Bob Stump National Defense Authorization Act for Fiscal Year 2003

[Public Law 107–314, approved Dec. 2, 2002]

[As Amended Through P.L. 115–232, Enacted August 13, 2018]

[Currency: This publication is a compilation of the text of Public Law 107–314. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at https://www.govinfo.gov/app/collection/comps/]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

SEC. 141. [50 U.S.C. 1521a] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

Subtitle B—Environmental Provisions

* * * * * * *

SEC. 314. [10 U.S.C. 2302 note] PROCUREMENT OF ENVIRONMENTALLY PREFERABLE PROCUREMENT ITEMS.

(a) TRACKING SYSTEM.—The Secretary of Defense shall develop and implement an effective and efficient tracking system to identify the extent to which the Defense Logistics Agency procures environmentally preferable procurement items or procurement items made with recovered material. The system shall provide for the separate tracking, to the maximum extent practicable, of the procurement of each category of procurement items that, as of the date of the en-

actment of this Act, has been determined to be environmentally preferable or made with recovered material.

(b) ASSESSMENT OF TRAINING AND EDUCATION.—The Secretary of Defense shall assess the need to establish a program, or enhance existing programs, for training and educating Department of Defense procurement officials to ensure that they are aware of any Department requirements, preferences, or goals for the procurement of environmentally preferable procurement items or procurement items made with recovered material.

(c) REPORTING REQUIREMENT.—Not later than March 1, 2004, and each March 1 thereafter through 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing the results obtained from the tracking system developed under subsection (a).

(d) RELATION TO OTHER LAWS.—Nothing in this section shall be construed to alter the requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(e) DEFINITIONS.—In this section:

(1) The term "environmentally preferable", in the case of a procurement item, means that the item has a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. The comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

(2) The terms "procurement item" and "recovered material" have the meanings given such terms in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

SEC. 315. [16 U.S.C. 703 note] INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITIES.

(a) INTERIM AUTHORITY FOR INCIDENTAL TAKINGS.—During the period described in subsection (c), section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

(b) IDENTIFICATION OF MEASURES TO MINIMIZE IMPACT OF ACTIVITIES.—During the periods described in subsections (c) and (d), the Secretary of Defense shall, in consultation with the Secretary of the Interior, identify measures—

(1) to minimize and mitigate, to the extent practicable, any adverse impacts of authorized military readiness activities on affected species of migratory birds; and

(2) to monitor the impacts of such military readiness activities on affected species of migratory birds.

(c) PERIOD OF APPLICATION FOR INTERIM AUTHORITY.—The period described in this subsection is the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary of the Interior publishes in the Federal Register a notice that—

(1) regulations authorizing the incidental taking of migratory birds by members of the Armed Forces have been prescribed in accordance with the requirements of subsection (d);

(2) all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted as provided in subsection (e); and

(3) the regulations have taken effect.

(d) INCIDENTAL TAKINGS AFTER INTERIM PERIOD.—(1) Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Interior shall exercise the authority of that Secretary under section 3(a) of the Migratory Bird Treaty Act (16 U.S.C. 704(a)) to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned.

(2) The Secretary of the Interior shall exercise authority under paragraph (1) with the concurrence of the Secretary of Defense.

(e) LIMITATION ON JUDICIAL REVIEW.—An action seeking judicial review of regulations prescribed pursuant to this section or of the manner of their promulgation must be filed in the appropriate Federal court by not later than the expiration of the 120-day period beginning on the date on which such regulations are published in the Federal Register. Upon the expiration of such period and the exhaustion of any legal challenges to the regulations pursuant to any action filed in such period, there shall be no further judicial review of such regulations or of the manner of their promulgation.

(f) MILITARY READINESS ACTIVITY.—(1) In this section the term "military readiness activity" includes—

(A) all training and operations of the Armed Forces that relate to combat; and

(B) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

(2) The term does not include—

(A) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

(B) the operation of industrial activities; or

(C) the construction or demolition of facilities used for a purpose described in subparagraph (A) or (B).

SEC. 332. TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS TO MEET INCREASED REQUIREMENTS SINCE SEPTEMBER 11, 2001.

(a) CONTRACT AUTHORITY.—The Secretary of Defense or the Secretary of a military department may enter into a contract for any increased performance of security-guard functions at a military installation or facility under the jurisdiction of the Secretary undertaken in response to the terrorist attacks on the United States on September 11, 2001, and may waive the prohibition under section 2465(a) of title 10, United States Code, with respect to such contract, if—

(1) without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions; and

(2) the Secretary concerned determines that—

(A) the recruiting and training standards for the personnel who are to perform the security-guard functions at the installation or facility under the contract are comparable to the recruiting and training standards for the personnel of the Department of Defense who perform security-guard functions at military installations and facilities under the jurisdiction of the Secretary;

(B) the contractor personnel performing such functions under the contract will be effectively supervised, reviewed, and evaluated; and

(C) the performance of such functions by the contractor personnel will not result in a reduction in the security of the installation or facility.

(b) INCREASED PERFORMANCE DEFINED.—In this section, the term "increased performance", with respect to security-guard functions at a military installation or facility, means—

(1) in the case of an installation or facility where no security-guard functions were performed as of September 10, 2001, the entire scope or extent of the performance of security-guard functions at the installation or facility after such date; and

(2) in the case of an installation or facility where security-guard functions were performed within a lesser scope of requirements or to a lesser extent as of September 10, 2001, than after such date, the increment of the performance of security-guard functions at the installation or facility that exceeds such lesser scope of requirements or extent of performance.

(c) EXPIRATION OF AUTHORITY.—(1) The authority for contractor performance of security-guard functions under this section shall terminate at the end of September 30, 2012.

(2) No security-guard functions may be performed under any contract entered into using the authority provided under this section during any period in which the authority for contractor performance of security-guard functions under this section is not in effect under paragraph (1). The term of any contract entered into using such authority may not extend beyond September 30, 2012.

