

partment may pay such travel expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Department may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5 to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Department. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Department.

(Pub. L. 104-271, title III, §301, Oct. 9, 1996, 110 Stat. 3307.)

#### CODIFICATION

Section was enacted as part of the Hydrogen Future Act of 1996, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### DEFINITIONS

Pub. L. 104-271, §2, Oct. 9, 1996, 110 Stat. 3304, provided that: "For purposes of titles II and III [enacting this section and provisions set out as a note under section 12403 of this title]—

"(1) the term 'Department' means the Department of Energy; and

"(2) the term 'Secretary' means the Secretary of Energy."

### § 7239. Transferred

#### CODIFICATION

Section, Pub. L. 106-65, div. C, title XXXI, §3164, Oct. 5, 1999, 113 Stat. 946, which related to the whistleblower protection program, was renumbered section 4602 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(1)(3)(A)-(C), Nov. 24, 2003, 117 Stat. 1776, and is classified to section 2702 of Title 50, War and National Defense.

#### PART C—GENERAL ADMINISTRATIVE PROVISIONS

### § 7251. General authority

To the extent necessary or appropriate to perform any function transferred by this chapter, the Secretary or any officer or employee of the Department may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

(Pub. L. 95-91, title VI, §641, Aug. 4, 1977, 91 Stat. 598.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see

Short Title note set out under section 7101 of this title and Tables.

#### IMPROVEMENT AND STREAMLINING OF THE MISSIONS AND OPERATIONS OF THE DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION

Pub. L. 112-239, div. C, title XXXI, §3120, Jan. 2, 2013, 126 Stat. 2174, provided that:

"(a) IN GENERAL.—The Secretary of Energy and the Administrator for Nuclear Security shall review and, to the extent practicable, revise the Department of Energy Acquisition Regulation and other regulations, rules, directives, orders, and policies that apply to the administration, execution, and oversight of the missions and operations of the Department of Energy and the National Nuclear Security Administration to improve and streamline such administration, execution, and oversight.

"(b) IMPROVEMENT AND STREAMLINING.—In carrying out subsection (a), the Secretary and the Administrator shall review and, to the extent practicable, carry out the following actions:

"(1) Streamline business processes and structures to reduce unnecessary, burdensome, or duplicative approvals.

"(2) Delegate approval for work for others agreements and cooperative research and development agreements (except those that the Secretary or Administrator determine are high value or unique) to the lowest appropriate officials and streamline the approval processes.

"(3) Establish processes for ensuring routine or low-risk procurement and subcontracting decisions are made at the discretion of the management and operating contractors while ensuring that the Secretary or Administrator apply appropriate oversight.

"(4) Assess procurement thresholds as of the date of the enactment of this Act [Jan. 2, 2013] and take steps as appropriate to adjust such thresholds.

"(5) Eliminate duplicative or low-value reports and data calls and ensure consistency in management and cost-accounting data.

"(6) Actions to otherwise streamline, clarify, and eliminate redundancy in the regulations, rules, directives, orders, and policies described by subsection (a).

"(c) BRIEFING.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary and the Administrator shall provide to the appropriate congressional committees a briefing on the review conducted under subsection (a), including the status of such review and any actions taken or planned to be taken to improve and streamline the regulations, rules, directives, orders, and policies described in such subsection.

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives."

#### DEPARTMENT OF ENERGY SECURITY MANAGEMENT BOARD

Pub. L. 105-85, div. C, title XXXI, §3161, Nov. 18, 1997, 111 Stat. 2048, required the Secretary of Energy to establish the Department of Energy Security Management Board, and provided for its duties which related to the security functions of the Department, and its membership, appointments, personnel, compensation, expenses, and termination on Oct. 31, 2000, prior to repeal by Pub. L. 106-65, div. C, title XXXI, §3142(h)(1), Oct. 5, 1999, 113 Stat. 933.

### § 7252. Delegation

Except as otherwise expressly prohibited by law, and except as otherwise provided in this

chapter, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions within the Department as he may deem to be necessary or appropriate.

(Pub. L. 95-91, title VI, § 642, Aug. 4, 1977, 91 Stat. 599.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

#### REORGANIZATION OF FIELD ACTIVITIES AND MANAGEMENT OF NATIONAL SECURITY FUNCTIONS

Pub. L. 104-206, title III, § 302, Sept. 30, 1996, 110 Stat. 2999, provided that: “None of the funds appropriated by this or any other Act may be used to implement section 3140 of H.R. 3230 as reported by the Committee of Conference on July 30, 1996 [Pub. L. 104-201, set out below]. The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy and shall submit such plan to the Congress not later than 120 days after the date of enactment of this Act [Sept. 30, 1996]. The plan will specifically identify all significant functions performed by the Department’s national security operations and area offices and make recommendations as to where those functions should be performed.”

Pub. L. 104-201, div. C, title XXXI, § 3140, Sept. 23, 1996, 110 Stat. 2833, which was formerly set out as a note under this section, was renumbered section 4102 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)(3)(A)–(C), Nov. 24, 2003, 117 Stat. 1757, and is classified to section 2512 of Title 50, War and National Defense.

#### § 7253. Reorganization

(a) Subject to subsection (b) of this section, the Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this chapter, or to the transfer of functions vested by this chapter in any organizational unit or component.

(b) The authority of the Secretary to establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the National Nuclear Security Administration is governed by the provisions of section 2409 of title 50.

(c) The authority of the Secretary under subsection (a) of this section does not apply to the National Nuclear Security Administration. The corresponding authority that applies to the Administration is set forth in section 2402(e)<sup>1</sup> of title 50.

(Pub. L. 95-91, title VI, § 643, Aug. 4, 1977, 91 Stat. 599; Pub. L. 106-377, § 1(a)(2) [title III, § 314(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A-81; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-470; Pub. L. 112-239,

div. C, title XXXI, § 3132(e), Jan. 2, 2013, 126 Stat. 2187.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

Section 2402(e) of title 50, referred to in subsec. (c), probably means the subsec. (e) of section 2402 of title 50 which relates to reorganization authority and was added by Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-469 and redesignated section 2402(f) of title 50 by Pub. L. 107-107, div. A, title X, § 1048(i)(12), Dec. 28, 2001, 115 Stat. 1230.

#### AMENDMENTS

2013—Subsecs. (b), (c). Pub. L. 112-239 redesignated subsec. (b) relating to nonapplicability of authority of Secretary to National Nuclear Security Administration as (c).

2000—Subsec. (a). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(b)(1)], which directed amendment of section by substituting “(a) Except as provided in subsection (b) of this section, the Secretary” for “The Secretary”, could not be executed because the words “The Secretary” did not appear after execution of the amendment by Pub. L. 106-377, § 1(a)(2) [title III, § 314(b)(1)]. See below.

Pub. L. 106-377, § 1(a)(2) [title III, § 314(b)(1)], designated existing provisions as subsec. (a) and substituted “Subject to subsection (b) of this section, the Secretary” for “The Secretary”.

Subsec. (b). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(b)(2)], added subsec. (b) relating to nonapplicability of authority of Secretary under subsec. (a) of this section to National Nuclear Security Administration.

Pub. L. 106-377, § 1(a)(2) [title III, § 314(b)(2)], added subsec. (b) relating to authority of Secretary as to National Nuclear Security Administration.

#### § 7254. Rules and regulations

The Secretary is authorized to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.

(Pub. L. 95-91, title VI, § 644, Aug. 4, 1977, 91 Stat. 599.)

#### § 7255. Subpoena

For the purpose of carrying out the provisions of this chapter, the Secretary, or his duly authorized agent or agents, shall have the same powers and authorities as the Federal Trade Commission under section 49 of title 15 with respect to all functions vested in, or transferred or delegated to, the Secretary or such agents by this chapter. For purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978 [15 U.S.C. 3301 et seq.], the Commission shall have the same powers and authority as the Secretary has under this section.

(Pub. L. 95-91, title VI, § 645, Aug. 4, 1977, 91 Stat. 599; Pub. L. 95-621, title V, § 508(a), Nov. 9, 1978, 92 Stat. 3408.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization

<sup>1</sup> See References in Text note below.

Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Natural Gas Policy Act of 1978, referred to in text, is Pub. L. 95-621, Nov. 9, 1978, 92 Stat. 3350, which is classified generally to chapter 60 (§3301 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 15 and Tables.

#### AMENDMENTS

1978—Pub. L. 95-621 inserted provision giving the Commission the same powers and authority as the Secretary under this section for purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978.

### § 7256. Contracts, leases, etc., with public agencies and private organizations and persons

#### (a) General authority

The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

#### (b) Limitation on authority; appropriations

Notwithstanding any other provision of this subchapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

#### (c) Leasing of excess Department of Energy property

The Secretary may lease, upon terms and conditions the Secretary considers appropriate to promote national security or the public interest, acquired real property and related personal property that—

- (1) is located at a facility of the Department of Energy to be closed or reconfigured;
- (2) at the time the lease is entered into, is not needed by the Department of Energy; and
- (3) is under the control of the Department of Energy.

#### (d) Terms of lease

(1) A lease entered into under subsection (c) of this section may not be for a term of more than 10 years, except that the Secretary may enter into a lease that includes an option to renew for a term of more than 10 years if the Secretary determines that entering into such a lease will promote the national security or be in the public interest.

(2) A lease entered into under subsection (c) of this section may provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is less than the fair market rental value of the leasehold interest. Services relating to the protection and maintenance of the leased property may constitute all or part of such consideration.

#### (e) Environmental concerns

(1) Before entering into a lease under subsection (c) of this section, the Secretary shall

consult with the Administrator of the Environmental Protection Agency (with respect to property located on a site on the National Priorities List) or the appropriate State official (with respect to property located on a site that is not listed on the National Priorities List) to determine whether the environmental conditions of the property are such that leasing the property, and the terms and conditions of the lease agreement, are consistent with safety and the protection of public health and the environment.

(2) Before entering into a lease under subsection (c) of this section, the Secretary shall obtain the concurrence of the Administrator of the Environmental Protection Agency or the appropriate State official, as the case may be, in the determination required under paragraph (1). The Secretary may enter into a lease under subsection (c) of this section without obtaining such concurrence if, within 60 days after the Secretary requests the concurrence, the Administrator or appropriate State official, as the case may be, fails to submit to the Secretary a notice of such individual's concurrence with, or rejection of, the determination.

#### (f) Retention and use of rentals; report

To the extent provided in advance in appropriations Acts, the Secretary may retain and use money rentals received by the Secretary directly from a lease entered into under subsection (c) of this section in any amount the Secretary considers necessary to cover the administrative expenses of the lease, the maintenance and repair of the leased property, or environmental restoration activities at the facility where the leased property is located. Amounts retained under this subsection shall be retained in a separate fund established in the Treasury for such purpose. The Secretary shall annually submit to the Congress a report on amounts retained and amounts used under this subsection.

