

istrator determines that compliance with such requirement would adversely affect the national security. Any waiver under this paragraph shall be made on a case-by-case basis.

(2) If the Administrator exercises the authority provided under paragraph (1), the Administrator shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) Report and wait for initiating new programs

A special access program may not be initiated until—

(1) the congressional defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(Pub. L. 106-65, div. C, title XXXII, § 3236, Oct. 5, 1999, 113 Stat. 962; Pub. L. 113-291, div. C, title XXXI, § 3143(b), Dec. 19, 2014, 128 Stat. 3902.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2122a of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 106-65, § 3294(e)(1)(A).

AMENDMENTS

2014—Subsec. (a)(2)(B)(iv). Pub. L. 113-291 substituted “program for—” for “program for” before subcl. (I) designation, “year;” for “year,” at end of subcl. (I), and “; and” for “, and” at end of subcl. (II) and realigned margins of subcls. (I) to (III).

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.

SUBCHAPTER III—MATTERS RELATING TO PERSONNEL

PAY ADJUSTMENT DEMONSTRATION PROJECT

Pub. L. 115-91, div. C, title XXXI, § 3116(a), Dec. 12, 2017, 131 Stat. 1888, provided that:

“(1) **EXTENSION.**—The Administrator for Nuclear Security shall carry out the pay banding and performance-based pay adjustment demonstration project of the National Nuclear Security Administration authorized under section 4703 of title 5, United States Code, until the date that is 10 years after the date of the enactment of this Act [Dec. 12, 2017].

“(2) **MODIFICATIONS.**—In carrying out the demonstration project described in paragraph (1), the Administrator—

“(A) may, subject to subparagraph (B), revise the requirements and limitations of the demonstration project to the extent necessary; and

“(B) shall—

“(i) ensure that the demonstration project is carried out in a manner consistent with the plan for the demonstration project published in the Federal Register on December 21, 2007 (72 Fed. Reg. 72776);

“(ii) ensure that significant changes in the demonstration project not take effect until revisions, as necessary and applicable, to the plan for the demonstration project are approved by the Office of Personnel Management and published in the Federal Register;

“(iii) ensure that procedural modifications or clarifications to the plan for the demonstration project be made through local notification processes;

“(iv) authorize, and establish incentives for, employees of the National Nuclear Security Administration to have rotational assignments among different programs of the Administration, the headquarters and field offices of the Administration, and the management and operating contractors of the Administration; and

“(v) establish requirements for employees of the Administration who are in the demonstration project described in paragraph (1) to be promoted to senior-level positions in the Administration, including requirements with respect to—

“(I) professional training and continuing education; and

“(II) a certain number and types of rotational assignments under clause (iv), as determined by the Administrator.

“(3) **APPLICATION TO NAVAL NUCLEAR PROPULSION PROGRAM.**—The Director of the Naval Nuclear Propulsion Program established pursuant to section 4101 of the Atomic Energy Defense Act (50 U.S.C. 2511) and section 3216 of the National Nuclear Security Administration Act (50 U.S.C. 2406) may, with the concurrence of the Secretary of the Navy, apply the demonstration project described in paragraph (1) to—

“(A) all employees of the Naval Nuclear Propulsion Program in the competitive service (as defined in section 2102 of title 5, United States Code); and

“(B) all employees of the Department of [the] Navy who are assigned to the Naval Nuclear Propulsion Program and are in the excepted service (as defined in section 2103 of title 5, United States Code) (other than such employees in statutory excepted service systems).”

ROTATIONS FOR CERTAIN CONTRACTORS

Pub. L. 115-91, div. C, title XXXI, § 3116(b), Dec. 12, 2017, 131 Stat. 1889, provided that:

“(1) **INCREASED USE.**—The Administrator for Nuclear Security shall increase the use of rotational assignments of employees of the management and operating contractors of the National Nuclear Security Administration to the headquarters of the Administration, the Department of Defense and the military departments, the intelligence community, and other departments and agencies of the Federal Government.

“(2) **METHODS.**—The Administrator shall carry out paragraph (1) by—

“(A) establishing incentives for—

“(i) the management and operating contractors of the Administration and the employees of such contractors to participate in rotational assignments; and

“(ii) the departments and agencies of the Federal Government specified in such paragraph to facilitate such assignments;

“(B) providing professional and leadership development opportunities during such assignments;

“(C) using details and other applicable authorities and programs, including the mobility program under subchapter VI of chapter 33 of title 5, United States Code (commonly referred to as the ‘Intergovernmental Personnel Act Mobility Program’); and

“(D) taking such other actions as the Administrator determines appropriate to increase the use of such rotational assignments.”