(d) LIMITATION.—The total number of personnel employed to perform security guard functions under all contracts entered into pursuant to this section shall not exceed—

(1) for fiscal year 2007, the total number of such personnel employed under such contracts on October 1, 2006;

(2) for fiscal year 2008, the number equal to 90 percent of the total number of such personnel employed under such contracts on October 1, 2006;

(3) for fiscal year 2009, the number equal to 80 percent of the total number of such personnel employed under such contracts on October 1, 2006;

(4) for fiscal year 2010, the number equal to 70 percent of the total number of such personnel employed under such contracts on October 1, 2006;

(5) for fiscal year 2011, the number equal to 60 percent of the total number of such personnel employed under such contracts on October 1, 2006; and

(6) for fiscal year 2012, the number equal to 50 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(e) REPORT AND PLAN REQUIRED.—Not later than December 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report that—

(1) identifies each contract for the performance of security-guard functions entered into on or before September 30, 2004, pursuant to the authority provided by subsection (a), including information regarding—

(A) each installation at which such security-guard functions are performed or are to be performed;

(B) the period and amount of such contract;

(C) the number of security guards employed or to be employed under such contract;

(D) whether the contract was awarded pursuant to full and open competition; and

(E) the actions taken or to be taken within the Department of Defense to ensure that the conditions applicable under paragraph (1) of subsection (a) or determined under paragraph (2) of such subsection are satisfied;

(2) identifies, for each military installation at which such authority was used or is expected to be used, any requirements for the performance of security-guard functions described in subsection (a) that are expected to continue after the date on which such authority expires;

(3) identifies any limitation or constraint on the end strength of the civilian workforce of the Department of Defense that makes it difficult to meet requirements identified under paragraph (2) by hiring personnel as civilian employees of the Department of Defense; and

(4) includes a plan for meeting such requirements, in a manner consistent with applicable law, on a long-term basis.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

TITLE VII—HEALTH CARE PROVISIONS

* * * * * * *

Subtitle A—Health Care Program Improvements

* * * * * * *

SEC. 708. [10 U.S.C. 1071 note] ACCESS TO HEALTH CARE SERVICES FOR BENEFICIARIES ELIGIBLE FOR TRICARE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE.

(a) REQUIREMENT TO ESTABLISH PROCESS.—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the

TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall—

(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an "episode of care" for use in the resolution of patient safety and continuity of care issues under such process.

(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report describing the process prescribed under paragraph (1).

(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

(b) COMPTROLLER GENERAL STUDY AND REPORT.—(1) The Comptroller General shall conduct a study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are receiving needed health care services in a timely manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

(c) DEFINITIONS.—In this section:

(1) The term "covered beneficiary" has the meaning provided by section 1072(5) of title 10, United States Code.

(2) The term "TRICARE program" has the meaning provided by section 1072(7) of such title.

(3) The term "TRICARE Prime" has the meaning provided by section 1097a(f) of such title.

* * * * * * *

Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

SEC. 721. REVISED COORDINATION AND SHARING GUIDELINES.

[Omitted (amended in its entirety 38 U.S.C. 8111)]

SEC. 722. [38 U.S.C. 8111 note] HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.

(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall conduct a health care resources sharing project to serve as a test for evaluating the feasibility, and the advantages and disadvantages, of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense. The project shall be carried out, as a minimum, at the sites identified under subsection (b).

(2) Reimbursement between the two Departments with respect to the project under this section shall be made in accordance with the provisions of section 8111(e)(2) of title 38, United States Code, as amended by section 721(a).

(b) SITE IDENTIFICATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly identify not less than three sites for the conduct of the project under this section.

(2) For purposes of this section, a site at which the resource sharing project shall be carried out is an area in the United States in which—

(A) one or more military treatment facilities and one or more VA health care facilities are situated in relative proximity to each other, including facilities engaged in joint ventures as of the date of the enactment of this Act; and

(B) for which an agreement to coordinate care and programs for patients at those facilities could be implemented not later than October 1, 2004.

(c) CONDUCT OF PROJECT.—(1) At sites at which the project is conducted, the Secretaries shall provide a test of a coordinated management system for the military treatment facilities and VA health care facilities participating in the project. Such a coordinated management system for a site shall include at least one of the elements specified in paragraph (2), and each of the elements specified in that paragraph must be included in the coordinated management system for at least one of the participating sites.

(2) Elements of a coordinated management system referred to in paragraph (1) are the following:

(A) A budget and financial management system for those facilities that—

(i) provides managers with information about the costs of providing health care by both Departments at the site; and

(ii) allows managers to assess the advantages and disadvantages (in terms of relative costs, benefits, and opportunities) of using resources of either Department to provide or enhance health care to beneficiaries of either Department.

(B) A coordinated staffing and assignment system for the personnel (including contract personnel) employed at or assigned to those facilities, including clinical practitioners of either Department.

(C) Medical information and information technology systems for those facilities that—

(i) are compatible with the purposes of the project;

(ii) communicate with medical information and information technology systems of corresponding elements of those facilities; and

(iii) incorporate minimum standards of information quality that are at least equivalent to those adopted for the Departments at large in their separate health care systems.

(d) AUTHORITY TO WAIVE CERTAIN ADMINISTRATIVE POLICIES.—(1)(A) In order to carry out subsection (c), the Secretary of Defense may, in the Secretary's discretion, waive any administrative policy of the Department of Defense otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(B) In order to carry out subsection (c), the Secretary of Veterans Affairs may, in the Secretary's discretion, waive any administrative policy of the Department of Veterans Affairs otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(C) The two Secretaries shall establish procedures for resolving disputes that may arise from the effects of policy changes that are not covered by other agreements or existing procedures.

(2) No waiver under paragraph (1) may alter any labor-management agreement in effect as of the date of the enactment of this Act or adopted by either Department during the period of the project.

(e) USE BY DOD OF CERTAIN TITLE 38 PERSONNEL AUTHORITIES.—(1) In order to carry out subsection (c), the Secretary of Defense may apply to civilian personnel of the Department of Defense assigned to or employed at a military treatment facility participating in the project any of the provisions of subchapters I, III, and IV of chapter 74 of title 38, United States Code, determined appropriate by the Secretary.

(2) For purposes of paragraph (1), any reference in chapter 74 of title 38, United States Code—

(A) to the "Secretary" or the "Under Secretary for Health" shall be treated as referring to the Secretary of Defense; and

(B) to the "Veterans Health Administration" shall be treated as referring to the Department of Defense.

(f) FUNDING.—From amounts available for health care for a fiscal year, each Secretary shall make available to carry out the project not less than—

(1) $3,000,000 for fiscal year 2003;

(2) $6,000,000 for fiscal year 2004; and

(3) $9,000,000 for each succeeding year during which the project is in effect.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "military treatment facility" means a medical facility under the jurisdiction of the Secretary of a military department.

(2) The term "VA health care facility" means a facility under the jurisdiction of the Veterans Health Administration of the Department of Veterans Affairs.

(h) TERMINATION.—(1) The project, and the authority provided by this section, shall terminate on September 30, 2007.

(2) The two Secretaries jointly may terminate the performance of the project at any site when the performance of the project at that site fails to meet performance expectations of the Secretaries, as determined by the Secretaries based on information available to the Secretaries to warrant such action.