#### (g) Additional authorities

(1) In addition to authority granted to the Secretary under any other provision of law, the Secretary may exercise the same authority to enter into transactions (other than contracts, cooperative agreements, and grants), subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10 (other than subsections (b) and (f) of that section).

(2) In applying section 2371 of title 10 to the Secretary under paragraph (1)—

- (A) the term "basic" shall be replaced by the term "research";
- (B) the term "applied" shall be replaced by the term "development"; and
- (C) the terms "advanced research projects" and "advanced research" shall be replaced by the term "demonstration projects".

(3) The authority of the Secretary under paragraph (1) shall not be subject to—

- (A) section 5908 of this title; or
- (B) section 2182 of this title.

(4)(A) The Secretary shall use such competitive, merit-based selection procedures in entering into transactions under paragraph (1), as the Secretary determines in writing to be practicable.

(B) A transaction under paragraph (1) shall relate to a research, development, or demonstra-

tion project only if the Secretary determines in writing that the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

(5) The Secretary may protect from disclosure, for up to 5 years after the date on which the information is developed, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, if obtained from a person other than a Federal agency.

(6)(A) Not later than 90 days after August 8, 2005, the Secretary shall issue guidelines for transactions under paragraph (1).

(B) The guidelines shall be published in the Federal Register for public comment in accordance with rulemaking procedures of the Department.

(C) The Secretary shall not have authority to carry out transactions under paragraph (1) until the guidelines for transactions required under subparagraph (A) are final.

(7) The annual report of the head of an executive agency under section 2371(h)<sup>1</sup> of title 10 shall be submitted to Congress.

(8)(A) In this paragraph, the term “nontraditional Government contractor” has the meaning given the term “nontraditional defense contractor” in section 845(f)<sup>1</sup> of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

(B) Not later than 1 year after the date on which the final guidelines are published under paragraph (6), the Comptroller General of the United States shall submit to Congress a report describing—

(i) the use by the Department of authorities under this section, including the ability to attract nontraditional Government contractors; and

(ii) whether additional safeguards are necessary to carry out the authorities.

(9) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate.

(10) Notwithstanding any other provision of law, the authority to enter into transactions under paragraph (1) shall terminate on September 30, 2020.

(Pub. L. 95-91, title VI, §646, Aug. 4, 1977, 91 Stat. 599; Pub. L. 103-160, div. C, title XXXI, §3154, Nov. 30, 1993, 107 Stat. 1952; Pub. L. 109-58, title X, §1007, Aug. 8, 2005, 119 Stat. 932; Pub. L. 111-383, div. C, title XXXI, §3118, Jan. 7, 2011, 124 Stat. 4514; Pub. L. 113-66, div. C, title XXXI, §3119, Dec. 26, 2013, 127 Stat. 1059.)

#### REFERENCES IN TEXT

Section 2371(h) of title 10, referred to in subsec. (g)(7), was repealed by Pub. L. 113-291, div. A, title X, §1071(f)(20), Dec. 19, 2014, 128 Stat. 3511.

Section 845(f) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note), referred to in subsec. (g)(8)(A), was repealed by Pub. L. 114-92, div. A, title VIII, §815(c), Nov. 25, 2015, 129 Stat. 896. See section 2371b(e) of Title 10, Armed Forces.

<sup>1</sup> See References in Text note below.

#### AMENDMENTS

2013—Subsec. (g)(10). Pub. L. 113-66 substituted “September 30, 2020” for “September 30, 2015”.

2011—Subsec. (g)(10). Pub. L. 111-383 substituted “September 30, 2015” for “September 30, 2010”.

2005—Subsec. (g). Pub. L. 109-58 added subsec. (g).

1993—Subsecs. (c) to (f). Pub. L. 103-160 added subsecs. (c) to (f).

#### SMALL BUSINESS CONTRACTING

Pub. L. 109-13, div. A, title VI, §6022(a), (b), May 11, 2005, 119 Stat. 285, provided that:

“(a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

“(b) The methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

“(1) a method of counting the achievement of the Department of Energy in awards of—

“(A) prime contracts; and

“(B) subcontracts to small businesses awarded by Department of Energy management and operating, management and integration, and other facility management prime contractors; and

“(2) uniform criteria that could be used by prime contractors when measuring the value and number of subcontracts awarded to small businesses.”

#### PILOT PROGRAM RELATING TO USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN DEPARTMENT OF ENERGY ASSETS

Pub. L. 105-85, div. C, title XXXI, §3138, Nov. 18, 1997, 111 Stat. 2039, which was formerly set out as a note under this section, was renumbered section 4833 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(k)(13)(A)-(C), Nov. 24, 2003, 117 Stat. 1786, and is classified to section 2813 of Title 50, War and National Defense.

#### CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 103-160, div. C, title XXXI, §3159, Nov. 30, 1993, 107 Stat. 1956, as amended by Pub. L. 103-337, div. A, title X, §1070(b)(16), Oct. 5, 1994, 108 Stat. 2857, provided that:

“(a) GOAL.—Except as provided in subsection (c), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Energy in carrying out national security programs of the Department in each of fiscal years 1994 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

“(1) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

“(2) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986; and

“(3) minority institutions (as defined in section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3))), which, for the purposes of this section, shall include Hispanic-serving institutions (as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1))).

“(b) AMOUNT.—(1) Except as provided in paragraph (2), the requirements of subsection (a) for any fiscal year apply to the combined total of the funds obligated for contracts entered into by the Department of Energy pursuant to competitive procedures for such fiscal year

for purposes of carrying out national security programs of the Department.

“(2) In computing the combined total of funds under paragraph (1) for a fiscal year, funds obligated for such fiscal year for contracts for naval reactor programs shall not be included.

“(c) APPLICABILITY.—Subsection (a) does not apply—

“(1) to the extent to which the Secretary of Energy determines that compelling national security considerations require otherwise; and

“(2) if the Secretary notifies the Congress of such a determination and the reasons for the determination.”

**SMALL BUSINESS CONCERNS PARTICIPATION IN PROGRAMS FUNDED BY DEPARTMENT OF ENERGY ACT OF 1978—CIVILIAN APPLICATIONS; REPORT TO CONGRESSIONAL COMMITTEES**

Pub. L. 95-238, title II, §204, Feb. 25, 1978, 92 Stat. 59, as amended by Pub. L. 96-470, title II, §203(f), Oct. 19, 1980, 94 Stat. 2243, provided that:

“(a) In carrying out the programs for which funds are authorized by this Act [see Tables for classification], the Secretary of Energy shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

“(b) The Secretary of Energy shall submit annually to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding year, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently taken to assure such participation in the future. Such report shall also contain such information as may be required by section 308 of the Act of December 31, 1975 (42 U.S.C. 5878a; 89 Stat. 1074).”

[For termination, effective May 15, 2000, of reporting provisions in section 204(b) of Pub. L. 95-238, set out above, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 21st item on page 89 of House Document No. 103-7.]

**§ 7256a, 7256b. Transferred**

**CODIFICATION**

Section 7256a, Pub. L. 99-145, title XV, §1534, Nov. 8, 1985, 99 Stat. 774; Pub. L. 100-180, div. C, title I, §3131(a), Dec. 4, 1987, 101 Stat. 1238, which related to costs not allowed under covered contracts, was renumbered section 4801 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(k)(2)(A)-(C), Nov. 24, 2003, 117 Stat. 1783, and is classified to section 2781 of Title 50, War and National Defense.

Section 7256b, Pub. L. 101-189, div. C, title XXXI, §3151, Nov. 29, 1989, 103 Stat. 1682, which related to the prohibition of bonuses to contractors operating defense nuclear facilities, was renumbered section 4802 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(k)(3)(A)-(C), Nov. 24, 2003, 117 Stat. 1783, and is classified to section 2782 of Title 50, War and National Defense.

**§ 7257. Acquisition, construction, etc., of laboratories, research and testing sites, etc.**

The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including

patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(Pub. L. 95-91, title VI, §647, Aug. 4, 1977, 91 Stat. 599.)

**PILOT PROGRAM FOR PROJECT MANAGEMENT OVERSIGHT REGARDING DEPARTMENT OF ENERGY CONSTRUCTION PROJECTS**

Pub. L. 106-65, div. C, title XXXI, §3175, Oct. 5, 1999, 113 Stat. 950, provided that:

“(a) REQUIREMENT.—(1) The Secretary of Energy shall carry out a pilot program on use of project management oversight services (in this section referred to as ‘PMO services’) for construction projects of the Department of Energy.

“(2) The purpose of the pilot program shall be to provide a basis for determining whether or not the use of competitively procured, external PMO services for those construction projects would permit the Department to control excessive costs and schedule delays associated with those construction projects that have large capital costs.

“(b) PROJECTS COVERED BY PROGRAM.—(1) Subject to paragraph (2), the Secretary shall carry out the pilot program at construction projects selected by the Secretary. The projects shall include one or more construction projects authorized pursuant to section 3101 [113 Stat. 915] and one construction project authorized pursuant to section 3102 [113 Stat. 917].

“(2) Each project selected by the Secretary shall be a project having capital construction costs anticipated to be not less than \$25,000,000.

“(c) SERVICES UNDER PROGRAM.—The PMO services used under the pilot program shall include the following services:

“(1) Monitoring the overall progress of a project.

“(2) Determining whether or not a project is on schedule.

“(3) Determining whether or not a project is within budget.

“(4) Determining whether or not a project conforms with plans and specifications approved by the Department.

“(5) Determining whether or not a project is being carried out efficiently and effectively.

“(6) Any other management oversight services that the Secretary considers appropriate for purposes of the pilot program.

“(d) PROCUREMENT OF SERVICES UNDER PROGRAM.—Any PMO services procured under the pilot program shall be acquired—

“(1) on a competitive basis; and

“(2) from among commercial entities that—

“(A) do not currently manage or operate facilities at a location where the pilot program is being conducted; and

“(B) have an expertise in the management of large construction projects.

“(e) REPORT.—Not later than February 1, 2000, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the assessment of the Secretary as to the feasibility and desirability of using PMO services for construction projects of the Department.”

**LABORATORY FUNDING PLAN**

Pub. L. 106-60, title III, §310, Sept. 29, 1999, 113 Stat. 496, which provided that no funds in an Energy and Water Development Appropriations Act were to be expended after December 31 of each year under certain contracts unless the funds were expended pursuant to a Laboratory Funding Plan approved by the Secretary of Energy, and which also provided for directives, ap-

proval, and exceptions by the Secretary, was repealed by Pub. L. 108-7, div. D, title III, §310, Feb. 20, 2003, 117 Stat. 155.

