

with respect to an allegation of a substantial safety hazard on the basis of—

(A) the filing of a complaint under subsection (b)(1) of this section arising from such allegation; or

(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether a substantial safety hazard exists.

(Pub. L. 93-438, title II, §211, formerly §210, as added Pub. L. 95-601, §10, Nov. 6, 1978, 92 Stat. 2951; renumbered §211 and amended Pub. L. 102-486, title XXIX, §2902(a)-(g), (h)(2), (3), Oct. 24, 1992, 106 Stat. 3123, 3124; Pub. L. 109-58, title VI, §629, Aug. 8, 2005, 119 Stat. 785.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (g), was in the original “this Act”, meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsecs. (a)(1) and (g), 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 Title 42, The Public Health and Welfare. For complete classification on this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

Executive Order No. 12344, referred to in subsec. (a)(2)(D), is Ex. Ord. No. 12344, Feb. 1, 1982, 47 F.R. 4979, which is set out as a note under section 2511 of Title 50, War and National Defense.

##### AMENDMENTS

2005—Subsec. (a)(2)(E) to (G). Pub. L. 109-58, §629(a), added subpars. (E) to (G).

Subsec. (b)(4). Pub. L. 109-58, §629(b), added par. (4).

1992—Subsec. (a). Pub. L. 102-486, §2902(a), designated existing provisions as par. (1) and struck out “, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant,” after “No employer”, added subpars. (A) to (C), redesignated former pars. (1) to (3) as subpars. (D) to (F), respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 102-486, §2902(b), (h)(2), substituted “180” for “thirty”, “(in this section referred to as the ‘Secretary’)” for “(hereinafter in this subsection referred to as the ‘Secretary’)”, and “, the Commission, and the Department of Energy” for “and the Commission”.

Subsec. (b)(2)(A). Pub. L. 102-486, §2902(c), inserted before last sentence “Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory damages pending a final order.”

Subsec. (b)(3). Pub. L. 102-486, §2902(d), added par. (3).  
Subsecs. (h) to (j). Pub. L. 102-486, §2902(e)-(g), added subsecs. (h) to (j).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XXIX, §2902(i), Oct. 24, 1992, 106 Stat. 3125, provided that: “The amendments made by

this section [amending this section] shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act [Oct. 24, 1992].”

#### Executive Documents

##### TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

#### § 5852. Availability of funds

##### (a) Appropriations for salaries and expenses; additional purposes

Funds appropriated for “Nuclear Regulatory Commission—Salaries and Expenses” shall be available to the Commission for the following additional purposes:

(1) Employment of aliens.

(2) Services authorized by section 3109 of title 5.

(3) Publication and dissemination of atomic information.

(4) Purchase, repair, and cleaning of uniforms.

(5) Reimbursements to the General Services Administration for security guard services.

(6) Hire of passenger motor vehicles and aircraft.

(7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.

(8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.

##### (b) Appropriations for Office of Inspector General; additional purposes

Funds appropriated for “Nuclear Regulatory Commission—Office of Inspector General” shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

##### (c) Use of program funds for salaries and expenses

Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 2169 of this title<sup>1</sup> may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, and shall remain available until expended.

##### (d) Use of funds to provide voluntary separation incentive payments

Notwithstanding section 663(c)(2)(D) of Public Law 104-208, and to facilitate targeted workforce

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

downsizing and restructuring, the Chairman of the Nuclear Regulatory Commission may use funds appropriated in this Act to exercise the authority provided by section 663 of that Act with respect to employees who voluntarily separate from October 7, 1998, through December 31, 2000. All of the requirements in section 663 of Public Law 104-208, except for section 663(c)(2)(D), apply to the exercise of authority under this section.

**(e) Fiscal year applicability**

Subsections (a), (b), and (c) of this section shall apply to fiscal year 1999 and each succeeding fiscal year.

(Pub. L. 105-245, title V, § 506, Oct. 7, 1998, 112 Stat. 1856.)