§ 2441. Authority to establish certain contracting, program management, scientific, engineering, and technical positions

The Administrator may, for the purposes of carrying out the responsibilities of the Administrator under this chapter, establish not more than 800 contracting, program management, scientific, engineering, and technical positions in the Administration, appoint individuals to such positions, and fix the compensation of such individuals. Subject to the limitations in the pre-

ceding sentence, the authority of the Administrator to make appointments and fix compensation with respect to positions in the Administration under this section shall be equivalent to, and subject to the limitations of, the authority under section 2201(d) of title 42 to make appointments and fix compensation with respect to officers and employees described in such section. To ensure that the positions established under this section are used, the Administrator, to the extent practicable, shall appoint an individual to such a position to replace the vacancy of a position not established under this section.

(Pub. L. 106-65, div. C, title XXXII, § 3241, Oct. 5, 1999, 113 Stat. 964; Pub. L. 112-239, div. C, title XXXI, § 3111(b)(1), (2), Jan. 2, 2013, 126 Stat. 2169; Pub. L. 113-66, div. C, title XXXI, § 3145(d), Dec. 26, 2013, 127 Stat. 1071; Pub. L. 116-92, div. C, title XXXI, § 3111(b), Dec. 20, 2019, 133 Stat. 1950.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.

AMENDMENTS

2019—Pub. L. 116-92 substituted “800” for “600”.

2013—Pub. L. 113-66, in last sentence, substituted “positions established” for “excepted positions established”, “a position” for “an excepted position”, and “position not established under this section” for “non-excepted position”.

Pub. L. 112-239, in section catchline, inserted “contracting, program management,” before “scientific” and, in text, substituted “600 contracting, program management, scientific” for “300 scientific” and inserted at end “To ensure that the excepted positions established under this section are used, the Administrator, to the extent practicable, shall appoint an individual to such an excepted position to replace the vacancy of a nonexcepted position.”

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.

§ 2441a. Authorized personnel levels of the Office of the Administrator

(a) Full-time equivalent personnel levels

(1) Total number

The total number of employees of the Office of the Administrator may not exceed 1,890.

(2) Excess

For fiscal year 2020 and each fiscal year thereafter, the Administrator may not exceed the total number of employees authorized under paragraph (1) unless, during each fiscal year in which such total number exceeds 1,890, the Administrator submits to the congressional defense committees a report justifying such excess.

(b) Counting rule

(1) A determination of the number of employees in the Office of the Administrator under subsection (a) shall be expressed on a full-time equivalent basis.

(2) Except as provided by paragraph (3), in determining the total number of employees in the Office of the Administrator under subsection (a), the Administrator shall count each employee of the Office without regard to whether the employee is located at the headquarters of the Administration, a site office of the Administration, a service or support center of the Administration, or any other location.

(3) The following employees may not be counted for purposes of determining the total number of employees in the Office of the Administrator under subsection (a):

(A) Employees of the Office of Naval Reactors.

(B) Employees of the Office of Secure Transportation.

(C) Members of the Armed Forces detailed to the Administration.

(D) Personnel supporting the Office of the Administrator pursuant to the mobility program under subchapter VI of chapter 33 of title 5 (commonly referred to as the “Intergovernmental Personnel Act Mobility Program”).

(c) Voluntary early retirement

In accordance with section 3523 of title 5, the Administrator may offer voluntary separation or retirement incentives to meet the total number of employees authorized under subsection (a).

(d) Use of IPA

The Administrator shall ensure that the expertise of the national security laboratories and the nuclear weapons production facilities is made available to the Administration, the Department of Energy, the Department of Defense, other Federal agencies, and Congress through the temporary assignment of personnel from such laboratories and facilities pursuant to the Intergovernmental Personnel Act Mobility Program and other similar programs.

(e) Office of the Administrator employees

In this section, the term “Office of the Administrator”, with respect to the employees of the Administration, includes employees whose funding is derived from an account of the Administration titled “Federal Salaries and Expenses”.

(f) Annual report

The Administrator shall include in the budget justification materials submitted to Congress in support of the budget of the Administration for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report containing the following information for the most recent fiscal year for which data are available:

(1) The number of full-time equivalent employees of the Office of the Administrator, as counted under subsection (a).

(2) The number of service support contracts of the Administration and whether such contracts are funded using program or program direction funds.

(3) The number of full-time equivalent contractor employees working under each contract identified under paragraph (2).

(4) The number of full-time equivalent contractor employees described in paragraph (3)