

CODIFICATION

Section is comprised of section 4218 of Pub. L. 107-314. Subsecs. (b) and (c) of section 4218 of Pub. L. 107-314 amended section 2533 of this title.

Section was formerly classified to section 7274p of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 112-239.

AMENDMENTS

2019—Subsec. (d). Pub. L. 116-92, §3139(b)(5)(A), struck out “or the Commander of the United States Strategic Command” after “Nuclear Weapons Council”.

Subsec. (e)(1). Pub. L. 116-92, §3139(b)(5)(B), in introductory provisions, substituted “or a member of the Nuclear Weapons Council” for “, a member of the Nuclear Weapons Council, or the Commander of the United States Strategic Command” and “or member” for “, member, or Commander”.

2014—Subsec. (d). Pub. L. 113-291, §3142(e)(1), substituted “Commander” for “commander”.

Subsec. (e)(1). Pub. L. 113-291, §3142(e)(2), substituted “a representative” for “representatives” in introductory provisions.

2013—Subsec. (a). Pub. L. 113-66, §3146(c)(10)(A), (B), redesignated subsec. (b) as (a) and struck out former subsec. (a), which related to congressional findings concerning safety and reliability of the nuclear weapons stockpile.

Subsec. (a)(9). Pub. L. 112-239, §3164(b)(1), (3), substituted “national security laboratories” for “nuclear weapons laboratories” and “nuclear weapons production facilities” for “nuclear weapons production plants”.

Subsec. (a)(11). Pub. L. 112-239, §3164(b)(1), substituted “national security laboratories” for “nuclear weapons laboratories”.

Subsec. (b). Pub. L. 113-66, §3146(c)(10)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (b)(2). Pub. L. 112-239, §3164(b)(1), (3), substituted “national security laboratories” for “nuclear weapons laboratories” and “nuclear weapons production facilities” for “nuclear weapons production plants”.

Subsec. (c). Pub. L. 113-66, §3146(c)(10)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 113-66, §3146(c)(10)(B), (C), redesignated subsec. (e) as (d) and substituted “under section 2533 of this title” for “(under section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o))”. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 113-66, §3146(c)(10)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 113-66, §3146(a)(2)(D)(i), struck out “Joint” before “Nuclear Weapons Council”.

Pub. L. 112-239, §3164(b)(2), (4), substituted “national security laboratory” for “nuclear weapons laboratory” and “nuclear weapons production facility” for “nuclear weapons production plant”.

Subsec. (f). Pub. L. 113-66, §3146(c)(10)(B), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 112-239, §3164(a)(4), amended subsec. (f) generally. Prior to amendment, text read as follows: “A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.”

Subsec. (f)(1). Pub. L. 113-66, §3146(a)(2)(D)(ii), struck out “established under section 179 of title 10” after “Nuclear Weapons Council” in introductory provisions.

Subsec. (g). Pub. L. 113-66, §3146(c)(10)(B), redesignated subsec. (g) as (f).

Pub. L. 112-239, §3164(b)(5), amended subsec. (g) generally. Prior to amendment, subsec. (g) set out definitions.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 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.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production plants defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of this title.

§ 2538a. Plutonium pit production capacity

(a) Requirement

Consistent with the requirements of the Secretary of Defense, the Secretary of Energy shall ensure that the nuclear security enterprise—

- (1) during 2021, begins production of qualification plutonium pits;
- (2) during 2024, produces not less than 10 war reserve plutonium pits;
- (3) during 2025, produces not less than 20 war reserve plutonium pits;
- (4) during 2026, produces not less than 30 war reserve plutonium pits; and
- (5) during 2030, produces not less than 80 war reserve plutonium pits.

(b) Annual certification

Not later than March 1, 2015, and each year thereafter through 2030, the Secretary of Energy shall certify to the congressional defense committees and the Secretary of Defense that the programs and budget of the Secretary of Energy will enable the nuclear security enterprise to meet the requirements under subsection (a).

(c) Plan

If the Secretary of Energy does not make a certification under subsection (b) by March 1 of any year in which a certification is required under that subsection, by not later than May 1 of such year, the Chairman of the Nuclear Weapons Council shall submit to the congressional defense committees a plan to enable the nuclear security enterprise to meet the requirements under subsection (a). Such plan shall include identification of the resources of the Department of Energy that the Chairman determines should be redirected to support the plan to meet such requirements.

(d) Certifications on plutonium enterprise

(1) Requirement

Not later than 30 days after the date on which a covered project achieves a critical decision milestone, the Assistant Secretary for Environmental Management and the Deputy

Administrator for Defense Programs shall jointly certify to the congressional defense committees that the operations, infrastructure, and workforce of such project are adequate to carry out the delivery and disposal of planned waste shipments relating to the plutonium enterprise, as outlined in the critical decision memoranda of the Department of Energy with respect to such project.