TERMINATION OR CHANGES IN ACTIVITIES OF GOVERNMENT-OWNED AND CONTRACTOR-OPERATED FACILITIES, NATIONAL LABORATORIES, ETC.; REPORTS BY SECRETARY OF ENERGY CONCERNING PROPOSALS PRIOR TO IMPLEMENTATION; CONTENTS; SUBMISSION DATE

Pub. L. 95-238, title I, §104(c), Feb. 25, 1978, 92 Stat. 53, provided that: "As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

"(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

"(ii) by January 31, 1978, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate."

§§ 7257a to 7257c. Transferred

CODIFICATION

Section 7257a, Pub. L. 101-510, div. C, title XXXI, §3132, Nov. 5, 1990, 104 Stat. 1832, which related to laboratory-directed research and development programs, was renumbered section 4811 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(k)(6)(A)-(C), Nov. 24, 2003, 117 Stat. 1784, and is classified to section 2791 of Title 50, War and National Defense.

Section 7257b, Pub. L. 104-201, div. C, title XXXI, §3136(b), Sept. 23, 1996, 110 Stat. 2831; Pub. L. 107-314, div. D, title XLVIII, §4812(c), formerly Pub. L. 105-85, div. C, title XXXI, §3137(c), Nov. 18, 1997, 111 Stat. 2039, renumbered Pub. L. 108-136, div. C, title XXXI, §3141(k)(7)(A)(i)-(iii), Nov. 24, 2003, 117 Stat. 1784, which related to annual reports by the Secretary of Energy with respect to expenditures of the Department of Energy Laboratory Directed Research and Development Program, was renumbered section 4812A(b) 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(k)(7)(B)(i)-(iii), Nov. 24, 2003, 117 Stat. 1784, and is classified to section 2793 of Title 50, War and National Defense.

Section 7257c, Pub. L. 105-85, div. C, title XXXI, §3137, Nov. 18, 1997, 111 Stat. 2038, which related to limitations on the use of funds for laboratory directed research and development purposes, was renumbered section 4812 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(k)(7)(A)(i)-(iii), Nov. 24, 2003, 117 Stat. 1784, and is classified to section 2792 of Title 50, War and National Defense.

§ 7257d. Expanded research by Secretary of Energy

(a) Detection and identification research

(1) In general

In conjunction with the working group under section 247d-6(a) of this title, the Secretary of Energy and the Administrator of the National Nuclear Security Administration shall expand, enhance, and intensify research relevant to the rapid detection and identification of pathogens likely to be used in a bioterrorism attack or other agents that may cause a public health emergency.

(2) Authorized activities

Activities carried out under paragraph (1) may include—

(A) the improvement of methods for detecting biological agents or toxins of potential use in a biological attack and the testing of such methods under variable conditions;

(B) the improvement or pursuit of methods for testing, verifying, and calibrating new detection and surveillance tools and techniques; and

(C) carrying out other research activities in relevant areas.

(3) Report

Not later than 180 days after June 12, 2002, the Administrator of the National Nuclear Security Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate, and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives, a report setting forth the programs and projects that will be funded prior to the obligation of funds appropriated under subsection (b) of this section.

(b) Authorization

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2002 through 2006.

(Pub. L. 107-188, title I, §152, June 12, 2002, 116 Stat. 630.)

CODIFICATION

Section was enacted as part of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7258. Facilities construction

(a) Employees and dependents stationed at remote locations

As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) Emergency medical services and supplies;
- (2) Food and other subsistence supplies;
- (3) Messing facilities;
- (4) Audio-visual equipment, accessories, and supplies for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) Living and working quarters and facilities; and

(7) Transportation of schoolage dependents of employees to the nearest appropriate educational facilities.

**(b) Medical treatment at reasonable prices**

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

**(c) Use of reimbursement proceeds**

Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary. Such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

(Pub. L. 95-91, title VI, §648, Aug. 4, 1977, 91 Stat. 600.)

**§ 7259. Use of facilities**

**(a) Facilities of United States and foreign governments**

With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary or the Commission.

**(b) Facilities under custody of Secretary**

In carrying out his functions, the Secretary, under such terms, at such rates, and for such periods not exceeding five years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in section 102(3) of title 40.

**(c) Use of reimbursement proceeds**

Proceeds from reimbursements under this section shall be deposited in the Treasury and may

be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

(Pub. L. 95-91, title VI, §649, Aug. 4, 1977, 91 Stat. 600.)

CODIFICATION

In subsec. (b), "section 102(3) of title 40" substituted for "section 3(e) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

**§ 7259a. Activities of Department of Energy facilities**

**(a) Research and activities on behalf of non-department persons and entities**

(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) at facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, including research and activities authorized under the following provisions of law:

(A) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(B) The Energy Reorganization Act of 1974 [42 U.S.C. 5801 et seq.].

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

**(b) Charges**

(1) The Secretary shall impose on the department, agency, or person or entity for which research and other activities are carried out under subsection (a) of this section a charge for such research and activities in carrying out such research and activities, which shall include—

(A) the direct cost incurred in carrying out such research and activities; and

(B) the overhead cost, including site-wide indirect costs, associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by

subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after October 17, 1998, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

**(c) Pilot program of reduced facility overhead charges**

(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program at a facility based on a joint review by the Secretary and the contractor for the facility of all items included in the overhead costs of the facility in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program under this subsection not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to Congress an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

**(d) Applicability with respect to user fee practice**

This section does not apply to the practice of the Department of Energy with respect to user fees at Department facilities.

(Pub. L. 105-261, div. C, title XXXI, §3137, Oct. 17, 1998, 112 Stat. 2248.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a)(2)(A), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (a)(2)(B), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (a)(2)(C), is

Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7260. Field offices**

The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions vested in him.

(Pub. L. 95-91, title VI, §650, Aug. 4, 1977, 91 Stat. 601.)

**§ 7261. Acquisition of copyrights, patents, etc.**

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

- (1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;
- (2) licenses under copyrights, patents, and applications for patents; and
- (3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 95-91, title VI, §651, Aug. 4, 1977, 91 Stat. 601.)

**§ 7261a. Protection of sensitive technical information**

**(a) Property rights in inventions and discoveries; timely determination; reports to Congressional committees**

(1) Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a)(ii) or (iv) of title 35, or pursuant to section 2182 of this title or section 5908 of this title in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery.

(2) Such decision shall be made within 150 days after the date on which a complete request for waiver of such rights has been submitted to the Secretary by the contractor. For purposes of this paragraph, a complete request includes such information, in such detail and form, as the Secretary by regulation prescribes as necessary to allow the Secretary to take into consideration the matters described in subsection (b) of this section in making the decision.

(3) If the Secretary fails to make the decision within such 150-day period, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate,



within 10 days after the end of the 150-day period, a report on the reasons for such failure. The submission of such report shall not relieve the Secretary of the requirement to make the decision under this section. The Secretary shall, at the end of each 30-day period after submission of the first report during which the Secretary continues to fail to make the decision required by this section, submit another report on the reasons for such failure to the committees listed in this paragraph.

**(b) Matters to be considered**

In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 2182 of this title or subsections (c) and (d) of section 5908 of this title—

(1) whether national security will be compromised;

(2) whether sensitive technical information (whether classified or unclassified) under the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

(Pub. L. 99-661, div. C, title I, § 3131, Nov. 14, 1986, 100 Stat. 4062; Pub. L. 100-180, div. C, title I, § 3135(a), Dec. 4, 1987, 101 Stat. 1240.)

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 and also as part of the National Defense Authorization Act for Fiscal Year 1987, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-180 designated existing provisions as par. (1), struck out at end “Such decision shall be made within a reasonable time (which shall usually be six months from the date of the request by the contractor for assignment of such rights).”, and added pars. (2) and (3).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. C, title I, § 3135(b), Dec. 4, 1987, 101 Stat. 1241, provided that: “Paragraphs (2) and (3) of section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 [subsec. (a)(2), (3) of this section] (as added by subsection (a)) shall apply with respect to waiver requests submitted by contractors under that section after March 1, 1988.”

**§ 7261b. Technology transfer to small businesses**

(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this section, the term “small business” means a business concern that meets the applicable size standards prescribed pursuant to section 632(a) of title 15.

(Pub. L. 102-484, div. C, title XXXI, § 3135(b), Oct. 23, 1992, 106 Stat. 2641.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7261c. Technology partnerships ombudsman**

**(a) Appointment of ombudsman**

The Secretary of Energy shall direct the director of each national laboratory of the Department of Energy, and may direct the director of each facility under the jurisdiction of the Department of Energy, to appoint a technology partnership ombudsman to hear and help resolve complaints from outside organizations regarding the policies and actions of each such laboratory or facility with respect to technology partnerships (including cooperative research and development agreements), patents, and technology licensing.

**(b) Qualifications**

An ombudsman appointed under subsection (a) of this section shall be a senior official of the national laboratory or facility who is not involved in day-to-day technology partnerships, patents, or technology licensing, or, if appointed from outside the laboratory or facility, function as such a senior official.

**(c) Duties**

Each ombudsman appointed under subsection (a) of this section shall—

(1) serve as the focal point for assisting the public and industry in resolving complaints and disputes with the national laboratory or facility regarding technology partnerships, patents, and technology licensing;

(2) promote the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low-cost resolution of complaints and disputes, when appropriate; and

(3) report quarterly on the number and nature of complaints and disputes raised, along with the ombudsman’s assessment of their resolution, consistent with the protection of confidential and sensitive information, to—

(A) the Secretary;

(B) the Administrator for Nuclear Security;

(C) the Director of the Office of Dispute Resolution of the Department of Energy; and

(D) the employees of the Department responsible for the administration of the contract for the operation of each national laboratory or facility that is a subject of the report, for consideration in the administration and review of that contract.

(Pub. L. 106-404, § 11, Nov. 1, 2000, 114 Stat. 1749.)

CODIFICATION

Section was enacted as part of the Technology Transfer Commercialization Act of 2000, and not as part of

the Department of Energy Organization Act which comprises this chapter.

**§ 7262. Repealed. Pub. L. 104-206, title V, § 502, Sept. 30, 1996, 110 Stat. 3002**

Section, Pub. L. 95-91, title VI, § 652, Aug. 4, 1977, 91 Stat. 601, authorized Secretary to accept gifts, bequests, and devises of property for purpose of aiding or facilitating work of Department.

CODIFICATION

Pub. L. 104-206, which directed the repeal of 42 U.S.C. 7262, was executed by repealing section 652 of Pub. L. 95-91, which was classified to this section, to reflect the probable intent of Congress.

**§ 7263. Capital fund**

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized.

(Pub. L. 95-91, title VI, § 653, Aug. 4, 1977, 91 Stat. 601.)

**§ 7264. Seal of Department**

The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

(Pub. L. 95-91, title VI, § 654, Aug. 4, 1977, 91 Stat. 602.)

**§ 7265. Regional Energy Advisory Boards**

**(a) Establishment; membership**

The Governors of the various States may establish Regional Energy Advisory Boards for their regions with such membership as they may determine.

