

commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

(Pub. L. 107-314, div. D, title XLIII, § 4306A, formerly Pub. L. 107-107, div. C, title XXXI, § 3155, Dec. 28, 2001, 115 Stat. 1378; renumbered Pub. L. 107-314, div. D, title XLIII, § 4306A, by Pub. L. 108-136, div. C, title XXXI, § 3141(f)(7)(B), Nov. 24, 2003, 117 Stat. 1763.)

§ 2568. Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union

(a) Authority

Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union that has not previously been authorized by Congress if the President determines each of the following:

- (1) That such project or activity will—
 - (A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or
 - (ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and
 - (B) be completed in a short period of time.

- (2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) Scope of authority

The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) Limitation on availability of funds

- (1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

- (2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

- (A) a justification for such determinations; and
- (B) a description of the scope and duration of such project or activity.

(d) Additional limitations and requirements

Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

- (1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

- (2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

- (3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(e) Funds

As used in this section, the term “international nuclear materials protection and cooperation program funds” means the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program.

(Pub. L. 108-136, div. C, title XXXI, § 3124, Nov. 24, 2003, 117 Stat. 1747; Pub. L. 108-375, div. C, title XXXI, § 3131, Oct. 28, 2004, 118 Stat. 2165.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Atomic Energy Defense Act which comprises this chapter.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375, § 3131(a), inserted “that has not previously been authorized by Congress” after “states of the former Soviet Union”.

Subsec. (c). Pub. L. 108-375, § 3131(b), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed \$50,000,000.”

Subsec. (d). Pub. L. 108-375, § 3131(b)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 108-375, § 3131(c), substituted “the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program” for “the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program”.

Pub. L. 108-375, § 3131(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 108-375, § 3131(b)(2), redesignated subsec. (f) as (e).

§ 2569. Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide

(a) Sense of Congress

- (1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

- (2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) Program authorized

The Secretary of Energy may carry out a program to undertake an accelerated, comprehen-

sive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) Program elements

(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) Reports

(1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) Funding

Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear non-proliferation activities shall be available for purposes of the program under this section.

(f) Participation by other governments and organizations**(1) In general**

The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).

(2) Programs covered

The programs described in this paragraph are any programs within the Office of Defense Nuclear Nonproliferation of the National Nuclear Security Administration.

(3) Retention and use of amounts

Notwithstanding section 3302 of title 31, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(4) Return of amounts not used within 5 years

If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

(5) Notice to congressional defense committees

Not later than 30 days after the receipt of an amount contributed under paragraph (1), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

(6) Annual report

Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;

(B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and

(C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(7) Expiration

The authority to accept, retain, and use contributions under this subsection expires on December 31, 2018.

(g) Definitions

In this section:

(1) The term “fissile materials” means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term “radiological materials” includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term “related equipment” includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term “highly-enriched uranium” means uranium enriched to or above 20 percent in the isotope 235.

(5) The term “low-enriched uranium” means uranium enriched below 20 percent in the isotope 235.

(6) The term “proliferation-attractive”, in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

(Pub. L. 108-375, div. C, title XXXI, §3132, Oct. 28, 2004, 118 Stat. 2166; Pub. L. 109-364, div. C, title XXXI, §3113, Oct. 17, 2006, 120 Stat. 2504; Pub. L. 112-239, div. C, title XXXI, §3118, Jan. 2, 2013, 126 Stat. 2173.)

CODIFICATION

Section was enacted as part of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, and not as part of the Atomic Energy Defense Act which comprises this chapter.

AMENDMENTS

2013—Subsec. (f)(2). Pub. L. 112-239, §3118(a), amended par. (2) generally. Prior to amendment, par. (2) related to programs covered and listed certain international programs within the Global Threat Reduction Initiative.

Subsec. (f)(7). Pub. L. 112-239, §3118(b), substituted “December 31, 2018” for “December 31, 2013”.

2006—Subsecs. (f), (g). Pub. L. 109-364 added subsec. (f) and redesignated former subsec. (f) as (g).

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of Title 10, Armed Forces, see section 3 of Pub. L. 108-375, Oct. 28, 2004, 118 Stat. 1825. See note under section 101 of Title 10.

§ 2570. Silk Road Initiative**(a) Program authorized**

(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities for scientists, engineers, and