

2008—Subsec. (g). Pub. L. 110-181 substituted “October 28, 2012” for “on the date that is 3 years after October 28, 2004”.

CONSTRUCTION

Pub. L. 111-84, div. C, title XXXI, §3142(b), Oct. 28, 2009, 123 Stat. 2716, provided that: “Except as specifically provided in subsection (g) of section 3686 of the Energy Employees Occupational Illness Compensation Program Act of 2000 [42 U.S.C. 7385s-15(g)], as amended by subsection (a) of this section, nothing in the amendments made by such subsection (a) shall be construed to alter or affect the duties and functions of the individual employed by the National Institute for Occupational Safety and Health to serve as an ombudsman to individuals making claims under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384f et seq.).”

§ 7385s-16. Advisory Board on Toxic Substances and Worker Health

(a) Establishment

(1) Not later than 120 days after December 19, 2014, the President shall establish and appoint an Advisory Board on Toxic Substances and Worker Health (in this section referred to as the “Board”).

(2) The President shall make appointments to the Board in consultation with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a proper balance of perspectives from the scientific, medical, and claimant communities.

(3) The President shall designate a Chair of the Board from among its members.

(b) Duties

The Board shall—

(1) advise the Secretary of Labor with respect to—

(A) the site exposure matrices of the Department of Labor;

(B) medical guidance for claims examiners for claims under this part with respect to the weighing of the medical evidence of claimants;

(C) evidentiary requirements for claims under part B related to lung disease;

(D) the work of industrial hygienists and staff physicians and consulting physicians of the Department and reports of such hygienists and physicians to ensure quality, objectivity, and consistency;

(E) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and

(F) such other matters as the Secretary considers appropriate; and

(2) coordinate exchanges of data and findings with the Advisory Board on Radiation and Worker Health established under section 7384o of this title to the extent necessary.

(c) Staff and powers

(1) The President shall appoint a staff to facilitate the work of the Board. The staff of the Board shall be headed by a Director, who shall be appointed under subchapter VIII of chapter 33 of title 5.

(2) The President may authorize the detail of employees of Federal agencies to the Board as

necessary to enable the Board to carry out its duties under this section. The detail of such personnel may be on a nonreimbursable basis.

(3) The Secretary may employ outside contractors and specialists to support the work of the Board.

(d) Conflicts of interest

No member, employee, or contractor of the Board shall have any financial interest, employment, or contractual relationship (other than a routine consumer transaction) with any person that has provided, or sought to provide during the two years preceding the appointment or during the service of the member, employee, or contractor under this section, goods or services related to medical benefits under this subchapter.

(e) Expenses

Members of the Board, other than full-time employees of the United States, while attending meetings of the Board or while otherwise serving at the request of the President, and while serving away from their homes or regular places of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence (as authorized by section 5703 of title 5) for individuals in the Federal Government serving without pay.

(f) Security clearances

(1) The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate.

(2) The Secretary of Energy should, not later than 180 days after receiving a completed application for a security clearance for an individual under this subsection, make a determination of whether or not the individual is eligible for the clearance.

(3) For fiscal year 2016 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

(g) Information

The Secretary of Energy and the Secretary of Labor shall each, in accordance with law, provide to the Board and the contractors of the Board, access to any information that the Board considers relevant to carry out its responsibilities under this section, including information such as Restricted Data (as defined in section 2014(y) of this title) and information covered by section 552a of title 5 (commonly known as the “Privacy Act”). The Secretary of Labor shall make available to the Board the program’s medical director, toxicologist, industrial hygienist and program’s support contractors as requested by the Board.

(h) Response to recommendations

Not later than 60 days after submission to the Secretary of Labor of the Board’s recommenda-

tions, the Secretary shall respond to the Board in writing, and post on the public internet website of the Department of Labor, a response to the recommendations that—

(1) includes a statement of whether the Secretary accepts or rejects the Board's recommendations;

(2) if the Secretary accepts the Board's recommendations, describes the timeline for when those recommendations will be implemented; and

(3) if the Secretary does not accept the recommendations, describes the reasons the Secretary does not agree and provides all scientific research to the Board supporting that decision.

(i) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) Treatment as discretionary spending

Amounts appropriated to carry out this section—

(A) shall not be appropriated to the account established under subsection (a) of section 151 of title I of division B of Appendix D of the Consolidated Appropriations Act, 2001 (Public Law 106-554; 114 Stat. 2763A-251); and

(B) shall not be subject to subsection (b) of that section.

(j) Sunset

The Board shall terminate on the date that is 10 years after December 19, 2014.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3687], as added Pub. L. 113-291, div. C, title XXXI, §3141(a), Dec. 19, 2014, 128 Stat. 3897; amended Pub. L. 115-91, div. C, title XXXI, §3120, Dec. 12, 2017, 131 Stat. 1892; Pub. L. 116-92, div. C, title XXXI, §3134(b), Dec. 20, 2019, 133 Stat. 1959.)

