95-604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

SUBCHAPTER VIII—MILITARY APPLICATION OF ATOMIC ENERGY

§ 2121. Authority of Commission

(a) Research and development; weapons production; hazardous wastes; transfers of technologies

The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy;

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year;

(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

(4) carry out research on and development of technologies needed for the effective negotia-

¹ So in original.

tion and verification of international agreements on control of special nuclear materials and nuclear weapons; and

(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.

(b) Material for Department of Defense use

The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

(c) Sale, lease, or loan to other Nations of materials for military applications

The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant

to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

(Aug. 1, 1946, ch. 724, title I, §91, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 85-479, §1, July 2, 1958, 72 Stat. 276; Pub. L. 101-189, div. C, title XXXI, §3157, Nov. 29, 1989, 103 Stat. 1684; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1989—Subsec. (a)(3) to (5). Pub. L. 101-189 added pars. (3) to (5).

1958—Subsec. (c). Pub. L. 85-479 added subsec. (c).

DELEGATION OF FUNCTIONS

Authority vested in President by subsec. (c) of this section delegated to Secretary of Defense and Secretary of Energy, see section 2(a)(1) of Ex. Ord. No. 10841, as amended, set out as a note under section 2153 of this title.

FORM OF CERTIFICATIONS REGARDING SAFETY OR RELIABILITY OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 106-398, §1 [div. C, title XXXI, §3194], Oct. 30, 2000, 114 Stat. 1654, 1654A-481, which was formerly set out as a note under this section, was renumbered section 4206 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(7), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2526 of Title 50, War and National Defense.

AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO DEPARTMENT OF ENERGY AND CONTRACTOR EMPLOYEES FOR EXEMPLARY SERVICE IN STOCKPILE STEWARDSHIP AND SECURITY

Pub. L. 106-398, §1 [div. C, title XXXI, §3195], Oct. 30, 2000, 114 Stat. 1654, 1654A-481, which was formerly set out as a note under this section, was renumbered section 4605 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(6), Nov. 24, 2003, 117 Stat. 1778, and is classified to section 2705 of Title 50, War and National Defense.

NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM

Pub. L. 106-65, div. C, title XXXI, §3133, Oct. 5, 1999, 113 Stat. 926, which was formerly set out as a note under this section, was renumbered section 4204 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(5)(A)-(C), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2524 of Title 50, War and National Defense.

REPORT ON STOCKPILE STEWARDSHIP CRITERIA

Pub. L. 105-261, div. C, title XXXI, §3158, Oct. 17, 1998, 112 Stat. 2257, as amended by Pub. L. 106-65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, which was formerly set out as a note under this section, was renumbered section 4202 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(3), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2522 of Title 50, War and National Defense.

PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE

Pub. L. 105-261, div. C, title XXXI, §3159, Oct. 17, 1998, 112 Stat. 2258, as amended by Pub. L. 106-65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-107, div. C, title XXXI, §3156, Dec. 28, 2001, 115 Stat. 1379; Pub. L. 107-314, div. C, title XXXI, §3175, Dec. 2, 2002, 116 Stat. 2745, provided that:

“(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Secretary of Energy, shall enter into a contract with a federally funded research and development center to establish a panel for the assessment of the certification process for the reliability, safety, and security of the United States nuclear stockpile.

“(b) COMPOSITION AND ADMINISTRATION OF PANEL.—(1) The panel shall consist of private citizens of the United States with knowledge and expertise in the technical aspects of design, manufacture, and maintenance of nuclear weapons.

“(2) The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including selection of a panel chairman.

“(c) DUTIES OF PANEL.—Each year the panel shall review and assess the following:

“(1) The annual certification process, including the conclusions and recommendations resulting from the process, for the safety, security, and reliability of the nuclear weapons stockpile of the United States, as carried out by the directors of the national weapons laboratories.

“(2) The long-term adequacy of the process of certifying the safety, security, and reliability of the nuclear weapons stockpile of the United States.

“(3) The adequacy of the criteria established by the Secretary of Energy pursuant to section 3158 [formerly set out as a note above] for achieving the purposes for which those criteria are established.

“(d) REPORT.—Not later than October 1 of 1999 and 2000, and not later than February 1, 2002, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth its findings and conclusions resulting from the review and assessment carried out for the year covered by the report. The report shall be submitted in classified and unclassified form.