**(b) Observers**

Representatives of the Secretary, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard and the Administrator of the Environmental Protection Agency shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section. The Federal Cochairman of the Appalachian Regional Commission or any regional commission under title V of the Public Works and Economic Development Act [42 U.S.C. 3181 et seq.] shall be entitled to participate as an observer in the deliberations of any such Board which contains one or more States which are members of such Commission.

**(c) Recommendations of Board**

Each Board established pursuant to subsection (a) of this section may make such recommendations as it determines to be appropriate to programs of the Department having a direct effect on the region.

**(d) Notice of reasons not to adopt recommendations**

If any Regional Advisory Board makes specific recommendations pursuant to subsection (c) of this section, the Secretary shall, if such recommendations are not adopted in the implementation of the program, notify the Board in writing of his reasons for not adopting such recommendations.

(Pub. L. 95-91, title VI, § 655, Aug. 4, 1977, 91 Stat. 602.)

REFERENCES IN TEXT

The Public Works and Economic Development Act, referred to in subsec. (b), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Title V of the Public Works and Economic Development Act was classified generally to subchapter V (§ 3181 et seq.) of chapter 38 of this title prior to repeal by Pub. L. 97-35, title XVIII, § 1821(a)(8), Aug. 13, 1981, 95 Stat. 766. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 7266. Designation of conservation officers**

The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Interior, the United States Postal Service,

and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal conservation officer of such Department or of the Administration. Such designated principal conservation officer shall be principally responsible for planning and implementation of energy conservation programs by such Department or Administration and principally responsible for coordination with the Department of Energy with respect to energy matters. Each agency, Department or Administration required to designate a principal conservation officer pursuant to this section shall periodically inform the Secretary of the identity of such conservation officer, and the Secretary shall periodically publish a list identifying such officers.

(Pub. L. 95-91, title VI, §656, Aug. 4, 1977, 91 Stat. 602.)

### § 7267. Annual report

The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following October 1, 1977, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 774 of title 15, section 6325(c) of this title, section 10224(c) of this title, section 5877 of this title, and section 5914<sup>1</sup> of this title, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of

energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, to encourage conservation practices, and to increase efficiency; and further such summary shall include a description of the activities the Department is performing in support of environmental, social, economic and institutional, biomedical, physical and safety research, development, demonstration, and monitoring activities necessary to guarantee that technological programs, funded by the Department, are undertaken in a manner consistent with and capable of maintaining or improving the quality of the environment and of mitigating any undesirable environmental and safety impacts;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal/State, and local governments and non-governmental entities to achieve the purposes of this chapter;

(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace;

(7) a summary of substantive measures taken by the Department to stimulate and encourage the development of new manpower resources through the Nation's colleges and universities and to involve these institutions in the execution of the Department's research and development programs; and

(8) to the extent practicable, a summary of activities in the United States by companies or persons which are foreign owned or controlled and which own or control United States energy sources and supplies, including the magnitude of annual foreign direct investment in the energy sector in the United States and exports of energy resources from the United States by foreign owned or controlled business entities or persons, and such other related matters as the Secretary may deem appropriate.

(Pub. L. 95-91, title VI, §657, Aug. 4, 1977, 91 Stat. 603; Pub. L. 104-66, title I, §1052(g), Dec. 21, 1995, 109 Stat. 718.)

#### REFERENCES IN TEXT

Section 5914 of this title, referred to in text, was omitted from the Code.

This chapter, referred to in par. (5), was in the original "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

<sup>1</sup> See References in Text note below.

## AMENDMENTS

1995—Pub. L. 104-66 inserted “section 6325(c) of this title, section 10224(c) of this title,” after “section 774 of title 15,” in introductory provisions.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 3rd item on page 88 identifies a reporting provision which, as subsequently amended, is contained in this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

**§ 7268. Leasing report**

The Secretary of the Interior shall submit to the Congress not later than one year after August 4, 1977, a report on the organization of the leasing operations of the Federal Government, together with any recommendations for reorganizing such functions may deem necessary or appropriate.

(Pub. L. 95-91, title VI, § 658, Aug. 4, 1977, 91 Stat. 604.)

**§ 7269. Transfer of funds**

The Secretary, when authorized in an appropriation Act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 95-91, title VI, § 659, Aug. 4, 1977, 91 Stat. 604.)

## COSTS OF DEFINED BENEFIT PENSION PLANS FOR CONTRACTOR EMPLOYEES

Pub. L. 111-85, title III, § 308, Oct. 23, 2009, 123 Stat. 2872, provided that:

“(a) In any fiscal year in which the Secretary of Energy determines that additional funds are needed to reimburse the costs of defined benefit pension plans for contractor employees, the Secretary may transfer not more than 1 percent from each appropriation made available in this and subsequent Energy and Water Development Appropriation Acts to any other appropriation available to the Secretary in the same Act for such reimbursements.

“(b) Where the Secretary recovers the costs of defined benefit pension plans for contractor employees through charges for the indirect costs of research and activities at facilities of the Department of Energy, if the indirect costs attributable to defined benefit pension plan costs in a fiscal year are more than charges in fiscal year 2008, the Secretary shall carry out a transfer of funds under this section.

“(c) In carrying out a transfer under this section, the Secretary shall use each appropriation made available to the Department in that fiscal year as a source for the transfer, and shall reduce each appropriation by an equal percentage, except that appropriations for which the Secretary determines there exists a need for additional funds for pension plan costs in that fiscal year, as well as appropriations made available for the Power Marketing Administrations, the title XVII [probably means title XVII of Pub. L. 109-58 (42 U.S.C. 16511 et seq.)] loan guarantee program, and the Federal Energy Regulatory Commission, shall not be subject to this requirement.

“(d) Each January, the Secretary shall report to the Committees on Appropriations of the House of Representatives and the Senate on the state of defined ben-

efit pension plan liabilities in the Department for the preceding year.

“(e) This transfer authority does not apply to supplemental appropriations, and is in addition to any other transfer authority provided in this or any other Act. The authority provided under this section shall expire on September 30, 2015.

“(f) The Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate in writing not less than 30 days in advance of each transfer authorized by this section.”

**§ 7269a. Repealed. Pub. L. 109-289, div. B, title II, § 20319, as added Pub. L. 110-5, § 2, Feb. 15, 2007, 121 Stat. 21.**

Section, Pub. L. 102-377, title III, § 302, Oct. 2, 1992, 106 Stat. 1339, authorized transfer of funds between appropriations for Department of Energy activities.

**§ 7269b. Transfer of unexpended appropriation balances**

The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may on and after October 2, 1992, be transferred to appropriation accounts for such activities established pursuant to this title.<sup>1</sup> Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

(Pub. L. 102-377, title III, § 303, Oct. 2, 1992, 106 Stat. 1339.)

## REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 102-377, Oct. 2, 1992, 106 Stat. 1332. For complete classification of title III to the Code, see Tables.

## CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7269c. Funding for Department of Energy activities not included in Fossil Energy account**

In this Act and future Acts, up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this Fossil Energy account: *Provided further*, That in this Act and future Acts, the salaries for Federal employees performing research and development activities at the National Energy Technology Laboratory can continue to be funded from any appropriate DOE program accounts.

(Pub. L. 110-161, div. C, title III, Dec. 26, 2007, 121 Stat. 1958.)

## REFERENCES IN TEXT

This Act, referred to in text, is div. C of Pub. L. 110-161, Dec. 26, 2007, 121 Stat. 1937, known as the Energy and Water Development and Related Agencies Appropriations Act, 2008. For complete classification of this Act to the Code, see Tables.

<sup>1</sup> See References in Text note below.

## CODIFICATION

Section appears under the headings “Department of Energy”, “Energy Programs”, and “Fossil Energy Research and Development” in title III of div. C of Pub. L. 110-161. It was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2008, and also as part of the Consolidated Appropriations Act, 2008, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7270. Authorization of appropriations**

Appropriations to carry out the provisions of this chapter shall be subject to annual authorization.

(Pub. L. 95-91, title VI, § 660, Aug. 4, 1977, 91 Stat. 604.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

**§ 7270a. Guards for Strategic Petroleum Reserve facilities**

Under guidelines prescribed by the Secretary and concurred with by the Attorney General, employees of the Department of Energy and employees of contractors and subcontractors (at any tier) of the Department of Energy, while discharging their official duties of protecting the Strategic Petroleum Reserve (established under part B of title I of the Energy Policy and Conservation Act [42 U.S.C. 6231 et seq.]) or its storage or related facilities or of protecting persons upon the Strategic Petroleum Reserve or its storage or related facilities, may—

(1) carry firearms, if designated by the Secretary and qualified for the use of firearms under the guidelines; and

(2) arrest without warrant any person for an offense against the United States—

(A) in the case of a felony, if the employee has reasonable grounds to believe that the person—

(i) has committed or is committing a felony; and

(ii) is in or is fleeing from the immediate area of the felony; and

(B) in the case of a felony or misdemeanor, if the violation is committed in the presence of the employee.

(Pub. L. 95-91, title VI, § 661, as added Pub. L. 100-531, § 1(a), Oct. 25, 1988, 102 Stat. 2652.)

## REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in text, is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title I of the Act is classified generally to part B (§ 6231 et seq.) of subchapter I of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

**§ 7270b. Trespass on Strategic Petroleum Reserve facilities**

(a) The Secretary may issue regulations relating to the entry upon or carrying, transporting,

or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property into or onto the Strategic Petroleum Reserve, its storage or related facilities, or real property subject to the jurisdiction, administration, or in the custody of the Secretary under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231-6247). The Secretary shall post conspicuously, on the property subject to the regulations, notification that the property is subject to the regulations.

(b) Whoever willfully violates a regulation of the Secretary issued under subsection (a) of this section shall be guilty of a misdemeanor and punished upon conviction by a fine of not more than \$5,000, imprisonment for not more than one year, or both.

(Pub. L. 95-91, title VI, § 662, as added Pub. L. 100-531, § 1(a), Oct. 25, 1988, 102 Stat. 2652.)

## REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title I of the Act is classified generally to part B (§ 6231 et seq.) of subchapter I of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

**§ 7270c. Annual assessment and report on vulnerability of facilities to terrorist attack**

(a) The Secretary shall, on an annual basis, conduct a comprehensive assessment of the vulnerability of Department facilities to terrorist attack.

(b) Not later than January 31 each year, the Secretary shall submit to Congress a report on the assessment conducted under subsection (a) of this section during the preceding year. Each report shall include the results of the assessment covered by such report, together with such findings and recommendations as the Secretary considers appropriate.

(Pub. L. 95-91, title VI, § 663, as added Pub. L. 107-107, div. C, title XXXI, § 3154(a), Dec. 28, 2001, 115 Stat. 1377.)

