

tion to discuss official business of the Board if—

(A) no formal or informal vote or other official action is taken at the meeting;

(B) each individual present at the meeting is a member or an employee of the Board;

(C) at least one member of the Board from each political party is present at the meeting, unless all members of the Board are of the same political party at the time of the meeting; and

(D) the general counsel of the Board, or a designee of the general counsel, is present at the meeting.

(2) Disclosure of nonpublic collaborative discussions

(A) In general

Except as provided by subparagraph (B), not later than two business days after the conclusion of a meeting described in paragraph (1), the Board shall make available to the public, in a place easily accessible to the public—

(i) a list of the individuals present at the meeting; and

(ii) a summary of the matters, including key issues, discussed at the meeting, except for any matter the Board properly determines may be withheld from the public under section 552b(c) of title 5.

(B) Information about matters withheld from public

If the Board properly determines under subparagraph (A)(ii) that a matter may be withheld from the public under section 552b(c) of title 5, the Board shall include in the summary required by that subparagraph as much general information as possible with respect to the matter.

(3) Rules of construction

Nothing in this subsection may be construed—

(A) to limit the applicability of section 552b of title 5 with respect to—

(i) a meeting of the members of the Board other than a meeting described in paragraph (1); or

(ii) any information that is proposed to be withheld from the public under paragraph (2)(A)(ii); or

(B) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5.

(Aug. 1, 1946, ch. 724, title I, §313, as added Pub. L. 100-456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2079; amended Pub. L. 101-510, div. C, title XXXII, §3202, Nov. 5, 1990, 104 Stat. 1844; Pub. L. 102-190, div. C, title XXXII, §3202(a), Dec. 5, 1991, 105 Stat. 1582; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 112-239, div. C, title XXXII, §3202(g), Jan. 2, 2013, 126 Stat. 2220; Pub. L. 113-291, div. C, title XXXII, §3203(a), Dec. 19, 2014, 128 Stat. 3903; Pub. L. 114-92, div. C, title XXXII, §3202(b)(2), Nov. 25, 2015, 129 Stat. 1218; Pub. L. 116-92, div. C, title XXXII, §3202(a)(1)(A), (4), Dec. 20, 2019, 133 Stat. 1963, 1964; Pub. L. 116-283, div. C, title

XXXII, §3202, Jan. 1, 2021, 134 Stat. 4394; Pub. L. 117-81, div. C, title XXXII, §3202(2), Dec. 27, 2021, 135 Stat. 2235.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(2)(D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2021—Pub. L. 117-81 substituted “Chairperson” for “Chairman” wherever appearing.

Subsec. (k). Pub. L. 116-283 added subsec. (k).

2019—Subsec. (b)(1)(A). Pub. L. 116-92, §3202(a)(4)(A), substituted “section 2286(c)(6)” for “section 2286(c)(7)”.

Subsec. (b)(3). Pub. L. 116-92, §3202(a)(1)(A), added par. (3).

Subsec. (b)(4). Pub. L. 116-92, §3202(a)(4)(B), added par. (4).

2015—Subsec. (b)(1)(A). Pub. L. 114-92 substituted “in accordance with section 2286(c)(7) of this title, hire” for “hire”.

2014—Subsec. (b)(1)(A). Pub. L. 113-291 substituted “130 full-time employees” for “150 full-time employees”.

2013—Subsec. (j)(2). Pub. L. 112-239 substituted “section 2286a(b)(1) of this title, the implementation” for “section 2286a(1) of this title, the implementation”.

1991—Subsec. (b)(1)(A). Pub. L. 102-190, §3202(a)(1), substituted “150” for “100”.

Subsec. (g). Pub. L. 102-190, §3202(a)(2), substituted “Notwithstanding any other provision of law relating to the use of competitive procedures, the Board may” for “The Board may”.

1990—Subsec. (b). Pub. L. 101-510 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, inserted “including such scientific and technical personnel as the Board may determine necessary,” after “Board,” in subpar. (A), and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. C, title XXXII, §3203(b), Dec. 19, 2014, 128 Stat. 3903, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2015.”