“(e) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the panel considers necessary to carry out its duties.

“(2) For carrying out its duties, the panel shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y-12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the chairman of the panel determines as having information described in paragraph (1).

“(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Depart-

ment of Defense, respectively, to serve as a liaison officer between the department and the panel.

“(f) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the panel to carry out its duties. Funds available for the Department of Energy for the National Nuclear Security Administration shall be available for the Department of Energy contribution.

“(g) TERMINATION OF PANEL.—The panel shall terminate April 1, 2003.

“(h) INITIAL IMPLEMENTATION.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998]. The panel shall convene its first meeting not later than 30 days after the date as of which all members of the panel have been appointed.

“(i) FOLLOW-UP REPORT.—Not later than February 1, 2003, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a follow-up report assessing progress toward meeting the expectations set forth by the panel for the United States stockpile stewardship program, and making recommendations for corrective legislative action where progress has been unsatisfactory.”

COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE

Pub. L. 104-201, div. C, title XXXI, §3162, Sept. 23, 1996, 110 Stat. 2843, as amended by Pub. L. 105-85, div. C, title XXXI, §3163, Nov. 18, 1997, 111 Stat. 2049, provided that:

“(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ‘Commission on Maintaining United States Nuclear Weapons Expertise’ (in this section referred to as the ‘Commission’).

“(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

“(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).

“(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

“(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

“(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

“(v) Two shall be appointed by the Secretary of Energy.

“(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives. The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).

“(D) Members shall be appointed not later than 60 days after the date of the enactment of this Act [Sept. 23, 1996].

“(E) The Commission may commence its activities under this section upon the designation of the chairman of the Commission under subparagraph (C).

“(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

“(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

“(2) In developing the plan, the Commission shall—

“(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

“(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

“(d) REPORT.—Not later than March 15, 1999, the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

“(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

“(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

“(g) APPLICABILITY OF FACAs.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

“(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101 [110 Stat. 2820], not more than \$1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.”

[Pub. L. 105-85, div. C, title XXXI, §3163(a), Nov. 18, 1997, 111 Stat. 2049, provided that the amendment made by that section to section 3162(b)(1) of Pub. L. 104-201, set out above, is effective Jan. 1, 1998.]

TRITIUM PRODUCTION PROGRAM

Pub. L. 104-106, div. C, title XXXI, §3133, Feb. 10, 1996, 110 Stat. 618, which was formerly set out as a note under this section, was renumbered section 4231 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(16)(A)–(C), Nov. 24, 2003, 117 Stat. 1761, and is classified to section 2541 of Title 50, War and National Defense.

MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 104-106, div. C, title XXXI, §3137, Feb. 10, 1996, 110 Stat. 620, as amended by Pub. L. 104-201, div. C, title XXXI, §3132(a), (b), Sept. 23, 1996, 110 Stat. 2829, which was formerly set out as a note under this section, was renumbered section 4212 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(13)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and is classified to section 2532 of Title 50, War and National Defense.

FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX

Pub. L. 104-106, div. C, title XXXI, §3140, Feb. 10, 1996, 110 Stat. 621, as amended by Pub. L. 106-65, div. C, title XXXI, §3162(a)–(d), Oct. 5, 1999, 113 Stat. 943, which was formerly set out as a note under this section, was renumbered section 4623 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(10), Nov. 24, 2003, 117 Stat. 1779, and is classified to section 2723 of Title 50, War and National Defense.

STUDY ON NUCLEAR TEST READINESS POSTURES

Pub. L. 104-106, div. C, title XXXI, §3152, Feb. 10, 1996, 110 Stat. 623, as amended by Pub. L. 106-398, §1 [div. C, title XXXI, §3192], Oct. 30, 2000, 114 Stat. 1654, 1654A-480, which was formerly set out as a note under this section, was renumbered section 4208 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(9), Nov. 24, 2003, 117 Stat. 1759, and was classified to section 2528 of Title 50, War and National Defense, prior to repeal by Pub. L. 112-239, div. C, title XXXI, §3133(e)(1)(A), (2), Jan. 2, 2013, 126 Stat. 2192, 2193.

PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE

Pub. L. 105-85, div. C, title XXXI, §3151, Nov. 18, 1997, 111 Stat. 2041, which was formerly set out as a note under this section, was renumbered section 4203 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(4), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2523 of Title 50, War and National Defense.

REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE

Pub. L. 103-337, div. C, title XXXI, §3154, Oct. 5, 1994, 108 Stat. 3091, directed Secretary of Energy, not later than Mar. 31, 1996, to submit to Congress report containing description of all waste streams generated before 1992 during each step of complete cycle of production and disposition of nuclear weapon components by Department of Energy, with description for each such step to be based on unit of analysis appropriate for that step, and to include estimate of volume of waste generated per unit of analysis and analysis of characteristics of each waste stream.

PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS

Pub. L. 103-160, div. C, title XXXI, §3136, Nov. 30, 1993, 107 Stat. 1946, expressed policy of United States with respect to research and development of low-yield nuclear weapons, prior to repeal by Pub. L. 108-136, div. C, title XXXI, §3116(a), Nov. 24, 2003, 117 Stat. 1746.

[Pub. L. 108-136, div. C, title XXXI, §3116(b), Nov. 24, 2003, 117 Stat. 1746, provided that: “Nothing in the repeal made by subsection (a) [repealing section 3136 of Pub. L. 103-160, formerly set out as a note above] shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.”]

STOCKPILE STEWARDSHIP PROGRAM

Pub. L. 105-85, div. C, title XXXI, §3156, Nov. 18, 1997, 111 Stat. 2045, expressed findings of Congress and policy of United States about the direction and conduct of the stockpile stewardship program, prior to repeal by Pub. L. 105-261, div. C, title XXXI, §3157, Oct. 17, 1998, 112 Stat. 2257.

Pub. L. 103-160, div. C, title XXXI, §3138, Nov. 30, 1993, 107 Stat. 1946, as amended by Pub. L. 105-85, div. C, title XXXI, §3152(e), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4201 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(2), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2521 of Title 50, War and National Defense.

LIMITATIONS ON UNITED STATES NUCLEAR WEAPONS TESTING

Pub. L. 103-160, div. A, title II, §261, Nov. 30, 1993, 107 Stat. 1608, provided that:

“(a) LIMITATION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds in preparation for any activity of the Department of Defense, including the so-called ‘Mighty Uncle’ test, to study the effects of a nuclear weapon explosion through underground nuclear weapons testing unless that test is permitted in accordance with the provisions of section 507 of Public Law 102-377 [set out below] (106 Stat. 1343).

“(b) CERTAIN ACTIONS NOT PROHIBITED.—Subsection (a) does not preclude the Secretary of Defense, acting through the Director of the Defense Nuclear Agency, from—

“(1) proceeding with underground nuclear test tunnel deactivation and environmental cleanup; or

“(2) expending funds for infrastructure activities not covered by the limitation in subsection (a).

“(c) FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 [107 Stat. 1583] for Defense-wide activities, not more than \$38,000,000 may be used for activities described in subsection (b).”

Pub. L. 103-160, div. C, title XXXI, §3137, Nov. 30, 1993, 107 Stat. 1946, which was formerly set out as a note under this section, was renumbered section 4211 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(12)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and was classified to section 2531 of Title 50, War and National Defense, prior to repeal by Pub. L. 112-239, div. C, title XXXI, §3131(d)(3), Jan. 2, 2013, 126 Stat. 2181.

Pub. L. 102-377, title V, §507, Oct. 2, 1992, 106 Stat. 1343, as amended by Pub. L. 108-136, div. C, title XXXI, §3141(e)(11), Nov. 24, 2003, 117 Stat. 1760, provided that:

“(a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

“(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

“(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

“(1) only if—

“(A) the President has submitted the annual report required under subsection (d);

“(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

“(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

“(2) only if the test is conducted during the period covered by the report.

“(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and

unclassified forms, a report containing the following matters:

“(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

“(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

“(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

“(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

“(i) will not be in the United States stockpile of active nuclear weapons;

“(ii) will remain under the control of the Department of Defense; and

“(iii) will not be transferred to the Department of Energy for dismantlement.