SEC. 723. REPORT ON IMPROVED COORDINATION AND SHARING OF HEALTH CARE AND HEALTH CARE RESOURCES FOLLOWING DOMESTIC ACTS OF TERRORISM OR DOMESTIC USE OF WEAPONS OF MASS DESTRUCTION.

(a) JOINT REVIEW.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly review the adequacy of current processes and existing statutory authorities and policy governing the capability of the Department of Defense and the Department of Veterans Affairs to provide health care to members of the Armed Forces following domestic acts of terrorism or domestic use of weapons of mass destruction, both before and after any declaration of national emergency. Such review shall include a determination of the adequacy of current authorities in providing for the coordination and sharing of health care resources between the two Departments in such cases, particularly before the declaration of a national emergency.

(b) REPORT TO CONGRESS.—The two Secretaries shall include a joint report on the review under subsection (a), including any recommended legislative changes, shall be submitted to Congress as part of the fiscal year 2004 budget submission to Congress.

SEC. 724. [10 U.S.C. 1074g note] INTEROPERABILITY OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE PHARMACY DATA SYSTEMS.

(a) INTEROPERABILITY.—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the "Pharmacy Data Transaction System") are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of out-

patients, and using national standards for the exchange of outpatient medication information.

(b) ALTERNATIVE REQUIREMENT.—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as determined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

(c) IMPLEMENTATION FUNDING FOR ALTERNATIVE REQUIREMENT.—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries.

SEC. 725. [10 U.S.C. 1094a note] JOINT PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs. The pilot program shall begin not later than January 1, 2003.

(b) COST-SHARING AGREEMENT.—The Secretaries shall enter into an agreement for carrying out the pilot program. The agreement shall establish means for each Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of that Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) USE OF EXISTING AUTHORITIES.—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs may use authorities provided to them under this subtitle, section 8111 of title 38, United States Code (as amended by section 721(a)), and other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) TERMINATION OF PROGRAM.—The pilot program under this section shall terminate on July 31, 2008.

(e) REPEAL OF SUPERSEDED PROVISION.—[Omitted (repealed section 738 of P.L. 107–107)]

SEC. 726. REPEAL OF CERTAIN LIMITS ON DEPARTMENT OF VETERANS AFFAIRS RESOURCES.

[Omitted (amended section 8110(a)(1) of title 38, U.S.C.)]

* * * * * * *

TITLE XIV—HOMELAND SECURITY

SEC. 1401. [50 U.S.C. 2312 note] TRANSFER OF TECHNOLOGY ITEMS AND EQUIPMENT IN SUPPORT OF HOMELAND SECURITY.

(a) RESPONSIBLE SENIOR OFFICIAL.—The Secretary of Defense shall designate a senior official of the Department of Defense to coordinate all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security.

(b) DUTIES.—The official designated pursuant to subsection (a) shall—

(1) identify technology items and equipment developed or being developed by Department of Defense components that have the potential to enhance public safety and improve homeland security;

(2) cooperate with appropriate Federal Government officials outside the Department of Defense to evaluate whether such technology items and equipment would be useful to first responders;

(3) facilitate the timely transfer, through identification of appropriate private sector manufacturers, of appropriate technology items and equipment to Federal, State, and local first responders, in coordination with appropriate Federal Government officials outside the Department of Defense;

(4) identify and eliminate redundant and unnecessary research efforts within the Department of Defense with respect to technologies to be deployed to first responders;

(5) expedite the advancement of high priority Department of Defense projects from research through implementation of initial manufacturing; and

(6) participate in outreach programs established by appropriate Federal Government officials outside the Department of Defense to communicate with first responders and to facilitate awareness of available technology items and equipment to support responses to crises.

(c) SUPPORT AGREEMENT.—The official designated pursuant to subsection (a) shall enter into an appropriate agreement with a nongovernment entity for such entity to assist the official designated under subsection (a) in carrying out that official's duties under this section. Any such agreement shall be entered into using competitive procedures in compliance with applicable requirements of law and regulation.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the actions taken to carry out this section. The report shall include the following:

(1) Identification of the senior official designated pursuant to subsection (a).

(2) A summary of the actions taken or planned to be taken to implement subsection (b), including a schedule for planned actions.

(3) An initial list of technology items and equipment identified pursuant to subsection (b)(1), together with a summary

of any program schedule for the development, deployment, or transfer of such items and equipment.

(4) A description of any agreement entered into pursuant to subsection (c).

SEC. 1402. [10 U.S.C. 113 note] COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS.

(a) COMPREHENSIVE PLAN.—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, including attacks involving the use or threat of use of weapons of mass destruction.

(b) PREPAREDNESS STRATEGY.—The plan under subsection (a) shall include a preparedness strategy that includes each of the following:

(1) Identification of long-term goals and objectives for improving the preparedness of military installations for preventing and responding to terrorist attacks.

(2) Identification of budget and other resource requirements necessary to achieve those goals and objectives.

(3) Identification of factors beyond the control of the Secretary that could impede the achievement of those goals and objectives.

(4) A discussion of the extent to which local, regional, or national military response capabilities are to be developed, integrated, and used.

(5) A discussion of how the Secretary will coordinate the capabilities referred to in paragraph (4) with local, regional, or national civilian and other military capabilities.

(c) PERFORMANCE PLAN.—The plan under subsection (a) shall include a performance plan that includes each of the following:

(1) A reasonable schedule, with milestones, for achieving the goals and objectives of the strategy under subsection (b).

(2) Performance criteria for measuring progress in achieving those goals and objectives.

(3) A description of the process, together with a discussion of the resources, necessary to achieve those goals and objectives.

(4) A description of the process for evaluating results in achieving those goals and objectives.

(d) SUBMITTAL TO CONGRESS.—The Secretary shall submit the comprehensive plan developed under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act.

(e) COMPTROLLER GENERAL REVIEW AND REPORT.—Not later than 60 days after the date on which the Secretary submits the comprehensive plan under subsection (a), the Comptroller General shall review the plan and submit to the committees referred to in subsection (d) the Comptroller General's assessment of the plan.

(f) ANNUAL REPORT.—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan developed under subsection (a) with the materials that the Secretary submits to Congress in support of the budget submitted

by the President that year pursuant to section 1105(a) of title 31, United States Code.

(2) Each such report shall include—

(A) a discussion of any revision that the Secretary has made in the comprehensive plan developed under subsection (a) since the last report under this subsection or, in the case of the first such report, since the plan was submitted under subsection (d); and

(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

(3) If the Secretary includes in the report for 2004 or 2005 under this subsection a declaration that the goals and objectives of the preparedness strategy set forth in the comprehensive plan have been achieved, no further report is required under this subsection.