REFERENCES IN TEXT

Section 151 of title I of division B of Appendix D of the Consolidated Appropriations Act, 2001, referred to in subsec. (i)(2)(A), (B), is Pub. L. 106-554, §1(a)(4) [div. B, title I, §151], Dec. 21, 2000, 114 Stat. 2763, 2763A-251, which is not classified to the Code.

AMENDMENTS

2019—Subsec. (b)(1)(E), (F). Pub. L. 116-92, §3134(b)(1), added subpars. (E) and (F).

Subsec. (g). Pub. L. 116-92, §3134(b)(2), substituted “The Secretary of Energy and the Secretary of Labor shall each” for “The Secretary of Energy shall” and inserted at end “The Secretary of Labor shall make available to the Board the program’s medical director, toxicologist, industrial hygienist and program’s support contractors as requested by the Board.”

Subsecs. (h) to (j). Pub. L. 116-92, §3134(b)(3), (4), added subsec. (h) and redesignated subsecs. (h) and (i) as (i) and (j), respectively.

2017—Subsec. (i). Pub. L. 115-91 substituted “10 years” for “5 years”.

EX. ORD. NO. 13699. ESTABLISHING THE ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

Ex. Ord. No. 13699, June 26, 2015, 80 F.R. 37529, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of

America, including the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291), and to allocate the responsibilities imposed by that Act, it is hereby ordered as follows:

SECTION 1. *Establishment.* There is established within the Department of Labor the Advisory Board on Toxic Substances and Worker Health (Advisory Board).

SEC. 2. *Membership.* (a) The Advisory Board shall reflect a proper balance of perspectives from the scientific, medical, and claimant communities.

(b) The Advisory Board shall consist of no more than 15 members to be appointed by the Secretary of Labor in consultation with organizations with expertise on worker health issues. Members shall serve without compensation as Special Government Employees, but shall be allowed travel and meal expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

(c) The Secretary of Labor shall designate a Chair of the Board from among its members.

SEC. 3. *Functions.* (a) The Advisory Board shall advise the Secretary of Labor with respect to:

(i) the site exposure matrices of the Department of Labor;

(ii) medical guidance for claims examiners for claims under subtitle E of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) with respect to the weighing of the medical evidence of claimants;

(iii) evidentiary requirements for claims under EEOICPA subtitle B related to lung disease; and

(iv) the work of industrial hygienists, staff physicians, and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency.

(b) To the extent necessary, the Advisory Board also shall coordinate exchanges of data and findings with the Advisory Board on Radiation and Worker Health, which was authorized by EEOICPA and established by Executive Order 13179 of December 7, 2000.

SEC. 4. *Administration.* (a) The Secretary of Labor shall provide the Advisory Board with funding and administrative support, including the appointment of staff and, as the Secretary determines appropriate, authorization for the detail of Federal employees from within the Department of Labor and employment of outside contractors and specialists, to the extent permitted by law and within existing appropriations. The Secretary also shall perform the administrative functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), with respect to the Advisory Board.

(b) The Secretary of Labor shall designate a senior officer of the Department of Labor to serve as the Director of the staff of the Advisory Board.

SEC. 5. *Termination.* The Advisory Board shall terminate on the date that is 5 years after the enactment of the National Defense Authorization Act for Fiscal Year 2015.

SEC. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

SUBCHAPTER XVII—[Repealed]

CODIFICATION

Pub. L. 108-136, div. C, title XXXI, §3141(m)(1), Nov. 24, 2003, 117 Stat. 1787, struck out heading for subchapter XVII "Department of Energy National Security Authorizations General Provisions".

§§ 7386 to 7386k. Transferred

CODIFICATION

Sections 7386 to 7386k, Pub. L. 107-314, div. C, title XXXVI, §§3620-3631, Dec. 2, 2002, 116 Stat. 2756-2762, were renumbered sections 4701 to 4712, respectively, 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(j)(2)(A)-(C), Nov. 24, 2003, 117 Stat. 1781, and are classified to sections 2741 to 2752, respectively, of Title 50, War and National Defense.

Section 7386 related to definitions for purposes of former sections 7386 to 7386k of this title.

Section 7386a related to reprogramming of amounts appropriated pursuant to a Department of Energy national security authorization.

Section 7386b related to minor construction projects.

Section 7386c related to limits on construction projects.

Section 7386d related to fund transfer authority.

Section 7386e related to conceptual and construction design.

Section 7386f related to authority for emergency planning, design, and construction activities.

Section 7386g related to scope of authority to carry out plant projects.

Section 7386h related to availability of funds.

Section 7386i related to transfer of defense environmental management funds.

Section 7386j related to transfer of weapons activities funds.

Section 7386k related to funds available for all national security programs of the Department of Energy.

CHAPTER 85—AIR POLLUTION PREVENTION AND CONTROL

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