**Editorial Notes**

REFERENCES IN TEXT

Section 663 of Public Law 104-208, referred to in subsec. (d), is section 663 of Pub. L. 104-208, div. A, title I, § 101(f) [title VI], Sept. 30, 1996, 110 Stat. 3009-314, 3009-383, which is set out as a note under section 5597 of Title 5, Government Organization and Employees.

This Act, referred to in subsec. (d), is Pub. L. 105-245, Oct. 7, 1998, 112 Stat. 1838, known as the Energy and Water Development Appropriations Act, 1999. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1999, and not as part of the Energy Reorganization Act of 1974 which comprises this chapter.

**Statutory Notes and Related Subsidiaries**

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 105-62, title IV, Oct. 13, 1997, 111 Stat. 1336.
- Pub. L. 104-206, title IV, Sept. 30, 1996, 110 Stat. 3000.
- Pub. L. 104-46, title IV, Nov. 13, 1995, 109 Stat. 417.
- Pub. L. 103-316, title IV, Aug. 26, 1994, 108 Stat. 1721.
- Pub. L. 103-126, title IV, Oct. 28, 1993, 107 Stat. 1332.
- Pub. L. 102-377, title IV, Oct. 2, 1992, 106 Stat. 1340.
- Pub. L. 102-104, title IV, Aug. 17, 1991, 105 Stat. 534.
- Pub. L. 101-514, title IV, Nov. 5, 1990, 104 Stat. 2096.
- Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 664.
- Pub. L. 100-371, title IV, July 19, 1988, 102 Stat. 872.
- Pub. L. 100-202, § 101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329-104, 1329-128.
- Pub. L. 99-500, § 101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783-194, 1783-211, and Pub. L. 99-591, § 101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341-194, 3341-211.
- Pub. L. 99-141, title IV, Nov. 1, 1985, 99 Stat. 577.
- Pub. L. 98-360, title IV, July 16, 1984, 98 Stat. 419.
- Pub. L. 98-50, title IV, July 14, 1983, 97 Stat. 260.
- Pub. L. 97-88, title IV, Dec. 4, 1981, 95 Stat. 1147.
- Pub. L. 96-367, title IV, Oct. 1, 1980, 94 Stat. 1344.
- Pub. L. 96-69, title IV, Sept. 25, 1979, 93 Stat. 449.

**§ 5853. Limitation on legal fee reimbursement**

The Department of Energy shall not, except as required under a contract entered into before August 8, 2005, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

- (1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings

and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 5851 of this title; or

- (2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, section 5851 of this title, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.

(Pub. L. 93-438, title II, § 212, as added Pub. L. 109-58, title VI, § 627, Aug. 8, 2005, 119 Stat. 784.)

**§ 5854. Notification and reports by Chairman**

The Chairman of the Nuclear Regulatory Commission shall notify the other members of the Commission, the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, not later than 1 day after the Chairman begins performing functions under the authority of section 3 of Reorganization Plan No. 1 of 1980, or after a member of the Commission who is delegated emergency functions under subsection (b) of that section begins performing those functions. Such notification shall include an explanation of the circumstances warranting the exercise of such authority. The Chairman shall report to the Committees, not less frequently than once each week, on the actions taken by the Chairman, or a delegated member of the Commission, under such authority, until the authority is relinquished. The Chairman shall notify the Committees not later than 1 day after such authority is relinquished. The Chairman shall submit the report required by section 3(d) of the Reorganization Plan No. 1 of 1980 to the Committees not later than 1 day after it was submitted to the Commission. This section shall be in effect in fiscal year 2015 and each subsequent fiscal year.

(Pub. L. 113-235, div. D, title IV, § 401, Dec. 16, 2014, 128 Stat. 2330.)

**Editorial Notes**

REFERENCES IN TEXT

Reorganization Plan No. 1 of 1980, referred to in text, is set out as a note under section 5841 of this title.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Energy Reorganization Act of 1974 which comprises this chapter.