§ 2286c. Responsibilities of Secretary of Energy

(a) Cooperation

Except as specifically provided by this section, the Secretary of Energy shall fully cooperate with the Board and provide the Board with prompt and unfettered access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor’s consent, fully cooperate with the Board and provide the Board with prompt and unfettered access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this subchapter. The access provided to defense nuclear facilities, personnel, and information under this subsection shall be provided without regard to the hazard or risk category assigned to a facility by the Secretary.

(b) Authority of Secretary to deny information

(1) The Secretary may deny access to information under subsection (a) only to any person who—

(A) has not been granted an appropriate security clearance or access authorization by the Secretary; or

(B) does not need such access in connection with the duties of such person.

(2) If the Board requests access to information under subsection (a) in written form, and the Secretary denies access to such information pursuant to paragraph (1)—

(A) the Secretary shall provide the Board notice of such denial in written form; and

(B) not later than January 1 and July 1 of each year beginning in 2020—

(i) the Board shall submit to the congressional defense committees a report identifying each request for access to information under subsection (a) submitted to the Secretary in written form during the preceding six-month period and denied by the Secretary; and

(ii) the Secretary shall submit to the congressional defense committees a report identifying—

(I) each such request denied by the Secretary during that period; and

(II) the reason for the denial.

(3) In this subsection, the term “congressional defense committees” has the meaning given that term in section 101(a) of title 10.

(c) Application of nondisclosure protections by Board

The Board may not publicly disclose information provided under this section if such information is otherwise protected from disclosure by law, including deliberative process information.

(Aug. 1, 1946, ch. 724, title I, §314, as added Pub. L. 100-456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2080; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 116-92, div. C, title XXXII, §3202(c), Dec. 20, 2019, 133 Stat. 1965.)

Editorial Notes**AMENDMENTS**

2019—Subsec. (a). Pub. L. 116-92, §3202(c)(1), substituted “Except as specifically provided by this section, the Secretary of Energy” for “The Secretary of Energy” and “prompt and unfettered access” for “ready access” in two places, and inserted at end “The access provided to defense nuclear facilities, personnel, and information under this subsection shall be provided without regard to the hazard or risk category assigned to a facility by the Secretary.”

Subsecs. (b), (c). Pub. L. 116-92, §3202(c)(2), added subsecs. (b) and (c) and struck out former subsec. (b) which authorized the Secretary of Energy to deny access to unauthorized persons to information provided to the Board.

§ 2286d. Board recommendations**(a) Submission of recommendations**

(1) Subject to subsections (h) and (i), not later than 30 days before the date on which the Board transmits a recommendation to the Secretary of Energy under section 2286a of this title, the

Board shall transmit to the Secretary in writing a draft of such recommendation and any related findings, supporting data, and analyses to ensure the Secretary is adequately informed of a formal recommendation and to provide the Secretary an opportunity to provide input to the Board before such recommendation is finalized.

(2) The Secretary may provide to the Board comments on a draft recommendation transmitted by the Board under paragraph (1) by not later than 30 days after the date on which the Secretary receives the draft recommendation. The Board may grant, upon request by the Secretary, additional time for the Secretary to transmit comments to the Board.

(3) After the period of time in which the Secretary may provide comments under paragraph (2) elapses, the Board may transmit a final recommendation to the Secretary.

(b) Public availability and comment

Subject to subsections (h) and (i), after the Secretary of Energy receives a recommendation from the Board under subsection (a)(3), the Board shall promptly make available to the public such recommendation and any related correspondence from the Secretary by—

(1) providing such recommendation and correspondence to the public in the regional public reading rooms of the Department of Energy; and

(2) publishing in the Federal Register—

(A) such recommendation and correspondence; and

(B) a request for the submission to the Board of public comments on such recommendation that provides interested persons with 30 days after the date of the publication in which to submit comments, data, views, or arguments to the Board concerning the recommendation.

(c) Response by Secretary

(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 2286a of this title, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (b), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (i), shall publish such response, together with a request for public comment on his response, in the Federal Register.

(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy’s response in which to submit comments, data, views, or arguments to the Board concerning the Secretary’s response.

(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy’s response.