SEC. 1403. [10 U.S.C. 12310 note] ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) ESTABLISHMENT OF ADDITIONAL TEAMS.—The Secretary of Defense shall—

(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams, for a total of 55 such teams; and

(2) ensure that of such 55 teams, there is at least one team established in each State and territory.

(b) ESTABLISHMENT OF FURTHER ADDITIONAL TEAMS.—The Secretary of Defense is authorized to have established two additional teams designated as Weapons of Mass Destruction Civil Support Teams, beyond the 55 teams required in subsection (a), if—

(1) the Secretary of Defense has made the certification provided for in section 12310(c)(5) of title 10, United States Code, with respect to each of such additional teams before December 31, 2011; and

(2) the establishment of such additional teams does not require an increase in authorized personnel levels above the numbers authorized as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

(c) LIMITATION OF ESTABLISHMENT OF FURTHER TEAMS.—No Weapons of Mass Destruction Civil Support Team may be established beyond the number authorized by subsections (a) and (b) unless—

(1) the Secretary submits to Congress a request for authority to establish such team, including a detailed justification for its establishment; and

(2) the establishment of such team is specifically authorized by a law enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

(d) NOTIFICATION OF DISESTABLISHMENT OF TEAMS.—No Weapons of Mass Destruction Civil Support Team established pursuant to this section may be disestablished unless, by not later than 90 days before the date on which such team is disestablished, the Secretary submits to the congressional defense committees notice of the proposed disestablishment of the team and the date on which the disestablishment is proposed to take place.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "Weapons of Mass Destruction Civil Support Team" means a team of members of the reserve components of the Armed Forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

(2) The term "State and territory" means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

* * * * * * *

SEC. 3151. [22 U.S.C. 5952 note] TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) TRANSFER OF PROGRAM.—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) TRANSFER OF ASSETS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–339; 22 U.S.C. 5959 note).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) AVAILABILITY OF TRANSFERRED FUNDS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of en-

ergy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than $100,000,000 for that program, until 30 days after the later of—

(A) the date on which the Administrator submits to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

(e) INTERNATIONAL PARTICIPATION IN PROGRAM.—(1) In order to achieve international participation in the program referred to in subsection (a), the Secretary of Energy may, in consultation with the Secretary of State, enter into one or more agreements with any person, foreign government, or other international organization that the Secretary considers appropriate for the contribution of

funds by such person, government, or organization for purposes of the program.

(2) Notwithstanding section 3302 of title 31, United States Code, and subject to paragraphs (3) and (4), the Secretary may retain and utilize any amounts contributed by a person, government, or organization under an agreement under paragraph (1) for purposes of the program without further appropriation and without fiscal year limitation.

(3) The Secretary may not utilize under paragraph (2) any amount contributed under an agreement under paragraph (1) until 30 days after the date on which the Secretary notifies the congressional defense committees of the intent to utilize such amount, including the source of such amount and the proposed purpose for which such amount will be utilized.

(4) If any amount contributed under paragraph (1) has not been utilized within five years of receipt under that paragraph, the Secretary shall return such amount to the person, government, or organization contributing such amount under that paragraph.

(5) Not later than 30 days after the receipt of any amount contributed under paragraph (1), the Secretary shall submit to the congressional defense committees a notice of the receipt of such amount.

(6) Not later than October 31 each year, the Secretary shall submit to the congressional defense committees a report on the receipt and utilization of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including the source of each such amount; and

(B) a statement of any amounts utilized under this subsection, including the purpose for which such amounts were utilized.

(7) The authority of the Secretary to accept and utilize amounts under this subsection shall expire on December 31, 2011.

DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS

SEC. 4001. [50 U.S.C. 2501 note] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Atomic Energy Defense Act".

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

* * * * * * *

SEC. 4002. [50 U.S.C. 2501] DEFINITIONS.

Except as otherwise provided, in this division:

(1) The term "Administration" means the National Nuclear Security Administration.

(2) The term "Administrator" means the Administrator for Nuclear Security.

(3) The term "classified information" means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 3001 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 3161 note), Executive Order No. 13526 of December 29, 2009 (50 U.S.C. 3161 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

(4) The term "congressional defense committees" means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(5) The terms "defense nuclear facility" and "Department of Energy defense nuclear facility" have the meaning given the term "Department of Energy defense nuclear facility" in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(6) The term "nuclear security enterprise" means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.

(7) The term "national security laboratory" means any of the following:

(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

(C) Lawrence Livermore National Laboratory, Livermore, California.

(8) The term "Nuclear Weapons Council" means the Nuclear Weapons Council established by section 179 of title 10, United States Code.

(9) The term "nuclear weapons production facility" means any of the following:

(A) The Kansas City Plant, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

(C) The Y–12 National Security Complex, Oak Ridge, Tennessee.

(D) The Savannah River Site, Aiken, South Carolina.

(E) The Nevada National Security Site, Nevada.

(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

(10) The term "Restricted Data" has the meaning given such term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

TITLE XLI—ORGANIZATIONAL MATTERS

SEC. 4101. [50 U.S.C. 2511] NAVAL NUCLEAR PROPULSION PROGRAM.

The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program,[1] shall remain in force until changed by law.

SEC. 4102. [50 U.S.C. 2512] MANAGEMENT STRUCTURE FOR NUCLEAR SECURITY ENTERPRISE.

(a) IN GENERAL.—The Administrator shall establish a management structure for the nuclear security enterprise in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.).

(b) NATIONAL NUCLEAR SECURITY ADMINISTRATION COUNCIL.—(1) The Administrator shall establish a council to be known as the "National Nuclear Security Administration Council". The Council may advise the Administrator on—

(A) scientific and technical issues relating to policy matters;

(B) operational concerns;

(C) strategic planning;

(D) the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and

(E) such other matters as the Administrator determines appropriate.

(2) The Council shall be composed of the directors of the national security laboratories and the nuclear weapons production facilities.

[1] The text of the executive order is set out in this volume under Selected Other Matters.

(3) The Council may provide the Administrator or the Secretary of Energy recommendations—

(A) for improving the governance, management, effectiveness, and efficiency of the Administration; and

(B) relating to any other matter in accordance with paragraph (1).

(4) Not later than 60 days after the date on which any recommendation under paragraph (3) is received, the Administrator or the Secretary, as the case may be, shall respond to the Council with respect to whether such recommendation will be implemented and the reasoning for implementing or not implementing such recommendation.

SEC. 4103. [50 U.S.C. 2513] RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES.

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

Subtitle A—Stockpile Stewardship and Weapons Production

SEC. 4201. [50 U.S.C. 2521] STOCKPILE STEWARDSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator, shall establish a stewardship program to ensure—

(1) the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification; and

(2) that the nuclear weapons stockpile is safe, secure, and reliable without the use of underground nuclear weapons testing.