**§ 7271. Transferred**

## CODIFICATION

Section, Pub. L. 95-509, title II, § 208, Oct. 24, 1978, 92 Stat. 1779, which related to single annual requests by the Secretary for authorizations of appropriations for programs involving the common defense and security of the United States, was renumbered section 4731 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)(7), Nov. 24, 2003, 117 Stat. 1782, and was classified to section 2771 of Title 50, War and National Defense, prior to repeal by Pub. L. 112-239, div. C, title XXXI, § 3131(u)(1), Jan. 2, 2013, 126 Stat. 2184.

**§ 7271a. Repealed. Pub. L. 105-85, div. C, title XXXI, § 3152(h), Nov. 18, 1997, 111 Stat. 2042**

Section, Pub. L. 101-189, div. C, title XXXI, § 3143, Nov. 29, 1989, 103 Stat. 1681, related to major Department of Energy national security programs.

**§ 7271b. Repealed. Pub. L. 106-65, div. C, title XXXII, § 3294(f), Oct. 5, 1999, 113 Stat. 970**

Section, Pub. L. 104-201, div. C, title XXXI, §3155, Sept. 23, 1996, 110 Stat. 2841, related to requirement for annual five-year budget for national security programs of Department of Energy.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

**§ 7271c. Repealed. Pub. L. 105-85, div. C, title XXXI, § 3152(b), Nov. 18, 1997, 111 Stat. 2042**

Section, Pub. L. 104-201, div. C, title XXXI, §3156, Sept. 23, 1996, 110 Stat. 2841, related to requirements for Department of Energy weapons activities budgets for fiscal years after fiscal year 1997.

**§§ 7271d to 7273a. Transferred**

CODIFICATION

Section 7271d, Pub. L. 107-314, div. C, title XXXI, §3143, Dec. 2, 2002, 116 Stat. 2733, which related to requirements for specific funding requests for new or modified nuclear weapons, was renumbered section 4209 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(e)(10), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2529 of Title 50, War and National Defense.

Section 7272, Pub. L. 96-540, title II, §210, Dec. 17, 1980, 94 Stat. 3202, which prohibited the use of funds for purposes related to the licensing of defense activities or facilities of the Department of Energy by the Nuclear Regulatory Commission, was renumbered section 4103 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)(4)(A)-(C)(ii), Nov. 24, 2003, 117 Stat. 1757, and is classified to section 2513 of Title 50, War and National Defense.

Section 7273, Pub. L. 96-540, title II, §211, Dec. 17, 1980, 94 Stat. 3203, which related to restrictions on the use of funds to pay penalties under the Clean Air Act, was renumbered section 4722 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)(5)(A)-(C)(ii), Nov. 24, 2003, 117 Stat. 1781, 1782, and is classified to section 2762 of Title 50, War and National Defense.

Section 7273a, Pub. L. 99-661, div. C, title I, §3132, Nov. 14, 1986, 100 Stat. 4063, which related to restrictions on the use of funds to pay penalties under environmental laws, was renumbered section 4721 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)(4)(A)-(C), Nov. 24, 2003, 117 Stat. 1781, and is classified to section 2761 of Title 50, War and National Defense.

**§ 7273b. Security investigations**

(1) No funds appropriated to the Department of Energy may be obligated or expended for the conduct of an investigation by the Department of Energy or any other Federal department or agency for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Energy determines both of the following:

(A) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

(B) That no other department or agency of the Federal government is conducting an in-

vestigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(2) For purposes of paragraph (1)(A), a current investigation file is a file on an investigation that has been conducted within the past five years.

(Pub. L. 101-510, div. C, title XXXI, §3104(d), Nov. 5, 1990, 104 Stat. 1828.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7273c. Transferred**

CODIFICATION

Section, Pub. L. 105-85, div. C, title XXXI, §3133, Nov. 18, 1997, 111 Stat. 2036; Pub. L. 105-261, div. A, title X, §1069(b)(3), div. C, title XXXI, §3131, Oct. 17, 1998, 112 Stat. 2136, 2246, which related to international cooperative stockpile stewardship, was renumbered section 4301 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(f)(2)(A)-(C), Nov. 24, 2003, 117 Stat. 1762, and was classified to section 2561 of Title 50, War and National Defense, prior to repeal by Pub. L. 111-84, div. C, title XXXI, §3117(a), Oct. 28, 2009, 123 Stat. 2709.

**§ 7274. Environmental impact statements relating to defense facilities of Department of Energy**

(1) The Secretary may not proceed with the preparation of an environmental impact statement relating to the construction or operation of a defense facility of the Department of Energy if the estimated cost of preparing such statement exceeds \$250,000 unless—

(A) the Secretary has notified the Committees on Armed Services of the Senate and the House of Representatives of his intent to prepare such statement and a period of thirty days has expired after the date on which such notice was received by such committees; or

(B) the Secretary has received from each such committee, before the expiration of such thirty-day period, a written notice that the committee agrees with the decision of the Secretary regarding the preparation of such statement.

(2) The provisions of paragraph (1) shall not apply in the case of any environmental impact statement on which the Secretary began preparation before December 4, 1981.

(Pub. L. 97-90, title II, §212(b), Dec. 4, 1981, 95 Stat. 1171.)

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982, and not as part of the Department of Energy Organization Act which comprises this chapter.

NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE REPORT REQUIREMENT

Pub. L. 101-510, div. C, title XXXI, §3133, Nov. 5, 1990, 104 Stat. 1832, directed Secretary of Energy, not later than 30 days after the end of each quarter of fiscal

years 1991 and 1992, to submit to Congress a brief report on Department of Energy's compliance with National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), which was to contain a brief description of each proposed action to be taken by the Department of Energy, the environmental impact of which was not clearly insignificant, and a description of the steps taken or proposed to be taken by the Department of Energy to assess the environmental impact of the proposed action, and if the Secretary found that the proposed action of the Department of Energy would have no significant impact, the Secretary was to include the rationale for that determination.

#### §§ 7274a to 7274d. Transferred

##### CODIFICATION

Section 7274a, Pub. L. 101-189, div. C, title XXXI, §3141, Nov. 29, 1989, 103 Stat. 1679; Pub. L. 105-85, div. C, title XXXI, §3152(g), Nov. 18, 1997, 111 Stat. 2042, which related to a defense waste cleanup technology program, was renumbered section 4406 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(g)(7)(A)-(C), Nov. 24, 2003, 117 Stat. 1765, and is classified to section 2586 of Title 50, War and National Defense.

Section 7274b, Pub. L. 101-189, div. C, title XXXI, §3156, Nov. 29, 1989, 103 Stat. 1683, which related to the submission of reports in connection with permanent closures of Department of Energy defense nuclear facilities, was renumbered section 4422 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(g)(12)(A)-(C), Nov. 24, 2003, 117 Stat. 1766, and is classified to section 2602 of Title 50, War and National Defense.

Section 7274c, Pub. L. 101-510, div. C, title XXXI, §3134, Nov. 5, 1990, 104 Stat. 1833, which related to the submission of reports on environmental restoration expenditures, was renumbered section 4407 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(g)(8)(A)-(C), Nov. 24, 2003, 117 Stat. 1765, and is classified to section 2587 of Title 50, War and National Defense.

Section 7274d, Pub. L. 102-190, div. C, title XXXI, §3131, Dec. 5, 1991, 105 Stat. 1571, which related to worker protection at nuclear weapons facilities, was renumbered section 4641 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(i)(12)(A)-(C), Nov. 24, 2003, 117 Stat. 1779, and is classified to section 2731 of Title 50, War and National Defense.

#### § 7274e. Scholarship and fellowship program for environmental restoration and waste management

##### (a) Establishment

The Secretary of Energy shall conduct a scholarship and fellowship program for the purpose of enabling individuals to qualify for employment in environmental restoration and waste management positions in the Department of Energy. The scholarship and fellowship program shall be known as the "Marilyn Lloyd Scholarship and Fellowship Program".

##### (b) Eligibility

To be eligible to participate in the scholarship and fellowship program, an individual must—

- (1) be accepted for enrollment or be currently enrolled as a full-time student at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]);

- (2) be pursuing a program of education that leads to an appropriate higher education degree in a qualifying field of study, as determined by the Secretary;

- (3) sign an agreement described in subsection (c) of this section;

- (4) be a citizen or national of the United States or be an alien lawfully admitted to the United States for permanent residence; and

- (5) meet such other requirements as the Secretary prescribes.

##### (c) Agreement

An agreement between the Secretary and a participant in the scholarship and fellowship program established under this section shall be in writing, shall be signed by the participant, and shall include the following provisions:

- (1) The Secretary's agreement to provide the participant with educational assistance for a specified number of school years (not exceeding 5) during which the participant is pursuing a program of education in a qualifying field of study. The assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

- (2) The participant's agreement (A) to accept such educational assistance, (B) to maintain enrollment and attendance in the program of education until completed, (C) while enrolled in such program, to maintain satisfactory academic progress as prescribed by the institution of higher education in which the participant is enrolled, and (D) after completion of the program of education, to serve as a full-time employee in an environmental restoration or waste management position in the Department of Energy for a period of 12 months for each school year or part thereof for which the participant is provided a scholarship or fellowship under the program established under this section.

##### (d) Repayment

- (1) Any person participating in a scholarship or fellowship program established under this section shall agree to pay to the United States the total amount of educational assistance provided to the person under the program, plus interest at the rate prescribed by paragraph (4), if the person—

- (A) does not complete the course of education as agreed to pursuant to subsection (c) of this section, or completes the course of education but declines to serve in a position in the Department of Energy as agreed to pursuant to subsection (c) of this section; or

- (B) is voluntarily separated from service or involuntarily separated for cause from the Department of Energy before the end of the period for which the person has agreed to continue in the service of the Department of Energy.

- (2) If an employee fails to fulfill his agreement to pay to the Government the total amount of educational assistance provided to the person under the program, plus interest at the rate prescribed by paragraph (4), a sum equal to the amount of the educational assistance (plus such interest) is recoverable by the Government from the person or his estate by—

(A) in the case of a person who is an employee, setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(B) such other method as is provided by law for the recovery of amounts owing to the Government.

(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) For purposes of repayment under this section, the total amount of educational assistance provided to a person under the program shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

**(e) Preference for cooperative education students**

In evaluating applicants for award of scholarships and fellowships under the program, the Secretary of Energy may give a preference to an individual who is enrolled in, or accepted for enrollment in, an educational institution that has a cooperative education program with the Department of Energy.

**(f) Coordination of benefits**

A scholarship or fellowship awarded under this section shall be taken into account in determining the eligibility of the student for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]).

**(g) Award of scholarships and fellowships**

(1) Subject to paragraph (2), the Secretary shall award at least 20 scholarships (for undergraduate students) and 20 fellowships (for graduate students) during fiscal year 1992.

(2) The requirement to award 20 scholarships and 20 fellowships under paragraph (1) applies only to the extent there is a sufficient number of applicants qualified for such awards.