(2) Failure to certify

If the Assistant Secretary for Environmental Management and the Deputy Administrator for Defense Programs fail to make a certification under paragraph (1) by the date specified in such paragraph with respect to a covered project achieving a critical decision milestone, the Assistant Secretary and the Deputy Administrator shall jointly submit to the congressional defense committees, by not later than 30 days after such date, a plan to ensure that the operations, infrastructure, and workforce of such project will be adequate to carry out the delivery and disposal of planned waste shipments described in such paragraph.

(e) Reports

(1) Requirement

Not later than March 1 of each year during the period beginning on the date on which the first covered project achieves critical decision 2 in the acquisition process and ending on the date on which the second project achieves critical decision 4 and begins operations, the Administrator for Nuclear Security shall submit to the congressional defense committees a report on the planned production goals of both covered projects during the first 10 years of the operation of the projects.

(2) Elements

Each report under paragraph (1) shall include—

(A) the number of war reserve plutonium pits planned to be produced during each year, including the associated warhead type;

(B) a description of risks and challenges to meeting the performance baseline for the covered projects, as approved in critical decision 2 in the acquisition process;

(C) options available to the Administrator to balance scope, costs, and production requirements at the projects to decrease overall risk to the plutonium enterprise and enduring plutonium pit requirements; and

(D) an explanation of any changes to the production goals or requirements as compared to the report submitted during the previous year.

(f) Prohibition on ARIES expansion before achievement of 30 pit-per-year base capability

(1) In general

Until the date on which the Administrator certifies to the congressional defense committees that the base capability to produce not less than 30 war reserve plutonium pits per year has been established at Los Alamos National Laboratory, the Administrator may not—

(A) carry out a project to expand the pit disassembly and processing capability of the

spaces at PF-4 occupied by ARIES as of December 22, 2023; or

(B) otherwise expand such spaces.

(2) Exceptions

Paragraph (1) shall not apply with respect to—

(A) ongoing or planned small projects to sustain or improve the efficiency of plutonium oxide production, provided that such projects do not expand the spaces at PF-4 occupied by ARIES as of December 22, 2023;

(B) the planning and design of an additional ARIES capability at a location other than PF-4; or

(C) the transfer of the ARIES capability to a location other than PF-4.

(3) Definitions

In this subsection:

(A) The term “ARIES” means the Advanced Recovery and Integrated Extraction System method, developed and piloted at Los Alamos National Laboratory, Los Alamos, New Mexico, for disassembling surplus defense plutonium pits and converting the plutonium from such pits into plutonium oxide.

(B) The term “PF-4” means the Plutonium Facility at Technical Area 55 located at Los Alamos National Laboratory, Los Alamos, New Mexico.

(g) Covered project defined

In this subsection, the term “covered project” means—

(1) the Savannah River Plutonium Processing Facility, Savannah River Site, Aiken, South Carolina (Project 21-D-511); or

(2) the Plutonium Pit Production Project, Los Alamos National Laboratory, Los Alamos, New Mexico (Project 21-D-512).

(h) Management of plutonium modernization program

Not later than 570 days after December 22, 2023, the Administrator for Nuclear Security shall ensure that the plutonium modernization program established by the Office of Defense Programs of the National Nuclear Security Administration, or any subsequently developed program designed to meet the requirements under subsection (a), is managed in accordance with the best practices for schedule development and cost estimating of the Government Accountability Office.

(Pub. L. 107-314, div. D, title XLII, §4219, as added Pub. L. 113-291, div. C, title XXXI, §3112(b)(1), Dec. 19, 2014, 128 Stat. 3886; amended Pub. L. 116-92, div. C, title XXXI, §3116(b), Dec. 20, 2019, 133 Stat. 1952; Pub. L. 117-81, div. C, title XXXI, §3111(a), Dec. 27, 2021, 135 Stat. 2219; Pub. L. 118-31, div. C, title XXXI, §§3116, 3117, Dec. 22, 2023, 137 Stat. 790, 791.)

Editorial Notes

REFERENCES IN TEXT

December 22, 2023, referred to in subsec. (f)(1)(A), (2)(A), was in the original “the date of the enactment of this Act” and was translated as referring to the date of enactment of Pub. L. 118-31, which enacted subsec. (f).

AMENDMENTS

2023—Subsecs. (f), (g). Pub. L. 118–31, §3116, added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 118–31, §3117, added subsec. (h).

2021—Subsecs. (d) to (f). Pub. L. 117–81 added subsecs. (d) to (f).

2019—Subsec. (a)(5). Pub. L. 116–92, §3116(b)(1), added par. (5) and struck out former par. (5) which read as follows: “during a pilot period of not less than 90 days during 2027 (subject to subsection (b)), demonstrates the capability to produce war reserve plutonium pits at a rate sufficient to produce 80 pits per year.”