(b) PROGRAM ELEMENTS.—The program shall include the following:

(1) An increased level of effort for advanced computational capabilities to enhance the simulation and modeling capabilities of the United States with respect to the performance over time of nuclear weapons.

(2) An increased level of effort for above-ground experimental programs, such as hydrotesting, high-energy lasers, inertial confinement fusion, plasma physics, and materials research.

(3) Support for new facilities construction projects that contribute to the experimental capabilities of the United States, such as an advanced hydrodynamics facility, the Na-

tional Ignition Facility, and other facilities for above-ground experiments to assess nuclear weapons effects.

(4) Support for the use of, and experiments facilitated by, the advanced experimental facilities of the United States, including—

(A) the National Ignition Facility at Lawrence Livermore National Laboratory;

(B) the Dual Axis Radiographic Hydrodynamic Test Facility at Los Alamos National Laboratory;

(C) the Z Machine at Sandia National Laboratories; and

(D) the experimental facilities at the Nevada National Security Site.

(5) Support for the sustainment and modernization of facilities with production and manufacturing capabilities that are necessary to ensure the safety, security, and reliability of the nuclear weapons stockpile, including—

(A) the nuclear weapons production facilities; and

(B) production and manufacturing capabilities resident in the national security laboratories.

SEC. 4202. [50 U.S.C. 2522] STOCKPILE STEWARDSHIP CRITERIA.

(a) REQUIREMENT FOR CRITERIA.—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

SEC. 4203. [50 U.S.C. 2523] NUCLEAR WEAPONS STOCKPILE STEWARDSHIP, MANAGEMENT, AND RESPONSIVENESS PLAN.

(a) PLAN REQUIREMENT.—The Administrator, in consultation with the Secretary of Defense and other appropriate officials of the departments and agencies of the Federal Government, shall develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan shall cover, at a minimum, stockpile stewardship, stockpile management, stockpile responsiveness, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. The plan shall be consistent with the programmatic and technical requirements of the most recent annual Nuclear Weapons Stockpile Memorandum.

(b) SUBMISSIONS TO CONGRESS.—(1) In accordance with subsection (c), not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

(2) In accordance with subsection (d), not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

(3) The summaries and reports required by this subsection shall be submitted in unclassified form, but may include a classified annex.

(c) ELEMENTS OF BIENNIAL PLAN SUMMARY.—Each summary of the plan submitted under subsection (b)(1) shall include, at a minimum, the following:

(1) A summary of the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type.

(2) A summary of the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types.

(3) A summary of the methods and information used to determine that the nuclear weapons stockpile is safe and reliable, as well as the relationship of science-based tools to the collection and interpretation of such information.

(4) A summary of the status of the nuclear security enterprise, including programs and plans for infrastructure modernization and retention of human capital, as well as associated budgets and schedules.

(5) A summary of the status, plans, and budgets for carrying out the stockpile responsiveness program under section 4220.

(6) A summary of the plan regarding the research and development, deployment, and lifecycle sustainment of technologies described in subsection (d)(7).

(7) A summary of the assessment under subsection (d)(8) regarding the execution of programs with current and projected budgets and any associated risks.

(8) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

(9) Such other information as the Administrator considers appropriate.

(d) ELEMENTS OF BIENNIAL DETAILED REPORT.—Each detailed report on the plan submitted under subsection (b)(2) shall include, at a minimum, the following:

(1) With respect to stockpile stewardship, stockpile management, and stockpile responsiveness—

(A) the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type;

(B) for each five-year period occurring during the period beginning on the date of the report and ending on the date that is 20 years after the date of the report—

(i) the planned number of nuclear warheads (including active and inactive) for each warhead type in the nuclear weapons stockpile; and

(ii) the past and projected future total lifecycle cost of each type of nuclear weapon;

(C) the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types;

(D) a description of the process by which the Administrator assesses the lifetimes, and requirements for life extension or replacement, of the nuclear and non-nuclear

components of the warheads (including active and inactive warheads) in the nuclear weapons stockpile;

(E) a description of the process used in recertifying the safety, security, and reliability of each warhead type in the nuclear weapons stockpile;

(F) any concerns of the Administrator that would affect the ability of the Administrator to recertify the safety, security, or reliability of warheads in the nuclear weapons stockpile (including active and inactive warheads);

(G) mechanisms to provide for the manufacture, maintenance, and modernization of each warhead type in the nuclear weapons stockpile, as needed;

(H) mechanisms to expedite the collection of information necessary for carrying out the stockpile management program required by section 4204, including information relating to the aging of materials and components, new manufacturing techniques, and the replacement or substitution of materials;

(I) mechanisms to ensure the appropriate assignment of roles and missions for each national security laboratory and nuclear weapons production facility, including mechanisms for allocation of workload, mechanisms to ensure the carrying out of appropriate modernization activities, and mechanisms to ensure the retention of skilled personnel;

(J) mechanisms to ensure that each national security laboratory has full and complete access to all weapons data to enable a rigorous peer-review process to support the annual assessment of the condition of the nuclear weapons stockpile required under section 4205;

(K) mechanisms for allocating funds for activities under the stockpile management program required by section 4204, including allocations of funds by weapon type and facility;

(L) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 4204;

(M) the status, plans, activities, budgets, and schedules for carrying out the stockpile responsiveness program under section 4220;

(N) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 4220; and

(O) as required, when assessing and developing prototype nuclear weapons of foreign countries, a report from the directors of the national security laboratories on the need and plan for such assessment and development that includes separate comments on the plan from the Secretary of Energy and the Director of National Intelligence.

(2) With respect to science-based tools—

(A) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable;

(B) for each science-based tool used to collect information described in subparagraph (A), the relationship between such tool and such information and the effectiveness of such tool in providing such information based on the criteria developed pursuant to section 4202(a); and

(C) the criteria developed under section 4202(a) (including any updates to such criteria).

(3) An assessment of the stockpile stewardship program under section 4201 by the Administrator, in consultation with the directors of the national security laboratories, which shall set forth—

(A) an identification and description of—

(i) any key technical challenges to the stockpile stewardship program; and

(ii) the strategies to address such challenges without the use of nuclear testing;

(B) a strategy for using the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory to ensure that the nuclear weapons stockpile is safe, secure, and reliable without the use of nuclear testing;

(C) an assessment of the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory that exist at the time of the assessment compared with the science-based tools expected to exist during the period covered by the future-years nuclear security program; and

(D) an assessment of the core scientific and technical competencies required to achieve the objectives of the stockpile stewardship program and other weapons activities and weapons-related activities of the Administration, including—

(i) the number of scientists, engineers, and technicians, by discipline, required to maintain such competencies; and

(ii) a description of any shortage of such individuals that exists at the time of the assessment compared with any shortage expected to exist during the period covered by the future-years nuclear security program.