**(h) Report to Congress**

Not later than January 1, 1993, the Secretary of Energy shall submit to Congress a report on activities undertaken under the program and recommendations for future activities under the program.

**(i) Funding**

Of the funds authorized to be appropriated pursuant to section 3101(9)(B), \$1,000,000 may be used for the purpose of carrying out this section.

(Pub. L. 102-190, div. C, title XXXI, §3132, Dec. 5, 1991, 105 Stat. 1572; Pub. L. 103-337, div. C, title XXXI, §3156(b)(1), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 105-244, title I, §102(a)(13)(F), Oct. 7, 1998, 112 Stat. 1620.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of

chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 3101(9)(B), referred to in subsec. (i), is section 3101(9)(B) of Pub. L. 102-190, div. C, title XXXI, Dec. 5, 1991, 105 Stat. 1564, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-244 substituted “section 101 of the Higher Education Act of 1965” for “section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))”.

1994—Subsec. (a). Pub. L. 103-337 inserted at end “The scholarship and fellowship program shall be known as the ‘Marilyn Lloyd Scholarship and Fellowship Program’.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. C, title XXXI, §3156(b)(2), Oct. 5, 1994, 108 Stat. 3092, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on January 3, 1995.”

**§ 7274f. Transferred**

CODIFICATION

Section, Pub. L. 102-190, div. C, title XXXI, §3134, Dec. 5, 1991, 105 Stat. 1575, which related to the Defense Environmental Restoration and Waste Management Account, was renumbered section 4401 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(g)(2), Nov. 24, 2003, 117 Stat. 1764, and is classified to section 2581 of Title 50, War and National Defense.

**§ 7274g. Environmental restoration and waste management five-year plan and budget reports**

**(a) Five-year plan**

(1) Not later than September 1 of each year, the Secretary of Energy shall issue a plan for environmental restoration and waste management activities to be conducted, during the five-year period beginning on October 1 of the next calendar year, at all facilities owned or operated by the Department of Energy except defense nuclear facilities. The plan also shall contain a description of environmental restoration and waste management activities conducted during the fiscal year in which the plan is submitted and of such activities to be conducted during the fiscal year beginning on October 1 of the same calendar year. Such five-year plan shall be designed to complete environmental restoration at all such Department of Energy facilities not later than the year 2019.

(2) The Secretary shall prepare each annual five-year plan in a preliminary form at least four months before the date on which that plan is required to be issued under paragraph (1). The preliminary plan shall contain the matters referred to in paragraph (4) (other than the mat-



ters referred to in subparagraph (J) of that paragraph). The Secretary shall provide the preliminary plan to the Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and the public for coordination, review, and comment.

(3) At the same time the Secretary issues an annual five-year plan under paragraph (1), the Secretary shall submit the plan to the President and Congress, publish a notice of the issuance of the plan in the Federal Register, and make the plan available to the Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and the public.

(4) The annual five-year plan, and the actions and other matters contained in the plan, shall be in accordance with all laws, regulations, permits, orders, and agreements. The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:

(A) A description of the actions, including identification of specific projects, necessary to maintain or achieve compliance with Federal, State, or local environmental laws, regulations, permits, orders, and agreements.

(B) A description of the actions, including identification of specific projects, to be taken at each Department of Energy facility in order to implement environmental restoration activities planned for each such facility.

(C) A description of research and development activities for the expeditious and efficient environmental restoration of such facilities.

(D) A description of the technologies and facilities necessary to carry out the environmental restoration activities.

(E) A description of the waste management activities, including identification of specific projects, necessary to continue to operate the Department of Energy facilities or to decontaminate and decommission the facilities, as the case may be.

(F) A description of research and development activities for waste management.

(G) A description of the technologies and facilities necessary to carry out the waste management activities.

(H) A description of activities and practices that the Secretary is undertaking or plans to undertake to minimize the generation of waste.

(I) The estimated costs of, and personnel required for, each project, action, or activity contained in the plan.

(J) A description of the respects in which the plan differs from the preliminary form of that plan issued pursuant to paragraph (2), together with the reasons for any differences.

(K) A discussion of the implementation of the preceding annual five-year plan.

(L) Such other matters as the Secretary finds appropriate and in the public interest.

(5) The Secretary shall consult with the Administrator of the Environmental Protection Agency, Governors and Attorneys General of affected States, and appropriate representatives of affected Indian tribes in the preparation of the plan and the preliminary form of the plan pursuant to paragraphs (1) and (2). The Secretary shall include as an appendix to the plan (A) all comments submitted on the preliminary form of the plan by the Administrator, Governors and Attorneys General of affected States, and affected Indian tribes, and (B) a summary of comments submitted by the public.

(6) The first annual five-year plan issued pursuant to this section shall be issued in 1992.

#### **(b) Treatment of plans under section 4332**

The development and adoption of any part of any plan (including any preliminary form of any such plan) under subsection (a) of this section shall not be considered a major Federal action for the purposes of subparagraph (C), (E), or (F) of section 4332(2) of this title. Nothing in this subsection shall affect the Department of Energy's ongoing preparation of a programmatic environmental impact statement on environmental restoration and waste management.

#### **(c) Grants**

The Secretary of Energy is authorized to award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to assist such States and tribes in participating in the development of the annual five-year plan (including the preliminary form of such plan).

#### **(d) Funding**

Of the funds authorized to be appropriated pursuant to section 3103, \$20,000,000 may be used for the purpose of carrying out subsection (c) of this section.

#### **(e) Budget reports**

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the President shall submit to Congress a description of proposed activities and funding levels contained in the annual five-year plan (issued, pursuant to subsection (a)(1) of this section, in the year preceding the year in which the budget is submitted to Congress) that are not included in the budget or are included in the budget in a different form or at a different funding level, together with the reasons for such differences.

(Pub. L. 102-190, div. C, title XXXI, §3135, Dec. 5, 1991, 105 Stat. 1575; Pub. L. 103-337, div. C, title XXXI, §3160(a), Oct. 5, 1994, 108 Stat. 3094.)

#### REFERENCES IN TEXT

Section 3103, referred to in subsec. (d), is section 3103 of Pub. L. 102-190, div. C, title XXXI, Dec. 5, 1991, 105 Stat. 1566, which is not classified to the Code.

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-337, §3160(a)(1), substituted “all facilities owned or operated by the Department of Energy except defense nuclear facilities” for “(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy” in first sentence and inserted “such” after “restoration at all” in third sentence.

Subsec. (a)(4). Pub. L. 103-337, §3160(a)(2), substituted “The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:” for “The plan shall contain the following matters:” in introductory provisions.

Subsec. (a)(6), (7). Pub. L. 103-337, §3160(a)(3), (4), re-designated par. (7) as (6) and struck out former par. (6) which read as follows: “The Secretary shall include in the annual five-year plan issued in 1992 a discussion of the feasibility and need, if any, for the establishment of a contingency fund in the Department of Energy to provide funds necessary to meet the requirements in environmental laws, to remove an immediate threat to worker or public health and safety, to prevent or improve a condition where postponement of activity would lead to deterioration of the environment, and to undertake additional environmental restoration activities at Department of Energy defense nuclear facilities that are not provided for in the budgets for fiscal years in which it is necessary to meet such requirements or undertake such activities.”

#### PUBLIC PARTICIPATION IN PLANNING

Pub. L. 103-337, div. C, title XXXI, §3160(e), Oct. 5, 1994, 108 Stat. 3095, which was formerly set out as a note under this section, was renumbered section 4408 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(g)(9), Nov. 24, 2003, 117 Stat. 1765, and is classified to section 2588 of Title 50, War and National Defense.

#### §§ 7274h, 7274i. Transferred

##### CODIFICATION

Section 7274h, Pub. L. 102-484, div. C, title XXXI, §3161, Oct. 23, 1992, 106 Stat. 2644; Pub. L. 103-337, div. A, title X, §1070(c)(2), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(7)(A), (f)(6)(A)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-419, 2681-430; Pub. L. 107-107, div. A, title X, §1048(h)(1), Dec. 28, 2001, 115 Stat. 1229, which related to the Department of Energy’s workforce restructuring plan for defense nuclear facilities, was renumbered section 4604 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(i)(5)(A)-(C), Nov. 24, 2003, 117 Stat. 1777, and is classified to section 2704 of Title 50, War and National Defense.

Section 7274i, Pub. L. 102-484, div. C, title XXXI, §3162, Oct. 23, 1992, 106 Stat. 2646, which related to a program to monitor Department of Energy workers exposed to hazardous and radioactive substances, was renumbered section 4643 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(i)(14)(A)-(C), Nov. 24, 2003, 117 Stat. 1779, 1780, and is classified to section 2733 of Title 50, War and National Defense.

#### SEMIANNUAL REPORT TO CONGRESS OF LOCAL IMPACT ASSISTANCE

Pub. L. 105-85, div. C, title XXXI, §3153(f), Nov. 18, 1997, 111 Stat. 2044, which was formerly set out as a note under section 7274h of this title, was renumbered section 4851 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(k)(15)(A)-(C)(ii), Nov. 24, 2003, 117 Stat. 1786, and was classified to section 2821 of Title 50, War and National Defense, prior to repeal by Pub. L. 112-239, div. C, title XXXI, §3131(q)(2), Jan. 2, 2013, 126 Stat. 2183.

#### § 7274j. Repealed. Pub. L. 108-136, div. C, title XXXI, §3141(m)(2), Nov. 24, 2003, 117 Stat. 1787

Section, Pub. L. 102-484, div. C, title XXXI, §3163, Oct. 23, 1992, 106 Stat. 2647; Pub. L. 104-106, div. A, title XV,

§1504(c)(2), Feb. 10, 1996, 110 Stat. 514, related to definitions for purposes of former sections 7274h to 7274j of this title.

#### § 7274k. Transferred

##### CODIFICATION

Section, Pub. L. 103-160, div. C, title XXXI, §3153, Nov. 30, 1993, 107 Stat. 1950; Pub. L. 103-337, div. C, title XXXI, §3160(b)-(d), Oct. 5, 1994, 108 Stat. 3094; Pub. L. 104-201, div. C, title XXXI, §3152, Sept. 23, 1996, 110 Stat. 2839; Pub. L. 105-85, div. C, title XXXI, §3160, Nov. 18, 1997, 111 Stat. 2048, which related to baseline environmental management reports, was renumbered section 4404 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(g)(5), Nov. 24, 2003, 117 Stat. 1765, and was classified to former section 2584 of Title 50, War and National Defense, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(e)(5), Dec. 26, 2013, 127 Stat. 1076.

#### REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAMS

Pub. L. 104-201, div. C, title XXXI, §3153, Sept. 23, 1996, 110 Stat. 2839, which was formerly set out as a note under this section, was renumbered section 4402 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(g)(3)(A)-(C), Nov. 24, 2003, 117 Stat. 1764, and is classified to section 2582 of Title 50, War and National Defense.

#### ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES

Pub. L. 104-106, div. C, title XXXI, §3156, Feb. 10, 1996, 110 Stat. 625, which was formerly set out as a note under this section, was renumbered section 4405 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(g)(6)(A)-(C), Nov. 24, 2003, 117 Stat. 1765, and is classified to section 2585 of Title 50, War and National Defense.

#### § 7274l. Authority to transfer certain Department of Energy property

##### (a) Authority to transfer

(1) Notwithstanding any other provision of law, the Secretary of Energy may transfer, for consideration, all right, title, and interest of the United States in and to the property referred to in subsection (b) of this section to any person if the Secretary determines that such transfer will mitigate the adverse economic consequences that might otherwise arise from the closure of a Department of Energy facility.

(2) The amount of consideration received by the United States for a transfer under paragraph (1) may be less than the fair market value of the property transferred if the Secretary determines that the receipt of such lesser amount by the United States is in accordance with the purpose of such transfer under this section.

(3) The Secretary may require any additional terms and conditions with respect to a transfer of property under paragraph (1) that the Secretary determines appropriate to protect the interests of the United States.

##### (b) Covered property

Property referred to in subsection (a) of this section is the following property of the Department of Energy that is located at a Department of Energy facility to be closed or reconfigured:

(1) The personal property and equipment at the facility that the Secretary determines to

be excess to the needs of the Department of Energy.

(2) Any personal property and equipment at the facility (other than the property and equipment referred to in paragraph (1)) the replacement cost of which does not exceed an amount equal to 110 percent of the costs of relocating the property or equipment to another facility of the Department of Energy.

(Pub. L. 103-160, div. C, title XXXI, §3155, Nov. 30, 1993, 107 Stat. 1953.)

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of the Department of Energy Organization Act which comprises this chapter.

### §§ 7274m to 7274o. Transferred

#### CODIFICATION

Section 7274m, Pub. L. 103-337, div. C, title XXXI, §3163, Oct. 5, 1994, 108 Stat. 3097, which related to safety oversight and enforcement at defense nuclear facilities, was renumbered section 4642 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(i)(13)(A)-(C), Nov. 24, 2003, 117 Stat. 1779, and is classified to section 2732 of Title 50, War and National Defense.

Section 7274n, Pub. L. 104-201, div. C, title XXXI, §3143, Sept. 23, 1996, 110 Stat. 2836, which related to projects to accelerate closure activities at defense nuclear facilities, was renumbered section 4421 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(g)(11)(A)-(C), Nov. 24, 2003, 117 Stat. 1766, and was classified to former section 2601 of Title 50, War and National Defense, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(e)(10), Dec. 26, 2013, 127 Stat. 1077.

Section 7274o, Pub. L. 104-201, div. C, title XXXI, §3159, Sept. 23, 1996, 110 Stat. 2842; Pub. L. 105-85, div. A, title XIII, §1305(c), (d), Nov. 18, 1997, 111 Stat. 1954; Pub. L. 106-65, div. C, title XXXI, §3163(f), Oct. 5, 1999, 113 Stat. 946, which related to reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants, was renumbered section 4213 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(e)(14), Nov. 24, 2003, 117 Stat. 1760, and is classified to section 2533 of Title 50, War and National Defense.

#### SUBMITTAL OF ANNUAL REPORT ON STATUS OF SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES

Pub. L. 105-85, div. C, title XXXI, §3162, Nov. 18, 1997, 111 Stat. 2049, as amended by Pub. L. 106-65, div. C, title XXXI, §3142(h)(2), Oct. 5, 1999, 113 Stat. 934, which was formerly set out as a note under section 7274m of this title, was renumbered section 4506 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(h)(7)(A)-(C), Nov. 24, 2003, 117 Stat. 1773, and is classified to section 2657 of Title 50, War and National Defense.

#### EMPLOYEE INCENTIVES FOR EMPLOYEES AT CLOSURE PROJECT FACILITIES

Pub. L. 106-398, §1 [div. C, title XXXI, §3136], Oct. 30, 2000, 114 Stat. 1654, 1654A-458, which was formerly set out as a note under section 7274n of this title, was renumbered section 4603 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(i)(4)(A)-(C), Nov. 24, 2003, 117 Stat. 1777, and was classified to section 2703 of Title 50, War and National

Defense, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(g)(3)(A), Dec. 26, 2013, 127 Stat. 1079.

### § 7274p. Transferred

#### CODIFICATION

Section, Pub. L. 105-85, div. A, title XIII, §1305, Nov. 18, 1997, 111 Stat. 1952, which related to advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile, was renumbered section 4218 of div. D of Pub. L. 107-314, the Atomic Energy Defense Act, by Pub. L. 112-239, div. C, title XXXI, §3164(a)(1)-(3), Jan. 2, 2013, 126 Stat. 2206, and is classified to section 2538 of Title 50, War and National Defense.

### § 7274q. Transferred

#### CODIFICATION

Section, Pub. L. 105-85, div. C, title XXXI, §3158, Nov. 18, 1997, 111 Stat. 2046; Pub. L. 108-7, div. D, title V, §506, Feb. 20, 2003, 117 Stat. 158, which related to transfers of real property at certain Department of Energy facilities, was renumbered section 4831 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(k)(11), Nov. 24, 2003, 117 Stat. 1785, and is classified to section 2811 of Title 50, War and National Defense.

### § 7274r. Transferred

#### CODIFICATION

Section, Pub. L. 108-7, div. D, title III, §308, Feb. 20, 2003, 117 Stat. 154, which related to research, development, and demonstration activities with respect to engineering and manufacturing capabilities at covered nuclear weapons production plants, was transferred and is listed in a similar provisions note under the heading Activities at Covered Nuclear Weapons Facilities under section 2812 of Title 50, War and National Defense.

#### ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION BY PLANT MANAGERS OF CERTAIN NUCLEAR WEAPONS PRODUCTION PLANTS

Pub. L. 106-398, §1 [div. C, title XXXI, §3156], Oct. 30, 2000, 114 Stat. 1654, 1654A-467, which was formerly set out as a note under this section, was renumbered section 4832 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(k)(12), Nov. 24, 2003, 117 Stat. 1785, and is classified to section 2812 of Title 50, War and National Defense.

### § 7274s. Transferred

#### CODIFICATION

Section, Pub. L. 107-314, div. C, title XXXI, §3141, Dec. 2, 2002, 116 Stat. 2730, which related to annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile, was renumbered section 4205 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(e)(6)(A)-(C), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2525 of Title 50, War and National Defense.

### § 7275. Definitions

As used in sections 7275 to 7276c of this title:

(1) The term "Administrator" means the Administrator of the Western Area Power Administration.

(2) The term "integrated resource planning" means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and effi-

ciency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

(3) The term “least cost option” means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

(4) The term “long-term firm power service contract” means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

(5) The terms “customer” or “customers” means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

(6) For any customer, the term “applicable integrated resource plan” means the integrated resource plan approved by the Administrator under sections 7275 to 7276c of this title for that customer.

(Pub. L. 98-381, title II, §201, as added Pub. L. 102-486, title I, §114, Oct. 24, 1992, 106 Stat. 2799.)

#### CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 7275, Pub. L. 98-381, title II, §201, Aug. 17, 1984, 98 Stat. 1340, related to energy conservation program of Western Area Power Administration, prior to the general amendment of title II of Pub. L. 98-381 by section 114 of Pub. L. 102-486.

### § 7276. Regulations to require integrated resource planning

#### (a) Regulations

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after October 24, 1992, integrated resource planning in accordance with the

requirements of sections 7275 to 7276c of this title.

#### (b) Certain small customers

Notwithstanding subsection (a) of this section, for customers with total annual energy sales or usage of 25 Gigawatt Hours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

(Pub. L. 98-381, title II, §202, as added Pub. L. 102-486, title I, §114, Oct. 24, 1992, 106 Stat. 2800.)

#### CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 7276, Pub. L. 98-381, title II, §202, Aug. 17, 1984, 98 Stat. 1341, related to regulations of Western Area Power Administration, including amendment of regulations after notice and comment, evaluation of energy conservation programs, and allowance by Western for incorporation of elements of such programs, prior to the general amendment of title II of Pub. L. 98-381 by section 114 of Pub. L. 102-486.

### § 7276a. Technical assistance

The Administrator may provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of sections 7275 to 7276c of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

(Pub. L. 98-381, title II, §203, as added Pub. L. 102-486, title I, §114, Oct. 24, 1992, 106 Stat. 2800.)

#### CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

### § 7276b. Integrated resource plans

#### (a) Review by Western Area Power Administration

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the

Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with sections 7275 to 7276c of this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with sections 7275 to 7276c of this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of sections 7275 to 7276c of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with sections 7275 to 7276c of this title.

**(b) Criteria for approval of integrated resource plans**

The Administrator shall approve an integrated resource plan submitted as required under subsection (a) of this section if, in developing the plan, the customer has:

- (1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.
- (2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.
- (3) Designated "least-cost options" to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.
- (4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.
- (5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.
- (6) Included load forecasting.
- (7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.
- (8) Met such other criteria as the Administrator shall require.

**(c) Use of other integrated resource plans**

Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, including integrated resource planning considered and implemented pursuant to section 2621(d) of title 16, in evaluating that customer's integrated resource plan under sections 7275 to 7276c of this title, the Administrator shall accept such plan as fulfillment of the requirements of sections 7275 to 7276c of this title to the extent such plan substantially complies with the requirements of sections 7275 to 7276c of this title.

**(d) Compliance with integrated resource plans**

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) of this section the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

**(e) Enforcement**

**(1) No approved plan**

If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

**(2) Failure to comply with approved plan**

After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

**(3) Reduction in power allocation**

In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

**(f) Integrated resource planning cooperatives**

With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with sections 7275 to 7276c of this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

**(g) Customers with more than 1 contract**

If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under sections 7275 to 7276c of this title.

**(h) Program review**

Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in subsection (b) of this section to reflect changes, if any, in technology, needs, or other developments.

(Pub. L. 98-381, title II, §204, as added Pub. L. 102-486, title I, §114, Oct. 24, 1992, 106 Stat. 2800.)

## CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7276c. Miscellaneous provisions****(a) Environmental impact statement**

The provisions of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] shall

apply to actions of the Administrator implementing sections 7275 to 7276c of this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

**(b) Annual reports**

The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under sections 7275 to 7276c of this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

**(c) State regulated investor-owned utilities**

Any State regulated electric utility (as defined in section 2602(18) of title 16) shall be exempt from the provisions of sections 7275 to 7276c of this title.

**(d) Rural Electrification Administration requirements**

Nothing in sections 7275 to 7276c of this title shall require a customer to take any action inconsistent with a requirement imposed by the Rural Electrification Administration<sup>1</sup>

(Pub. L. 98-381, title II, §205, as added Pub. L. 102-486, title I, §114, Oct. 24, 1992, 106 Stat. 2803.)

