

of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.

(2) In paragraph (1), the term “future defense environmental management matter” means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after November 24, 2003. However, such term does not include any such project or activity the responsibility for which has been assigned, as of November 24, 2003, to the Environmental Management program of the Department.

(b) Reflection in budget

For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) reflect the policy required by subsection (a).

(c) Consultation

The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.

(d) Report

The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

(Pub. L. 108-136, div. C, title XXXI, §3132, Nov. 24, 2003, 117 Stat. 1750.)

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.

PART B—CLOSURE OF FACILITIES

§ 2601. Repealed. Pub. L. 113-66, div. C, title XXXI, §3146(e)(10), Dec. 26, 2013, 127 Stat. 1077

Section, Pub. L. 107-314, div. D, title XLIV, §4421, formerly Pub. L. 104-201, div. C, title XXXI, §3143, Sept. 23, 1996, 110 Stat. 2836; renumbered Pub. L. 107-314, div. D, title XLIV, §4421, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(11), Nov. 24, 2003, 117 Stat. 1766, related to projects to accelerate closure activities at defense nuclear facilities.

§ 2602. Reports in connection with permanent closures of Department of Energy defense nuclear facilities

(a) Training and job placement services plan

Not later than 120 days before a Department of Energy defense nuclear facility permanently

ceases all production and processing operations, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the defense environmental cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) Closure report

Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

- (1) a complete survey of environmental problems at the facility;
- (2) budget quality data indicating the cost of defense environmental cleanup activities at the facility; and
- (3) a discussion of the proposed cleanup schedule.

(Pub. L. 107-314, div. D, title XLIV, §4422, formerly Pub. L. 101-189, div. C, title XXXI, §3156, Nov. 29, 1989, 103 Stat. 1683; renumbered Pub. L. 107-314, div. D, title XLIV, §4422, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(12), Nov. 24, 2003, 117 Stat. 1766; Pub. L. 113-66, div. C, title XXXI, §3146(a)(2)(E), (e)(11), Dec. 26, 2013, 127 Stat. 1073, 1077.)

CODIFICATION

Section was formerly classified to section 7274b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

PRIOR PROVISIONS

A prior section 2611, Pub. L. 107-314, div. D, title XLIV, §4431, formerly Pub. L. 105-85, div. C, title XXXI, §3132, Nov. 18, 1997, 111 Stat. 2034; renumbered Pub. L. 107-314, div. D, title XLIV, §4431, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(14), Nov. 24, 2003, 117 Stat. 1767, related to defense environmental management privatization projects, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(e)(12), Dec. 26, 2013, 127 Stat. 1078.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66, §3146(e)(11)(A), substituted “shall submit” for “must submit” and “defense environmental cleanup” for “environmental remediation and cleanup”.

Pub. L. 113-66, §3146(a)(2)(E), struck out “(as defined in section 2286g of title 42)” after “defense nuclear facility”.

Subsec. (b)(2). Pub. L. 113-66, §3146(e)(11)(B), substituted “defense environmental cleanup activities” for “environmental restoration and other remediation and cleanup efforts”.

2003—Pub. L. 108-136, §3141(g)(12)(D), made technical amendment to section catchline.

DEFENSE SITE ACCELERATION COMPLETION

Pub. L. 108-375, div. C, title XXXI, §3116, Oct. 28, 2004, 118 Stat. 2162, provided that:

“(a) IN GENERAL.—Notwithstanding the provisions of the Nuclear Waste Policy Act of 1982 [42 U.S.C. 10101 et seq.], the requirements of section 202 of the Energy Reorganization Act of 1974 [42 U.S.C. 5842], and other laws that define classes of radioactive waste, with respect to

material stored at a Department of Energy site at which activities are regulated by a covered State pursuant to approved closure plans or permits issued by the State, the term ‘high-level radioactive waste’ does not include radioactive waste resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy (in this section referred to as the ‘Secretary’), in consultation with the Nuclear Regulatory Commission (in this section referred to as the ‘Commission’), determines—

“(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste;

“(2) has had highly radioactive radionuclides removed to the maximum extent practical; and

“(3)(A) does not exceed concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, and will be disposed of—

“(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations; and

“(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; or

“(B) exceeds concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, but will be disposed of—

“(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations;

“(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; and

“(iii) pursuant to plans developed by the Secretary in consultation with the Commission.

