

“(c) REQUIREMENTS FOR FIRST ANNUAL REPORT.—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of ‘Department of Energy defense nuclear facility’ in section 318(1)(C) of such Act [section 2286g(1)(C) of this title] (hereafter in this subsection referred to as ‘non-defense nuclear facilities’) should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

“(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alternative mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board’s responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

“(d) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)) shall include—

“(1) an assessment of the degree to which the overall administration of the Board’s activities are believed to meet the objectives of Congress in establishing the Board;

“(2) recommendations for continuation, termination, or modification of the Board’s functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

“(3) recommendations for appropriate transition requirements in the event that modifications are recommended.”

#### § 2286f. Judicial review

Chapter 7 of title 5 shall apply to the activities of the Board under this subchapter.

(Aug. 1, 1946, ch. 724, title I, §317, as added Pub. L. 100-456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### § 2286g. “Department of Energy defense nuclear facility” defined

As used in this subchapter, the term “Department of Energy defense nuclear facility” means any of the following:

(1) A production facility or utilization facility (as defined in section 2014 of this title) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

(B) any facility or activity involved with the transportation of nuclear explosives or nuclear material;

(C) any facility that does not conduct atomic energy defense activities; or

(D) any facility owned by the United States Enrichment Corporation.

(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

(Aug. 1, 1946, ch. 724, title I, §318, as added Pub. L. 100-456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; amended Pub. L. 102-190, div. C, title XXXII, §3202(b)(1), Dec. 5, 1991, 105 Stat. 1582; renumbered title I and amended Pub. L. 102-486, title IX, §902(a)(7), (8), Oct. 24, 1992, 106 Stat. 2944.)

#### Editorial Notes

##### REFERENCES IN TEXT

Executive Order No. 12344, referred to in par. (1)(A), is set out as a note under section 2511 of Title 50, War and National Defense.

The Nuclear Waste Policy Act of 1982, referred to in par. (2), is Pub. L. 97-425, Jan. 7, 1983, 96 Stat. 2201, which is classified generally to chapter 108 (§10101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10101 of this title and Tables.

##### AMENDMENTS

1992—Par. (1)(D). Pub. L. 102-486, §902(a)(7), added subpar. (D).

1991—Par. (1)(B). Pub. L. 102-190 struck out “with the assembly or testing of nuclear explosives or” after “involved”.

#### Statutory Notes and Related Subsidiaries

##### REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### § 2286h. Contract authority subject to appropriations

The authority of the Board to enter into contracts under this subchapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such purpose.

(Aug. 1, 1946, ch. 724, title I, §319, as added Pub. L. 100-456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### § 2286h-1. Transmittal of certain information to Congress

Whenever the Board submits or transmits to the President or the Director of the Office of Management and Budget any legislative recommendation, or any statement or information in preparation of a report to be submitted to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Nat-