Statutory Notes and Related Subsidiaries

DEFENSE SITE ACCELERATION COMPLETION

Pub. L. 108–375, div. C, title XXXI, § 3116, Oct. 28, 2004, 118 Stat. 2162, provided that:

''(a) IN GENERAL.—Notwithstanding the provisions of the Nuclear Waste Policy Act of 1982 [42 U.S.C. 10101 et seq.], the requirements of section 202 of the Energy Reorganization Act of 1974 [42 U.S.C. 5842], and other laws that define classes of radioactive waste, with respect to material stored at a Department of Energy site at which activities are regulated by a covered State pursuant to approved closure plans or permits issued by the State, the term 'high-level radioactive waste' does not include radioactive waste resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy (in this section referred to as the 'Secretary'), in consultation with the Nuclear Regulatory Commission (in this section referred to as the 'Commission'), determines—

''(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste;

''(2) has had highly radioactive radionuclides removed to the maximum extent practical; and

''(3)(A) does not exceed concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, and will be disposed of—

''(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations; and

''(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; or

''(B) exceeds concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, but will be disposed of—

''(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations;

''(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; and

''(iii) pursuant to plans developed by the Secretary in consultation with the Commission.

''(b) MONITORING BY NUCLEAR REGULATORY COMMISSION.—(1) The Commission shall, in coordination with the covered State, monitor disposal actions taken by the Department of Energy pursuant to subparagraphs (A) and (B) of subsection (a)(3) for the purpose of assessing compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations.

''(2) If the Commission considers any disposal actions taken by the Department of Energy pursuant to those subparagraphs to be not in compliance with those performance objectives, the Commission shall, as soon as practicable after discovery of the noncompliant conditions, inform the Department of Energy, the covered State, and the following congressional committees:

''(A) The Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

''(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate.

''(3) For fiscal year 2005, the Secretary shall, from amounts available for defense site acceleration completion, reimburse the Commission for all expenses, including salaries, that the Commission incurs as a result of performance under subsection (a) and this subsection for fiscal year 2005. The Department of Energy and the Commission may enter into an interagency agreement that specifies the method of reimbursement. Amounts received by the Commission for performance under subsection (a) and this subsection may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, United States Code, and shall remain available until expended.

''(4) For fiscal years after 2005, the Commission shall include in the budget justification materials submitted to Congress in support of the Commission budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) the amounts required, not offset by revenues, for performance under subsection (a) and this subsection.

''(c) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the covered State.

''(d) COVERED STATES.—For purposes of this section, the following States are covered States:

''(1) The State of South Carolina.

''(2) The State of Idaho.

''(e) CONSTRUCTION.—(1) Nothing in this section shall impair, alter, or modify the full implementation of any Federal Facility Agreement and Consent Order or other applicable consent decree for a Department of Energy site.

''(2) Nothing in this section establishes any precedent or is binding on the State of Washington, the State of Oregon, or any other State not covered by subsection (d) for the management, storage, treatment, and disposition of radioactive and hazardous materials.

''(3) Nothing in this section amends the definition of 'transuranic waste' or regulations for repository disposal of transuranic waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act [Pub. L. 102–579, 106 Stat. 4777] or part 191 of title 40, Code of Federal Regulations.

''(4) Nothing in this section shall be construed to affect in any way the obligations of the Department of Energy to comply with section 4306A of the Atomic Energy Defense Act (50 U.S.C. 2567).

''(5) Nothing in this section amends the West Valley Demonstration Act [Pub. L. 96–368] (42 U.S.C. 2121a [2021a] note).

''(f) JUDICIAL REVIEW.—Judicial review shall be available in accordance with chapter 7 of title 5, United States Code, for the following:

''(1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.

''(2) Any failure of the Commission to carry out its responsibilities under subsection (b).''

SANDIA NATIONAL LABORATORIES

Pub. L. 108–199, div. H, § 127, Jan. 23, 2004, 118 Stat. 440, provided that: ''Funds appropriated in this, or any other Act hereafter, may not be obligated to pay, on behalf of the United States or a contractor or subcontractor of the United States, to post a bond or fulfill any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories and properties held or managed by Sandia National Laboratories prior to implementation of closure or post-closure monitoring. The State of New Mexico or any other entity may not enforce against the United States or a contractor or subcontractor of the United States, in this year or any other fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories in New Mexico and properties held or managed by Sandia National Laboratories in New Mexico.''