Subsec. (b). Pub. L. 116–92, §3116(b)(2)–(4), redesignated subsec. (c) as (b), substituted “2030” for “2027 (or, if the authority under subsection (b) is exercised, 2029)”, and struck out former subsec. (b) which authorized a two-year delay of the demonstration requirement.

Subsec. (c). Pub. L. 116–92, §3116(b)(3), (5), redesignated subsec. (d) as (c) and substituted “subsection (b)” for “subsection (c)”. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 116–92, §3116(b)(3), redesignated subsec. (d) as (c).

Statutory Notes and Related Subsidiaries

CERTIFICATION OF COMPLETION OF MILESTONES WITH RESPECT TO PLUTONIUM PIT AGING

Pub. L. 117–263, div. C, title XXXI, §3124, Dec. 23, 2022, 136 Stat. 3057, provided that:

“(a) REQUIREMENT.—The Administrator for Nuclear Security shall complete the milestones on plutonium pit aging identified in the report entitled ‘Research Program Plan for Plutonium and Pit Aging’, published by the National Nuclear Security Administration in September 2021.

“(b) ASSESSMENTS.—The Administrator shall—

“(1) acting through the Defense Programs Advisory Committee, conduct biennial reviews during the period beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2022] and ending December 31, 2030, regarding the progress achieved toward completing the milestones described in subsection (a); and

“(2) seek to enter into an arrangement with the private scientific advisory group known as JASON to conduct, not later than 2030, an assessment of plutonium pit aging.

“(c) BRIEFINGS.—During the period beginning not later than one year after the date of the enactment of this Act and ending December 31, 2030, the Administrator shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] biennial briefings on—

“(1) the progress achieved toward completing the milestones described in subsection (a); and

“(2) the results of the assessments described in subsection (b).

“(d) CERTIFICATION OF COMPLETION OF MILESTONES.—Not later than October 1, 2031, the Administrator shall—

“(1) certify to the congressional defense committees whether the milestones described in subsection (a) have been achieved; and

“(2) if the milestones have not been achieved, submit to such committees a report—

“(A) describing the reasons such milestones have not been achieved;

“(B) including, if the Administrator determines the Administration will not be able to meet one of such milestones, an explanation for that determination; and

“(C) specifying new dates for the completion of the milestones the Administrator anticipates the Administration will meet.”

AUTHORIZATION OF WORKFORCE DEVELOPMENT AND TRAINING PARTNERSHIP PROGRAMS WITHIN NATIONAL NUCLEAR SECURITY ADMINISTRATION

Pub. L. 117–263, div. C, title XXXI, §3126, Dec. 23, 2022, 136 Stat. 3058, provided that:

“(a) AUTHORITY.—The Administrator for Nuclear Security may authorize management and operating contractors at covered facilities to develop and implement workforce development and training partnership programs to further the education and training of employees or prospective employees of such management and operating contractors to meet the requirements of section 4219 of the Atomic Energy Defense Act (50 U.S.C. 2538a).

“(b) CAPACITY.—To carry out subsection (a), a management and operating contractor at a covered facility may provide funding through grants or other means to cover the costs of the development and implementation of a workforce development and training partnership program authorized under such subsection, including costs relating to curriculum development, hiring of teachers, procurement of equipment and machinery, use of facilities or other properties, and provision of scholarships and fellowships.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘covered facility’ means—

“(A) Los Alamos National Laboratory, Los Alamos, New Mexico; or

“(B) the Savannah River Site, Aiken, South Carolina.

“(2) The term ‘prospective employee’ means an individual who has applied (or who, based on their field of study and experience, is likely to apply) for a position of employment with a management and operating contractor to support plutonium pit production at a covered facility.”

SENSE OF CONGRESS RELATED TO MODIFICATION TO CERTAIN REQUIREMENTS RELATING TO PLUTONIUM PIT PRODUCTION CAPACITY

Pub. L. 116–92, div. C, title XXXI, §3116(a), Dec. 20, 2019, 133 Stat. 1951, provided that: “It is the sense of Congress that—

“(1) rebuilding a robust plutonium pit production infrastructure with a capacity of up to 80 pits per year is critical to maintaining the viability of the nuclear weapons stockpile;

“(2) that effort will require cooperation from experts across the nuclear security enterprise; and

“(3) any further delay to achieving a plutonium sustainment capability to support the planned stockpile life extension programs will result in an unacceptable capability gap to our deterrent posture.”

§ 2538b. Stockpile responsiveness program

(a) Statement of policy

It is the policy of the United States to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons to ensure the nuclear deterrent of the United States remains safe, secure, reliable, credible, and responsive.

(b) Program required

The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a stockpile responsiveness program, along with the stockpile stewardship program under section 2521 of this title and the stockpile management program under section 2524 of this title, to identify, sus-