(4) With respect to the nuclear security infrastructure—

(A) a description of the modernization and refurbishment measures the Administrator determines necessary to meet the requirements prescribed in—

(i) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043) if such strategy has been submitted as of the date of the plan;

(ii) the most recent quadrennial defense review if such strategy has not been submitted as of the date of the plan; and

(iii) the most recent Nuclear Posture Review as of the date of the plan;

(B) a schedule for implementing the measures described under subparagraph (A) during the 10-year period following the date of the plan;

(C) the estimated levels of annual funds the Administrator determines necessary to carry out the measures described under subparagraph (A), including a discussion of the criteria, evidence, and strategies on which such estimated levels of annual funds are based; and

(D)(i) a description of—

(I) the metrics (based on industry best practices) used by the Administrator to determine the infrastructure deferred maintenance and repair needs of the nuclear security enterprise; and

(II) the percentage of replacement plant value being spent on maintenance and repair needs of the nuclear security enterprise; and

(ii) an explanation of whether the annual spending on such needs complies with the recommendation of the National Research Council of the National Academies of Sciences, Engineering, and Medicine that such spending be in an amount equal to four percent of the replacement plant value, and, if not, the reasons for such noncompliance and a plan for how the Administrator will ensure facilities of the nuclear security enterprise are being properly sustained.

(5) With respect to the nuclear test readiness of the United States—

(A) an estimate of the period of time that would be necessary for the Administrator to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test;

(B) a description of the level of test readiness that the Administrator, in consultation with the Secretary of Defense, determines to be appropriate;

(C) a list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada National Security Site;

(D) a list and description of the infrastructure and physical plants that are essential to carrying out an underground nuclear test at the Nevada National Security Site; and

(E) an assessment of the readiness status of the skills and capabilities described in subparagraph (C) and the infrastructure and physical plants described in subparagraph (D).

(6) A strategy for the integrated management of plutonium for stockpile and stockpile stewardship needs over a 20-year period that includes the following:

(A) An assessment of the baseline science issues necessary to understand plutonium aging under static and dynamic conditions under manufactured and nonmanufactured plutonium geometries.

(B) An assessment of scientific and testing instrumentation for plutonium at elemental and bulk conditions.

(C) An assessment of manufacturing and handling technology for plutonium and plutonium components.

(D) An assessment of computational models of plutonium performance under static and dynamic loading, including manufactured and nonmanufactured conditions.

(E) An identification of any capability gaps with respect to the assessments described in subparagraphs (A) through (D).

(F) An estimate of costs relating to the issues, instrumentation, technology, and models described in subparagraphs (A) through (D) over the period covered by the future-years nuclear security program under section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

(G) An estimate of the cost of eliminating the capability gaps identified under subparagraph (E) over the period covered by the future-years nuclear security program.

(H) Such other items as the Administrator considers important for the integrated management of plutonium for stockpile and stockpile stewardship needs.

(7) A plan for the research and development, deployment, and lifecycle sustainment of the technologies employed within the nuclear security enterprise to address physical and cyber security threats during the five fiscal years following the date of the report, together with—

(A) for each site in the nuclear security enterprise, a description of the technologies deployed to address the physical and cybersecurity threats posed to that site;

(B) for each site and for the nuclear security enterprise, the methods used by the Administration to establish priorities among investments in physical and cybersecurity technologies; and

(C) a detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal-year period will help carry out that plan.

(8) An assessment of whether the programs described by the report can be executed with current and projected budgets and any associated risks.

(9) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

(e) NUCLEAR WEAPONS COUNCIL ASSESSMENT.—(1) For each detailed report on the plan submitted under subsection (b)(2), the Nuclear Weapons Council shall conduct an assessment that includes the following:

(A) An analysis of the plan, including—

(i) whether the plan supports the requirements of the national security strategy of the United States or the most recent quadrennial defense review, as applicable under subsection (d)(4)(A), and the Nuclear Posture Review;

(ii) whether the modernization and refurbishment measures described under subparagraph (A) of subsection (d)(4) and the schedule described under subparagraph (B) of such subsection are adequate to support such requirements; and

(iii) whether the plan supports the stockpile responsiveness program under section 4220 in a manner that meets the objectives of such program and an identification of any improvements that may be made to the plan to better carry out such program.

(B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security enterprise.

(C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security enterprise facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to—

(i) supporting the annual certification of the nuclear weapons stockpile; and

(ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.

(2) Not later than 180 days after the date on which the Administrator submits the plan under subsection (b)(2), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

(f) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.

(2) The term "future-years nuclear security program" means the program required by section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

(3) The term "nuclear security budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Administrator in support of the budget for that fiscal year.

(4) The term "quadrennial defense review" means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of title 10, United States Code.

(5) The term "weapons activities" means each activity within the budget category of weapons activities in the budget of the Administration.

(6) The term "weapons-related activities" means each activity under the Department of Energy that involves nuclear weapons, nuclear weapons technology, or fissile or radioactive materials, including activities related to—

(A) nuclear nonproliferation;

(B) nuclear forensics;

(C) nuclear intelligence;

(D) nuclear safety; and

(E) nuclear incident response.

[Section 4203A repealed by section 3133(c)(1) of division C of Public Law 112–239.]

SEC. 4204. [50 U.S.C. 2524] STOCKPILE MANAGEMENT PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a program, in support of the stockpile stewardship program, to provide for the effective management of the weapons in the nuclear weapons stockpile, including the extension of the effective life of such weapons. The program shall have the following objectives:

(1) To increase the reliability, safety, and security of the nuclear weapons stockpile of the United States.

(2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.

(3) To achieve reductions in the future size of the nuclear weapons stockpile.

(4) To reduce the risk of an accidental detonation of an element of the stockpile.

(5) To reduce the risk of an element of the stockpile being used by a person or entity hostile to the United States, its vital interests, or its allies.

(b) PROGRAM LIMITATIONS.—In carrying out the stockpile management program under subsection (a), the Secretary of Energy shall ensure that—

(1) any changes made to the stockpile shall be made to achieve the objectives identified in subsection (a); and

(2) any such changes made to the stockpile shall—

(A) remain consistent with basic design parameters by including, to the maximum extent feasible, components that are well understood or are certifiable without the need to resume underground nuclear weapons testing; and

(B) use the design, certification, and production expertise resident in the nuclear security enterprise to fulfill current mission requirements of the existing stockpile.

