

REFERENCES IN TEXT

Executive Order No. 12344, referred to in subsec. (d), is set out as a note under section 2511 of this title.

Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525), referred to in subsec. (d), was formerly set out as a note under section 7158 of Title 42, The Public Health and Welfare, and was renumbered section 4101 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(d)(2), Nov. 24, 2003, 117 Stat. 1757. Section 4101 of Pub. L. 107-314 is classified to section 2511 of this title.

EFFECTIVE DATE

Section effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as a note under section 2401 of this title.

§ 2407. General Counsel

There is a General Counsel of the Administration. The General Counsel is the chief legal officer of the Administration.

(Pub. L. 106-65, div. C, title XXXII, §3217, Oct. 5, 1999, 113 Stat. 960.)

EFFECTIVE DATE

Section effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as a note under section 2401 of this title.

§ 2408. Staff of Administration**(a) In general**

The Administrator shall maintain within the Administration sufficient staff to assist the Administrator in carrying out the duties and responsibilities of the Administrator.

(b) Responsibilities

The staff of the Administration shall perform, in accordance with applicable law, such of the functions of the Administrator as the Administrator shall prescribe. The Administrator shall assign to the staff responsibility for the following functions:

- (1) Personnel.
- (2) Legislative affairs.
- (3) Public affairs.
- (4) Liaison with the Department of Energy's Office of Intelligence and Counterintelligence.
- (5) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

(Pub. L. 106-65, div. C, title XXXII, §3218, Oct. 5, 1999, 113 Stat. 960; Pub. L. 109-364, div. C, title XXXI, §3117(e), Oct. 17, 2006, 120 Stat. 2508.)

AMENDMENTS

2006—Subsec. (b)(4), (5). Pub. L. 109-364 added par. (4) and redesignated former par. (4) as (5).

EFFECTIVE DATE

Section effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as a note under section 2401 of this title.

§ 2409. Scope of authority of Secretary of Energy to modify organization of Administration

Notwithstanding the authority granted by section 7253 of title 42 or any other provision of law, the Secretary of Energy may not establish, abol-

ish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 2481 of this title.

(Pub. L. 106-65, div. C, title XXXII, §3219, as added Pub. L. 106-377, §1(a)(2) [title III, §314(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A-81.)

§ 2410. Status of Administration and contractor personnel within Department of Energy**(a) Status of Administration personnel**

Each officer or employee of the Administration—

(1) shall be responsible to and subject to the authority, direction, and control of—

- (A) the Secretary acting through the Administrator and consistent with section 7132(c)(3) of title 42;
- (B) the Administrator; or
- (C) the Administrator's designee within the Administration; and

(2) shall not be responsible to, or subject to the authority, direction, or control of, any other officer, employee, or agent of the Department of Energy.

(b) Status of contractor personnel

Each officer or employee of a contractor of the Administration shall not be responsible to, or subject to the authority, direction, or control of, any officer, employee, or agent of the Department of Energy who is not an employee of the Administration, except for the Secretary of Energy consistent with section 7132(c)(3) of title 42.

(c) Construction of section

Subsections (a) and (b) may not be interpreted to in any way preclude or interfere with the communication of technical findings derived from, and in accord with, duly authorized activities between—

- (1) the head, or any contractor employee, of a national security laboratory or of a nuclear weapons production facility; and
- (2) the Department of Energy, the President, or Congress.

(d) Prohibition on dual office holding

Except in accordance with sections 2402(a)(2) and 2406(a)(1) of this title:

- (1) An individual may not concurrently hold or carry out the responsibilities of—
 - (A) a position within the Administration; and
 - (B) a position within the Department of Energy not within the Administration.
- (2) No funds appropriated or otherwise made available for any fiscal year may be used to pay, to an individual who concurrently holds or carries out the responsibilities of a position specified in paragraph (1)(A) and a position specified in paragraph (1)(B), the basic pay, salary, or other compensation relating to any such position.