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7276d. Property protection program for power marketing administrations**

The Administrators of the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration may each carry out programs to reduce vandalism, theft, and destruction of property that is under their jurisdiction.

(Pub. L. 107-78, §1, Nov. 28, 2001, 115 Stat. 808.)

## CODIFICATION

Section was not enacted as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7276e. Provision of rewards**

In carrying out a program under this section and section 7276d of this title, each Administrator referred to in section 7276d of this title is authorized to provide rewards (including cash rewards) to individuals who provide information or evidence leading to the arrest and prosecution of individuals causing damage to, or loss of, Federal property under their jurisdiction. The amount of any one such reward paid to any individual may not exceed a value of \$1,000.

<sup>1</sup> So in original. Probably should be followed by a period.

(Pub. L. 107-78, § 2, Nov. 28, 2001, 115 Stat. 808.)

CODIFICATION

Section was not enacted as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7276f. Western Area Power Administration; deposit and availability of discretionary offsetting collections**

Notwithstanding section 3302 of title 31, section 825s of title 16, and section 392a of title 43, funds collected by the Western Area Power Administration from the sale of power and related services that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

(Pub. L. 111-85, title III, Oct. 28, 2009, 123 Stat. 2870.)

REFERENCES IN TEXT

“This account” and “this appropriation”, referred to in text, mean funds appropriated under the heading “CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION” of title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010, Pub. L. 111-85.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2010, and not as part of the Department of Energy Organization Act which comprises this chapter.

PURCHASE POWER AND WHEELING EXPENSES

Pub. L. 113-76, div. D, title III, Jan. 17, 2014, 128 Stat. 171, provided: “That for purposes of this appropriation in this [Act] [div. D of Pub. L. 113-76, see Tables for classification] and subsequent Acts, purchase power and wheeling expenses includes the cost of voluntary purchases of power allowances in compliance with state greenhouse gas programs existing at the time of enactment of this Act [Jan. 17, 2014].”

**§ 7276g. Western Area Power Administration; deposit and availability of funds related to Falcon and Amistad Dams**

Notwithstanding the provisions of section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended, and section 3302 of title 31, all funds collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams that are applicable to the repayment of the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred.

(Pub. L. 111-85, title III, Oct. 28, 2009, 123 Stat. 2871.)

REFERENCES IN TEXT

Section 2 of the Act of June 18, 1954 (68 Stat. 255), referred to in text, probably means section 2 of act June 18, 1954, ch. 310, 68 Stat. 256, which is not classified to the Code.

“This account” and “this appropriation”, referred to in text, mean funds appropriated under the heading “FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND” of title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010, Pub. L. 111-85.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2010, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7277. Report concerning review of United States coal imports**

**(a) In general**

The Energy Information Administration shall issue a report quarterly, and provide an annual summary of the quarterly reports to the Congress, on the status of United States coal imports. Such quarterly reports may be published as a part of the Quarterly Coal Report published by the Energy Information Administration.

**(b) Contents**

Each report required by this section shall—

(1) include current and previous year data on the quantity, quality (including heating value, sulfur content, and ash content), and delivered price of all coals imported by domestic electric utility plants that imported more than 10,000 tons during the previous calendar year into the United States;

(2) identify the foreign nations exporting the coal, the domestic electric utility plants receiving coal from each exporting nation, the domestically produced coal supplied to such plants, and the domestic coal production, by State, displaced by the imported coal;

(3) identify (to the extent allowed under disclosure policy), at regional and State levels of aggregation, transportation modes and costs for delivery of imported coal from the exporting country port of origin to the point of consumption in the United States; and

(4) specifically highlight and analyze any significant trends of unusual variations in coal imports.

**(c) Date of reports**

The first report required by this section shall be submitted to Congress in March 1986. Subsequent reports shall be submitted within 90 days after the end of each quarter.

**(d) Limitation**

Information and data required for the purpose of this section shall be subject to the law regarding the collection and disclosure of such data.

(Pub. L. 99-58, title II, § 202, July 2, 1985, 99 Stat. 107.)

CODIFICATION

Section was enacted as part of the Energy Policy and Conservation Amendments Act of 1985, and also as part

of the National Coal Imports Reporting Act of 1985, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### SHORT TITLE

Pub. L. 99-58, title II, §201, July 2, 1985, 99 Stat. 107, provided that: "This title [enacting this section and provisions set out as a note below] may be cited as the 'National Coal Imports Reporting Act of 1985'."

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section requiring submittal of reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 14th item on page 90 of House Document No. 103-7.

#### ANALYSIS OF UNITED STATES COAL IMPORT MARKET; REPORT BY SECRETARY OF ENERGY TO CONGRESS

Pub. L. 99-58, title II, §203, July 2, 1985, 99 Stat. 108, provided that:

"(a) IN GENERAL.—The Secretary of Energy shall, through the Energy Information Administration, conduct a comprehensive analysis of the coal import market in the United States and report the findings of such analysis to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives, within nine months of the date of enactment of this Act [July 2, 1985].

"(b) CONTENTS.—The report required by this section shall—

"(1) contain a detailed analysis of potential domestic markets for foreign coals, by producing nation, between 1985 and 1995;

"(2) identify potential domestic consuming sectors of imported coal and evaluate the magnitude of any potential economic disruptions for each impacted State, including analysis of direct and indirect employment impact in the domestic coal industry and resulting income loss to each State;

"(3) identify domestically produced coal that potentially could be replaced by imported coal;

"(4) identify contractual commitments of domestic utilities expiring between 1985 and 1995 and describe spot buying practices of domestic utilities, fuel cost patterns, plant modification costs required to burn foreign coals, proximity of navigable waters to utilities, demand for compliance coal, availability of less expensive purchased power from Canada, and State and local considerations;

"(5) evaluate increased coal consumption by domestic electric utilities resulting from increased power sales and analyze the potential coal import market represented by this increased coal consumption, including consumption by existing coal-fired plants, new coal-fired plants projected up to the year 1995, and plants planning to convert to coal by 1995;

"(6) identify existing authorities available to the Federal Government relating to coal imports, assess the potential impact of exercising each of these authorities, and describe executive branch plans and strategies to address coal imports;

"(7) identify and characterize the coal export policies of all major coal exporting nations, including the United States, Australia, Canada, Colombia, Poland, and South Africa, with specific analysis of—

"(A) direct or indirect Government subsidies to coal exporters;

"(B) health, safety, and environmental regulations imposed on each coal producer; and

"(C) trade policies relating to coal exports;

"(8) evaluate the excess capacity of foreign producers, potential development of new export-oriented coal mines in foreign nations, operating costs of foreign coal mines, capacity of ocean vessels to transport foreign coal, and constraints on importing coal into the United States because of port and harbor availability;

"(9) identify specifically the participation of all United States corporations involved in mining and exporting coal from foreign nations; and

"(10) identify the policies governing coal imports of all coal-importing industrialized nations (including the United States, Japan, and European nations) by considering such factors as import duties or tariffs, import quotas, and other governmental restrictions or trade policies impacting coal imports."

#### § 7278. Availability of appropriations for Department of Energy for transportation, uniforms, security, and price support and loan guarantee programs; transfer of funds; acceptance of contributions

Appropriations for the Department of Energy under this title<sup>1</sup> in this and subsequent Energy and Water Development Appropriations Acts, on and after October 2, 1992, shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may on and after October 2, 1992, be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized on and after October 2, 1992, to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(Pub. L. 102-377, title III, §301, Oct. 2, 1992, 106 Stat. 1338.)

#### REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 102-377, Oct. 2, 1992, 106 Stat. 1332. For complete classification of title III to Code, see Tables.

#### CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

#### § 7278a. Availability of funds for energy and water development for multiyear contracts, grants, or cooperative agreements of \$1,000,000 or less

Notwithstanding section 301(c) of this Act, none of the funds made available under the heading "Department of Energy—Energy Programs—Science" in this or any subsequent Energy and Water Development and Related Agencies appropriations Act for any fiscal year may be used for a multiyear contract, grant, cooperative agreement, or Other Transaction Agreement of \$1,000,000 or less unless the contract, grant, cooperative agreement, or Other Transaction Agreement is funded for the full period of performance as anticipated at the time of award.

<sup>1</sup> See References in Text note below.



(Pub. L. 114–113, div. D, title III, §306, Dec. 18, 2015, 129 Stat. 2418.)

REFERENCES IN TEXT

Section 301(c) of this Act, referred to in text, means section 301(c) of Pub. L. 114–113, div. D, title III, Dec. 18, 2015, 129 Stat. 2416, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2016, and also as part of the Consolidated Appropriations Act, 2016, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7279. Identification in budget materials of amounts for certain Department of Energy pension obligations**

The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) specific identification, as a budgetary line item, of the amounts required to meet the pension obligations of the Department of Energy for contractor employees at each facility of the Department of Energy operated using amounts authorized to be appropriated for the Department of Energy.

(Pub. L. 111–84, div. C, title XXXI, §3143, Oct. 28, 2009, 123 Stat. 2716.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2010, and not as part of the Department of Energy Organization Act which comprises this chapter.

**§ 7279a. Future-years energy program annual submission and budgeting**

**(a) Submission to Congress**

The Secretary of Energy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years energy program reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years energy program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years. A future-years energy program shall be included in the fiscal year 2014 budget submission to Congress and every fiscal year thereafter.

**(b) Elements**

Each future-years energy program shall contain the following:

(1) The estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Secretary of Energy during the 5-fiscal year period covered by the program, expressed in a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31.

(2) The estimated expenditures and proposed appropriations shaped by high-level, prioritized program and budgetary guidance that is consistent with the administration's policies

and out year budget projections and reviewed by the Department of Energy's (DOE) senior leadership to ensure that the future-years energy program is consistent and congruent with previously established program and budgetary guidance.

(3) A description of the anticipated workload requirements for each DOE national laboratory during the 5-fiscal year period.

**(c) Consistency in budgeting**

(1) The Secretary of Energy shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary of Energy in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years energy program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the administration included pursuant to paragraph (5) of section 1105(a) of such title in the budget submitted to Congress under that section for any fiscal year.

(Pub. L. 112–74, div. B, title III, §304, Dec. 23, 2011, 125 Stat. 876.)

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Department of Energy Organization Act which comprises this chapter.

SUBCHAPTER VII—TRANSITIONAL,  
SAVINGS, AND CONFORMING PROVISIONS

**§ 7291. Transfer and allocations of appropriations and personnel**

(a) Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this chapter, subject to section 1531 of title 31, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out function<sup>1</sup> transferred by this chapter, personnel occupying those positions on October 1, 1977, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and posi-

<sup>1</sup> So in original. Probably should be "functions".