(c) PROGRAM BUDGET.—In accordance with the requirements under section 4209, for each budget submitted by the President to Congress under section 1105 of title 31, United States Code, the amounts requested for the program under this section shall be clearly identified in the budget justification materials submitted to Congress in support of that budget.

[Section 4204A repealed by section 3113(a)(1) of division C of Public Law 111–84.]

SEC. 4205. [50 U.S.C. 2525] ANNUAL ASSESSMENTS AND REPORTS TO THE PRESIDENT AND CONGRESS REGARDING THE CONDITION OF THE UNITED STATES NUCLEAR WEAPONS STOCKPILE.

(a) ANNUAL ASSESSMENTS REQUIRED.—For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance, or military effectiveness of that nuclear weapon type, complete an

assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.

(b) COVERED OFFICIALS.—The officials referred to in subsection (a) are the following:

(1) The head of each national security laboratory.

(2) The Commander of the United States Strategic Command.

(c) DUAL VALIDATION TEAMS IN SUPPORT OF ASSESSMENTS.—In support of the assessments required by subsection (a), the Administrator may establish teams, known as "dual validation teams", to provide each national security laboratory responsible for weapons design with independent evaluations of the condition of each warhead for which such laboratory has lead responsibility. A dual validation team established by the Administrator shall—

(1) be comprised of weapons experts from the laboratory that does not have lead responsibility for fielding the warhead being evaluated;

(2) have access to all surveillance and underground test data for all stockpile systems for use in the independent evaluations;

(3) use all relevant available data to conduct independent calculations; and

(4) pursue independent experiments to support the independent evaluations.

(d) USE OF TEAMS OF EXPERTS FOR ASSESSMENTS.—The head of each national security laboratory shall establish and use one or more teams of experts, known as "red teams", to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall—

(1) review both the matters covered by the assessments under subsection (a) performed by the head of that laboratory and any independent evaluations conducted by a dual validation team under subsection (c);

(2) subject such matters to challenge; and

(3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.

(e) REPORT ON ASSESSMENTS.—Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following:

(1) The results of each such assessment.

(2)(A) Such official's determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so—

(i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and

(ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.

(B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.

(C) Such official's determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.

(3) In the case of a report submitted by the head of a national security laboratory—

(A) a concise statement regarding the adequacy of the science-based tools and methods being used to determine the matters covered by the assessments;

(B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 4212 to identify and fix any inadequacy with respect to the matters covered by the assessments;

(C) a concise summary of the findings and recommendations of any teams under subsection (d) that relate to the assessments, together with a discussion of those findings and recommendations;

(D) a concise summary of the results of any independent evaluation conducted by a dual validation team under subsection (c); and

(E) a concise summary of any significant finding investigations initiated or active during the previous year for which the head of the national security laboratory has full or partial responsibility.

(4) In the case of a report submitted by the Commander of the United States Strategic Command—

(A) a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types;

(B) a summary of all major assembly releases in place as of the date of the report for the active and inactive nuclear weapon stockpiles; and

(C) the views of the Commander on the stockpile responsiveness program under section 4220, the activities conducted under such program, and any suggestions to improve such program.

(5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.

(f) SUBMITTALS TO THE PRESIDENT AND CONGRESS.—(1) Not later than February 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President—

(A) each report, without change, submitted to either Secretary under subsection (e) during the preceding year;

(B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;

(C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and

(D) any other information that the Secretaries individually or jointly consider appropriate.

(2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.

(3) If the President does not forward to Congress the matters required under paragraph (2) by the date required by such paragraph, the officials specified in subsection (b) shall provide a briefing to the congressional defense committees not later than March 30 on the report such officials submitted to the Secretary concerned under subsection (e).

(g) CLASSIFIED FORM.—Each submittal under subsection (f) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.

(h) DEFINITION.—In this section, the term "Secretary concerned" means—

(1) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(2) the Secretary of Defense, with respect to matters concerning the Department of Defense.

SEC. 4206. [50 U.S.C. 2526] FORM OF CERTIFICATIONS REGARDING THE SAFETY OR RELIABILITY OF THE NUCLEAR WEAPONS STOCKPILE.

Any certification submitted to the President by the Secretary of Defense or the Secretary of Energy regarding confidence in the safety or reliability of a nuclear weapon type in the United States nuclear weapons stockpile shall be submitted in classified form only.

SEC. 4207. [50 U.S.C. 2527] NUCLEAR TEST BAN READINESS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Russian Federation.

(b) PURPOSES OF PROGRAM.—The purposes of the program under subsection (a) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(c) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (a). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national security laboratories.

[Section 4208 repealed by section 3133(e)(1)(A) of division C of Public Law 112–239.]

SEC. 4209. [50 U.S.C. 2529] REQUIREMENTS FOR SPECIFIC REQUEST FOR NEW OR MODIFIED NUCLEAR WEAPONS.

(a) REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT.—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary—

(A) shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code; and

(B) may carry out such activities only if amounts are authorized to be appropriated for such activities by an Act of Congress consistent with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270).

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) BUDGET REQUEST FORMAT.—The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2,

or 6.2A (as the case may be), or any concept work prior to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) EXCEPTION.—Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary to address proliferation concerns.

(d) DEFINITIONS.—In this section:

(1) The term "modified nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of December 2, 2002; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(2) The term "new nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on December 2, 2002; nor

(B) in production as of that date.

SEC. 4210. [50 U.S.C. 2530] TESTING OF NUCLEAR WEAPONS.

(a) UNDERGROUND TESTING.—No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(b) ATMOSPHERIC TESTING.—None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1547) or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.

[Section 4211 repealed by section 3131(d)(3) of division C of Public Law 112–239.]

SEC. 4212. [50 U.S.C. 2532] MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE.

(a) MANUFACTURING PROGRAM.—(1) The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives as specified in the Nuclear Posture Review:

(A) To provide a stockpile surveillance engineering base.

(B) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(C) To fabricate and certify new nuclear warheads, as necessary.

(D) To support nuclear weapons.

(E) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Memorandum.

(b) REQUIRED CAPABILITIES.—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y–12 Plant, Oak Ridge, Tennessee.

(3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.

(4) The non-nuclear component capabilities of the Kansas City Plant.

(c) NUCLEAR POSTURE REVIEW.—For purposes of subsection (a), the term "Nuclear Posture Review" means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and Congress dated February 19, 1995, or subsequent such reports.

SEC. 4213. [50 U.S.C. 2533] REPORTS ON CRITICAL DIFFICULTIES AT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES.

(a) REPORTS BY HEADS OF LABORATORIES AND FACILITIES.—In the event of a difficulty at a national security laboratory or a nuclear weapons production facility that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or facility, as the case may be, shall submit to the Administrator a report on the difficulty. The head of the laboratory or facility shall submit the report as soon as practicable after discovery of the difficulty.