“(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

“(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

“(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

“(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

“(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

“(3) For the purposes of paragraph (1), ‘joint resolution’ means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: ‘The Congress disapproves the report of the President on nuclear weapons testing, dated . . .’ (the blank space being appropriately filled in).

“(4) No report is required under this subsection after 1996.

“(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

“(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

“(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

“(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

“(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

“(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress

does not agree to a joint resolution described in subparagraph (B).

“(B) For the purposes of subparagraph (A), ‘joint resolution’ means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: ‘The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated . . . (the blank space being appropriately filled in).’

“(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

“(f) [Transferred to section 2530 of Title 50, War and National Defense.]

“(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

“(h) In this section, the term ‘modern safety feature’ means any of the following features:

“(1) An insensitive high explosive (IHE).

“(2) Fire resistant pits (FRP).

“(3) An enhanced detonation safety (ENDS) system.”

NUCLEAR TEST BAN READINESS PROGRAM

Pub. L. 100-456, div. A, title XIV, §1436, Sept. 29, 1988, 102 Stat. 2075, as amended by Pub. L. 105-85, div. C, title XXXI, §3152(i), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4207 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(8)(A)-(C), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2527 of Title 50, War and National Defense.

§ 2122. Prohibitions governing atomic weapons

(a) It shall be unlawful, except as provided in section 2121 of this title, for any person, inside or outside of the United States, to knowingly participate in the development of, manufacture, produce, transfer, acquire, receive, possess, import, export, or use, or possess and threaten to use, any atomic weapon. Nothing in this section shall be deemed to modify the provisions of section 2051(a) or 2131 of this title.

(b) Conduct prohibited by subsection (a) of this section is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

(2) the offense is committed against a national of the United States while the national is outside the United States;

(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdic-

tion exists under this subsection to commit an offense under this section.

(Aug. 1, 1946, ch. 724, title I, §92, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 85-479, §2, July 2, 1958, 72 Stat. 277; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108-458, title VI, §§6803(b), 6904(a), Dec. 17, 2004, 118 Stat. 3768, 3771.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Pub. L. 108-458, §6904(a)(1), designated existing provisions as subsec. (a).

Pub. L. 108-458, §6803(b)(2), inserted “participate in the development of,” after “interstate or foreign commerce.”

Pub. L. 108-458, §6803(b)(1), inserted “, inside or outside of the United States,” after “for any person”.

Subsec. (a), Pub. L. 108-458, §6904(a)(4), which directed amendment by striking out “transfer or receive in interstate or foreign commerce,” before “manufacture”, was executed by striking out such phrase before “participate in the development of, manufacture” to reflect the probable intent of Congress and the intervening amendment by Pub. L. 108-458, §6803(b)(2). See above.

Pub. L. 108-458, §6904(a)(3), (5), (6), inserted “receive,” after “acquire,” struck out “or” before “export”, and inserted “, or use, or possess and threaten to use,” before “any atomic weapon”.

Pub. L. 108-458, §6904(a)(2), which directed amendment by inserting “knowingly” after “for any person to”, was executed by making the insertion after “for any person, inside or outside of the United States, to” to reflect the probable intent of Congress and the amendment by Pub. L. 108-458, §6803(b)(1). See above.

Subsec. (b), Pub. L. 108-458, §6904(a)(7), added subsec. (b).

1958—Pub. L. 85-479 included transfers or receipts in foreign commerce.

§ 2122a. Repealed. Pub. L. 106-65, div. C, title XXXII, § 3294(e)(1)(A), Oct. 5, 1999, 113 Stat. 970

Section, act Aug. 1, 1946, ch. 724, title I, §93, as added Pub. L. 103-160, div. C, title XXXI, §3156(a), Nov. 30, 1993, 107 Stat. 1953, related to congressional oversight of special access programs. See section 2426 of Title 50, War and National Defense.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

§ 2123. Transferred

CODIFICATION

Section, Pub. L. 102-190, div. C, title XXXI, §3136, Dec. 5, 1991, 105 Stat. 1577; Pub. L. 103-35, title II, §203(b)(3), May 31, 1993, 107 Stat. 102, which related to critical technology partnerships between laboratories of the Department of Energy and other entities, was renumbered section 4813 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, §3141(k)(8), Nov. 24, 2003, 117 Stat. 1785, and transferred to section 2794 of Title 50, War and National Defense.