(e) Status of intelligence and counterintelligence personnel

Notwithstanding the restrictions of subsections (a) and (b), each officer or employee of

the Administration, or of a contractor of the Administration, who is carrying out activities related to intelligence or counterintelligence shall, in carrying out those activities, be subject to the authority, direction, and control of the Secretary of Energy or the Secretary's delegate. (Pub. L. 106-65, div. C, title XXXII, § 3220, formerly § 3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3157], Oct. 30, 2000, 114 Stat. 1654, 1654A-468; renumbered § 3220, Pub. L. 107-107, div. C, title XXXI, § 3141(a)(1), Dec. 28, 2001, 115 Stat. 1370; Pub. L. 109-364, div. C, title XXXI, § 3117(a)(2)(B), (d), Oct. 17, 2006, 120 Stat. 2507, 2508; Pub. L. 111-84, div. C, title XXXI, § 3121, Oct. 28, 2009, 123 Stat. 2710; Pub. L. 113-66, div. C, title XXXI, § 3145(b), Dec. 26, 2013, 127 Stat. 1071; Pub. L. 113-291, div. C, title XXXI, § 3143(a), Dec. 19, 2014, 128 Stat. 3902.)

CODIFICATION

Section was formerly classified to section 2403 of this title.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-291 substituted “activities between—” for “activities between” before par. (1) designation and “; and” for “, and” at end of par. (1) and realigned margins of pars. (1) and (2).

2013—Subsecs. (a)(1)(A), (b). Pub. L. 113-66 made technical amendment to reference in original act which appears in text as reference to section 7132(c)(3) of title 42.

2009—Subsec. (e). Pub. L. 111-84 amended Pub. L. 109-364, § 3117(a). See 2006 Amendment note below.

2006—Subsec. (e). Pub. L. 109-364, § 3117(a), which, in par. (2), directed repeal of subsec. (e) effective Sept. 30, 2010, was amended generally by Pub. L. 111-84, and as so amended, no longer contains a par. (2) or amends this section.

Pub. L. 109-364, § 3117(d), added subsec. (e).

2000—Subsec. (a). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3157(1)], struck out “Administration, in carrying out any function of the” after “employee of the” in introductory provisions.

Subsec. (b). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3157(2)], struck out “, in carrying out any function of the Administration,” after “contractor of the Administration”.

Subsec. (d). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3157(3)], added subsec. (d).

EFFECTIVE DATE

Section effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as a note under section 2401 of this title.

§ 2411. Director for Cost Estimating and Program Evaluation

(a) Establishment

(1) There is in the Administration a Director for Cost Estimating and Program Evaluation (in this section referred to as the “Director”).

(2) The position of the Director shall be a Senior Executive Service position (as defined in section 3132(a) of title 5).

(b) Duties

(1) The Director shall be the principal advisor to the Administrator, the Deputy Secretary of Energy, and the Secretary of Energy with respect to cost estimation and program evaluation for the Administration. The Director shall report directly to the Administrator.

(2) The Administrator may not delegate responsibility for receiving or acting on commu-

nications from the Director with respect to cost estimation and program evaluation for the Administration.

(c) Activities for cost estimation

(1) The Director shall be the responsible for the following activities relating to cost estimation:

(A) Advising the Administrator on policies and procedures for cost analysis and estimation by the Administration, including the determination of confidence levels with respect to cost estimates.

(B) Reviewing cost estimates and evaluating the performance baseline for each major atomic energy defense acquisition program.

(C) Advising the Administrator on policies and procedures for developing technology readiness assessments for major atomic energy defense acquisition programs that are consistent with the guidelines of the Department of Energy for technology readiness assessments.

(D) Reviewing technology readiness assessments for such programs to ensure that such programs are meeting levels of confidence associated with appropriate overall system performance.

(E) As directed by the Administrator, conducting independent cost estimates for such programs.

(2) A review, evaluation, or cost estimate conducted under subparagraph (B), (D), or (E) of paragraph (1) shall be considered an inherently governmental function, but the Director may use data collected by a national security laboratory or a management and operating contractor of the Administration in conducting such a review, evaluation, or cost estimate.

(3) The Director shall submit in writing to the Administrator the following:

(A) The certification of the Director with respect to each review, evaluation, and cost estimate conducted under subparagraph (B), (D), or (E) of paragraph (1).

(B) A statement of the confidence level of the Director with respect to each such review, evaluation, and cost estimate, including an identification of areas of uncertainty, risk, and opportunity discovered in conducting each such review, evaluation, and cost estimate.

(d) Activities for program evaluation

(1) The Director shall be responsible for the following activities relating to program evaluation:

(A) Reviewing and commenting on policies and procedures for setting requirements for the future-years nuclear security program under section 2453 of this title and for prioritizing and estimating the funding required by the Administration for that program.

(B) Reviewing the future-years nuclear security program on an annual basis to ensure that the program is accurate and thorough.

(C) Advising the Administrator on policies and procedures for analyses of alternatives for major atomic energy defense acquisition programs.

(D) As part of the planning, programming, and budgeting process of the Administration