

CODIFICATION

In text, “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.)” and “section 3145 of title 40” substituted for “the Act of June 13, 1934 (40 U.S.C. 276c)”, 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.

§ 2297g-4. Reports to Congress

Within 3 years after October 24, 1992, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this subchapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this division.

(Aug. 1, 1946, ch. 724, title II, §1805, as added Pub. L. 102-486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2955.)

Statutory Notes and Related Subsidiaries

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 a report required under this section is listed in item 7 on page 83), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

SUBCHAPTER VIII—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

§ 2297h. Definitions

Except as provided in section 2297h-10a of this title, for purposes of this subchapter:

(1) The term “AVLIS” means atomic vapor laser isotope separation technology.

(2) The term “Corporation” means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term “gaseous diffusion plants” means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term “highly enriched uranium” means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term “low-enriched uranium” means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term “low-level radioactive waste” has the meaning given such term in section 2021b(9) of this title.

(7) The term “private corporation” means the corporation established under section 2297h-3 of this title.

(8) The term “privatization” means the transfer of ownership of the Corporation to private investors.

(9) The term “privatization date” means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term “public offering” means an underwritten offering to the public of the common stock of the private corporation pursuant to section 2297h-2 of this title.

(11) The “Russian HEU Agreement” means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term “Secretary” means the Secretary of Energy.

(13) The “Suspension Agreement” means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term “uranium enrichment” means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

(Pub. L. 104-134, title III, §3102, Apr. 26, 1996, 110 Stat. 1321-335; Pub. L. 110-329, div. C, title VIII, §8118(1), Sept. 30, 2008, 122 Stat. 3647.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, means subchapter A of chapter 1 of title III of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110-329 substituted “Except as provided in section 2297h-10a of this title, for purposes” for “For purposes” in introductory provisions.

Executive Documents

EX. ORD. NO. 13085. ESTABLISHMENT OF ENRICHMENT OVERSIGHT COMMITTEE

Ex. Ord. No. 13085, May 26, 1998, 63 F.R. 29335, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

SECTION 1. *Establishment.* There is hereby established an Enrichment Oversight Committee (EOC).

SEC. 2. *Objectives.* The EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 (“HEU Agreement”), and related con-

tracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

SEC. 3. *Organization.* (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President's transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104-134, title III, 3112(b)(10), 110 Stat. 1321-344, 1321-346 (1996) [42 U.S.C. 2297h-10(b)(10)].

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy, and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

SEC. 4. *HEU Agreement Oversight.* The EOC shall form an HEU Agreement Oversight Subcommittee (the "Subcommittee") in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence Community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC

for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

SEC. 5. *Foreign Ownership, Control, or Influence (FOCI).* The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 [50 U.S.C. 3161 note] with respect to the USEC and any successor entities (see National Industrial Security Program Operating Manual, Department of Defense 2-3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* (1994), and the USEC Privatization Act, Public Law 104-134, title III, 110 Stat. 1321-335 *et seq.* (1996) [42 U.S.C. 2297h *et seq.*];

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

SEC. 6. *Domestic Enrichment Services.* The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act [42 U.S.C. 2297h-10], as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provided that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of Directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

SEC. 7. *Coordination with the Nuclear Regulatory Commission.* Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

WILLIAM J. CLINTON.

§ 2297h-1. Sale of Corporation**(a) Authorization**

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) Proceeds

Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

(Pub. L. 104-134, title III, §3103, Apr. 26, 1996, 110 Stat. 1321-336.)

Editorial Notes

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h-2. Method of sale**(a) Authorization**

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 2297h-3 of this title (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) Board determination

The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) Adequate proceeds

The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 2297h-1(a) of this title.

(d) Application of securities laws

Any offering or sale of securities by the private corporation shall be subject to the Securi-

ties Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) Expenses

Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

(Pub. L. 104-134, title III, §3104, Apr. 26, 1996, 110 Stat. 1321-336.)

Editorial Notes

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h-3. Establishment of private corporation**(a) Incorporation**

(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18.

(b) Status of private corporation

(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28 shall be allowable against the United States based on actions of the private corporation.