“(b) MONITORING BY NUCLEAR REGULATORY COMMISSION.—(1) The Commission shall, in coordination with the covered State, monitor disposal actions taken by the Department of Energy pursuant to subparagraphs (A) and (B) of subsection (a)(3) for the purpose of assessing compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations.

“(2) If the Commission considers any disposal actions taken by the Department of Energy pursuant to those subparagraphs to be not in compliance with those performance objectives, the Commission shall, as soon as practicable after discovery of the noncompliant conditions, inform the Department of Energy, the covered State, and the following congressional committees:

“(A) The Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

“(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate.

“(3) For fiscal year 2005, the Secretary shall, from amounts available for defense site acceleration completion, reimburse the Commission for all expenses, including salaries, that the Commission incurs as a result of performance under subsection (a) and this subsection for fiscal year 2005. The Department of Energy and the Commission may enter into an interagency agreement that specifies the method of reimbursement. Amounts received by the Commission for performance under subsection (a) and this subsection may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, United States Code, and shall remain available until expended.

“(4) For fiscal years after 2005, the Commission shall include in the budget justification materials submitted to Congress in support of the Commission budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) the amounts required, not offset by revenues, for performance under subsection (a) and this subsection.

“(c) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the covered State.

“(d) COVERED STATES.—For purposes of this section, the following States are covered States:

“(1) The State of South Carolina.

“(2) The State of Idaho.

“(e) CONSTRUCTION.—(1) Nothing in this section shall impair, alter, or modify the full implementation of any Federal Facility Agreement and Consent Order or other applicable consent decree for a Department of Energy site.

“(2) Nothing in this section establishes any precedent or is binding on the State of Washington, the State of Oregon, or any other State not covered by subsection (d) for the management, storage, treatment, and disposition of radioactive and hazardous materials.

“(3) Nothing in this section amends the definition of ‘transuranic waste’ or regulations for repository disposal of transuranic waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act [Pub. L. 102-579, 106 Stat. 4777] or part 191 of title 40, Code of Federal Regulations.

“(4) Nothing in this section shall be construed to affect in any way the obligations of the Department of Energy to comply with section 4306A of the Atomic Energy Defense Act (50 U.S.C. 2567).

“(5) Nothing in this section amends the West Valley Demonstration Act [Pub. L. 96-368] (42 U.S.C. 2121a [2021a] note).

“(f) JUDICIAL REVIEW.—Judicial review shall be available in accordance with chapter 7 of title 5, United States Code, for the following:

“(1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.

“(2) Any failure of the Commission to carry out its responsibilities under subsection (b).”

SANDIA NATIONAL LABORATORIES

Pub. L. 108-199, div. H, § 127, Jan. 23, 2004, 118 Stat. 440, provided that: “Funds appropriated in this, or any other Act hereafter, may not be obligated to pay, on behalf of the United States or a contractor or subcontractor of the United States, to post a bond or fulfill any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories and properties held or managed by Sandia National Laboratories prior to implementation of closure or post-closure monitoring. The State of New Mexico or any other entity may not enforce against the United States or a contractor or subcontractor of the United States, in this year or any other fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories in New Mexico and properties held or managed by Sandia National Laboratories in New Mexico.”

§ 2603. Plan for deactivation and decommissioning of nonoperational defense nuclear facilities

(a) In general

The Secretary of Energy shall, during each even-numbered year beginning in 2016, develop and subsequently carry out a plan for the activities of the Department of Energy relating to the deactivation and decommissioning of nonoperational defense nuclear facilities.

(b) Elements

The plan required by subsection (a) shall include the following:

(1) A list of nonoperational defense nuclear facilities, prioritized for deactivation and de-