§ 2603. Plan for deactivation and decommissioning of nonoperational defense nuclear facilities

(a) In general

The Secretary of Energy shall, every four years beginning in 2025, develop and subse-

quently carry out a plan for the activities of the Department of Energy relating to the deactivation and decommissioning of nonoperational defense nuclear facilities.

(b) Elements

The plan required by subsection (a) shall include the following:

(1) A list of nonoperational defense nuclear facilities, prioritized for deactivation and decommissioning based on the potential to reduce risks to human health, property, or the environment and to maximize cost savings.

(2) An assessment of the life cycle costs of each nonoperational defense nuclear facility during the period beginning on the date on which the plan is submitted under subsection (d) and ending on the earlier of—

(A) the date that is 25 years after the date on which the plan is submitted; or

(B) the estimated date for deactivation and decommissioning of the facility.

(3) An estimate of the cost and time needed to deactivate and decommission each nonoperational defense nuclear facility.

(4) A schedule for when the Office of Environmental Management will accept each nonoperational defense nuclear facility for deactivation and decommissioning.

(5) An estimate of costs that could be avoided by—

(A) accelerating the cleanup of nonoperational defense nuclear facilities; or

(B) other means, such as reusing such facilities for another purpose.

(c) Plan for transfer of responsibility for certain facilities

The Secretary shall, during 2025, develop and subsequently carry out a plan under which the Administrator shall transfer, by March 31, 2029, to the Assistant Secretary for Environmental Management the responsibility for decontaminating and decommissioning facilities of the Administration that the Secretary determines are nonoperational as of September 30, 2024.

(d) Submission to Congress

Not later than March 31, 2025, and every four years thereafter,,[1] the Secretary shall submit to the appropriate congressional committees a report that includes—

(1) the plan required by subsection (a);

(2) a description of the deactivation and decommissioning actions expected to be taken during the following fiscal year pursuant to the plan;

(3) in the case of the report submitted during 2025, the plan required by subsection (c); and

(4) a description of the deactivation and decommissioning actions taken at each nonoperational defense nuclear facility during the period following the date on which the previous report required by this section was submitted.

(e) Termination

The requirements of this section shall terminate after the submission to the appropriate congressional committees of the report required by subsection (d) to be submitted not later than March 31, 2033.

(f) Definitions

In this section:

(1) The term ''appropriate congressional committees'' means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(2) The term ''life cycle costs'', with respect to a facility, means—

(A) the present and future costs of all resources and associated cost elements required to develop, produce, deploy, or sustain the facility; and

(B) the present and future costs to deactivate, decommission, and deconstruct the facility.

(3) The term ''nonoperational defense nuclear facility'' means a production facility or utilization facility (as those terms are defined in section 2014 of title 42) under the control or jurisdiction of the Secretary of Energy and operated for national security purposes that is no longer needed for the mission of the Department of Energy, including the National Nuclear Security Administration.

(Pub. L. 107–314, div. D, title XLIV, §4423, as added Pub. L. 114–92, div. C, title XXXI, §3133(a), Nov. 25, 2015, 129 Stat. 1205; amended Pub. L. 117–263, div. C, title XXXI, §3114, Dec. 23, 2022, 136 Stat. 3053.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263, §3114(1), substituted ''every four years beginning in 2025'' for ''during each even-numbered year beginning in 2016''.

Subsec. (c). Pub. L. 117–263, §3114(2), substituted ''2025'' for ''2016'', ''2029'' for ''2019'', and ''determines are nonoperational as of September 30, 2024.'' for ''determines—

''(1) are nonoperational as of September 30, 2015; and

''(2) meet the requirements of the Office of Environmental Management for such transfer.''

Subsec. (d). Pub. L. 117–263, §3114(3)(A), substituted ''Not later than March 31, 2025, and every four years thereafter,'' for ''Not later than March 31 of each even-numbered year beginning in 2016'' in introductory provisions.

Subsec. (d)(3). Pub. L. 117–263, §3114(3)(B), substituted ''submitted during 2025'' for ''submitting during 2016''.

Subsec. (d)(4). Pub. L. 117–263, §3114(3)(C), added par. (4) and struck out former par. (4) which read as follows: ''in the case of a report submitted during 2018 or any year thereafter, a description of the deactivation and decommissioning actions taken at each nonoperational defense nuclear facility during the preceding fiscal year.''

Subsec. (e). Pub. L. 117–263, §3114(4), substituted ''2033'' for ''2026''.

PART C—HANFORD RESERVATION, WASHINGTON

Editorial Notes

CODIFICATION

Pub. L. 113–66, div. C, title XXXI, §3146(e)(16)(C), Dec. 26, 2013, 127 Stat. 1078, redesignated part D as C.

[1] So in original.