

mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) Baseline

Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.

(h) Definitions

In this section:

(1) MOX production objective

The term “MOX production objective” means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) MOX facility

The term “MOX facility” means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) Defense plutonium; defense plutonium materials

The terms “defense plutonium” and “defense plutonium materials” mean weapons-usable plutonium.

(Pub. L. 107–314, div. D, title XLIII, § 4306, formerly div. C, title XXXI, § 3182, Dec. 2, 2002, 116 Stat. 2747; renumbered div. D, title XLIII, § 4306, by Pub. L. 108–136, div. C, title XXXI, § 3141(f)(7)(A), Nov. 24, 2003, 117 Stat. 1763; amended Pub. L. 109–103, title III, § 313, Nov. 19, 2005, 119 Stat. 2280; Pub. L. 112–239, div. C, title XXXI, § 3116, Jan. 2, 2013, 126 Stat. 2172; Pub. L. 113–291, div. C, title XXXI, § 3142(f), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(6)(B), (C) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2014—Subsec. (b)(6)(C). Pub. L. 113–291, § 3142(f)(1), substituted “subparagraph (A)” for “paragraph (A)”.

Subsec. (c)(2). Pub. L. 113–291, § 3142(f)(2), substituted “2002,” for “2002”.

Subsec. (d)(3). Pub. L. 113–291, § 3142(f)(3), which directed amendment of par. (3) by inserting “of Energy” after “Department”, was executed by making the insertion after “Department” the first place appearing to reflect the probable intent of Congress.

2013—Subsec. (a)(3)(C). Pub. L. 112–239, § 3116(1)(A), substituted “2014” for “2012” in introductory provisions.

Subsec. (a)(3)(D). Pub. L. 112–239, § 3116(1)(B), substituted “2019” for “2017” in introductory provisions.

Subsec. (b)(1). Pub. L. 112–239, § 3116(2)(A), struck out “by January 1, 2012” before period at end.

Subsec. (b)(5). Pub. L. 112–239, § 3116(2)(B), substituted “2014” for “2012”.

Subsec. (c). Pub. L. 112–239, § 3116(3)(A), substituted “2014” for “2012” in introductory provisions.

Subsec. (c)(1). Pub. L. 112–239, § 3116(3)(B), substituted “2016” for “2014”.

Subsec. (c)(2). Pub. L. 112–239, § 3116(3)(C), substituted “2022” for “2020” in two places.

Subsec. (d)(1). Pub. L. 112–239, § 3116(4)(A), substituted “2016” for “2014” and “2021” for “2019” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 112–239, § 3116(4)(B), substituted “2022” for “2020” in two places.

Subsec. (e). Pub. L. 112–239, § 3116(5), substituted “2025” for “2023” in introductory provisions.

2005—Subsec. (a)(2)(A). Pub. L. 109–103, § 313(1)(A), substituted “2012” for “2009” in two places.

Subsec. (a)(3)(B)(ii). Pub. L. 109–103, § 313(1)(B)(i), substituted “2012” for “2009”.

Subsec. (a)(3)(C). Pub. L. 109–103, § 313(1)(B)(ii), substituted “2012” for “2009” in introductory provisions.

Subsec. (b)(1). Pub. L. 109–103, § 313(2)(A), substituted “(g)” for “(a)(2)” and “2012” for “2009”.

Subsec. (b)(4). Pub. L. 109–103, § 313(2)(B), substituted “2012” for “2009” wherever appearing.

Subsec. (b)(5). Pub. L. 109–103, § 313(2)(C), substituted “2012” for “2009”.

Subsec. (c). Pub. L. 109–103, § 313(3)(A), substituted “2012” for “2009” in introductory provisions.

Subsec. (c)(1). Pub. L. 109–103, § 313(3)(B), substituted “2014” for “2011”.

Subsec. (c)(2). Pub. L. 109–103, § 313(3)(C), substituted “2020” for “2017” in two places.

Subsec. (d)(1). Pub. L. 109–103, § 313(4)(A), substituted “2014” for “2011”, “subject to the availability of appropriations” for “from funds available to the Secretary”, and “2019” for “2016”.

Subsec. (d)(2)(A). Pub. L. 109–103, § 313(4)(B), substituted “2020” for “2017” in introductory and concluding provisions.

Subsec. (e). Pub. L. 109–103, § 313(5), substituted “2023” for “2020” in introductory provisions.

Subsecs. (g), (h). Pub. L. 109–103, § 313(6), (7), added subsec. (g) and redesignated former subsec. (g) as (h).

§ 2567. Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina

(a) Consultation required

The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) Notice required

For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) Plan for disposition

The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the

Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

- (1) A review of each option considered for such disposal.
- (2) An identification of the preferred option for such disposal.
- (3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—
 - (A) a statement of the cost of construction and operation of such facilities;
 - (B) a schedule for the expeditious construction of such facilities, including milestones; and
 - (C) a firm schedule for funding the cost of such facilities.
- (4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) Plan for alternative disposition

If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) Submission of plans

Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) Limitation on plutonium shipments

If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) Rule of construction

Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) Annual report on funding for fissile materials disposition activities

The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report setting forth the extent to which amounts requested for the Department for such

fiscal year for fissile materials disposition activities will enable the Department to meet 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 sub-