(b) TRANSMITTAL BY ADMINISTRATOR.—Not later than 10 days after receipt of a report under subsection (a), the Administrator shall transmit the report (together with the comments of the Administrator) to the congressional defense committees, to the Secretary of Energy and the Secretary of Defense, and to the President.

(c) REPORTS BY NUCLEAR WEAPONS COUNCIL.—[Omitted-Amendment]

(d) INCLUSION OF REPORTS IN ANNUAL STOCKPILE ASSESSMENT.—Any report submitted pursuant to subsection (a) shall also be submitted to the President and Congress with the matters required to be submitted under section 4205(f) for the year in which such report is submitted.

[Section 4214 was repealed by section 3146(c)(8)(A) of division C of Public Law 113–66.]

SEC. 4215. [50 U.S.C. 2535] REPLACEMENT PROJECT FOR CHEMISTRY AND METALLURGY RESEARCH BUILDING, LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) REPLACEMENT BUILDING REQUIRED.—The Secretary of Energy shall construct at Los Alamos National Laboratory, New Mexico, a building to replace the functions of the existing Chemistry and Metallurgy Research Building at Los Alamos National Laboratory associated with Department of Energy Hazard Category 2 special nuclear material operations.

(b) LIMITATION ON COST.—The cost of the building constructed under subsection (a) may not exceed $3,700,000,000. If the Secretary determines the cost will exceed such amount, the Secretary shall submit a detailed justification for such increase to the congressional defense committees.

(c) PROJECT BASIS.—The construction authorized by subsection (a) shall use as its basis the facility project in the Department of Energy Readiness and Technical Base designated 04–D–125 (chemistry and metallurgy facility replacement project at Los Alamos National Laboratory).

(d) ASSISTANCE.—(1) In carrying out this section, the Secretary shall procure the services of the Commander of the Naval Facilities Engineering Command to assist the Secretary with respect to the program management, oversight, and design activities of the project authorized by subsection (a).

(2) The Secretary shall carry out this subsection using funds made available for the Administration.

(e) DEADLINE FOR COMMENCEMENT OF OPERATIONS.—The building constructed under subsection (a) shall commence operations by not later than December 31, 2026.

SEC. 4216. [50 U.S.C. 2536] REPORTS ON LIFETIME EXTENSION PROGRAMS.

(a) REPORTS REQUIRED.—Before proceeding beyond phase 6.2 activities with respect to any lifetime extension program, the Nuclear Weapons Council shall submit to the congressional defense committees a report on such phase 6.2 activities, including—

(1) an assessment of the lifetime extension options considered for the phase 6.2 activities, including whether the subsystems and components in each option are considered to be a refurbishment, reuse, or replacement of such subsystem or component; and

(2) an assessment of the option selected for the phase 6.2 activities, including—

(A) whether the subsystems and components will be refurbished, reused, or replaced; and

(B) the advantages and disadvantages of refurbishment, reuse, and replacement for each such subsystem and component.

(b) PHASE 6.2 ACTIVITIES DEFINED.—In this section, the term "phase 6.2 activities" means, with respect to a lifetime extension program, the phase 6.2 feasibility study and option down-select.

SEC. 4217. [50 U.S.C. 2537] SELECTED ACQUISITION REPORTS AND INDEPENDENT COST ESTIMATES AND REVIEWS OF CERTAIN PROGRAMS AND FACILITIES.

(a) SELECTED ACQUISITION REPORTS.—(1) At the end of the first quarter of each fiscal year, the Secretary of Energy, acting through the Administrator, shall submit to the congressional defense committees a report on each nuclear weapon system undergoing life extension and each major alteration project (as defined in section 4713(a)(2)) during the preceding fiscal year. The reports shall be known as Selected Acquisition Reports for the weapon system concerned.

(2) The information contained in the Selected Acquisition Report for a fiscal year for a nuclear weapon system shall be the information contained in the Selected Acquisition Report for each fiscal-year quarter in that fiscal year for a major defense acquisition program under section 2432 of title 10, United States Code, expressed in terms of the nuclear weapon system.

(b) INDEPENDENT COST ESTIMATES AND REVIEWS.—(1) The Secretary, acting through the Administrator, shall submit to the congressional defense committees and the Nuclear Weapons Council the following:

(A) An independent cost estimate of the following:

(i) Each nuclear weapon system undergoing life extension at the completion of phase 6.2A, relating to design definition and cost study.

(ii) Each nuclear weapon system undergoing life extension at the completion of phase 6.3, relating to development engineering.

(iii) Each nuclear weapon system undergoing life extension at the completion of phase 6.4, relating to production engineering, and before the initiation of phase 6.5, relating to first production.

(iv) Each new nuclear facility within the nuclear security enterprise that is estimated to cost more than $500,000,000 before such facility achieves critical decision 1 and before such facility achieves critical decision 2 in the acquisition process.

(v) Each nuclear weapons system undergoing a major alteration project (as defined in section 4713(a)(2)).

(B) An independent cost review of each nuclear weapon system undergoing life extension at the completion of phase 6.2, relating to study of feasibility and down-select.

(2) Each independent cost estimate and independent cost review under paragraph (1) shall include—

(A) whether the cost baseline or the budget estimate for the period covered by the future-years nuclear security program has changed, and the rationale for any such change; and

(B) any views of the Secretary or the Administrator regarding such estimate or review.

(3) The Administrator shall review and consider the results of any independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility, as the case may be, under this subsection before entering the next phase of the devel-

opment process of such system or the acquisition process of such facility.

(4) Except as otherwise specified in paragraph (1), each independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility under this subsection shall be submitted not later than 30 days after the date on which—

(A) in the case of a nuclear weapons system, such system completes a phase specified in such paragraph; or

(B) in the case of a nuclear facility, such facility achieves critical decision 1 as specified in subparagraph (A)(iv) of such paragraph.

(5) Each independent cost estimate or independent cost review submitted under this subsection shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) AUTHORITY FOR FURTHER ASSESSMENTS.—Upon the request of the Administrator, the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Administrator, may conduct an independent cost assessment of any initiative or program of the Administration that is estimated to cost more than $500,000,000.

SEC. 4218. [50 U.S.C. 2538] ADVICE TO THE PRESIDENT AND CONGRESS REGARDING THE SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE.

(a) POLICY.—

(1) IN GENERAL.—It is the policy of the United States—

(A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

(B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) NUCLEAR WEAPONS STOCKPILE.—It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the national security laboratories and nuclear weapons production facilities.

(3) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(b) ADDITION OF PRESIDENT TO RECIPIENTS OF REPORTS BY HEADS OF LABORATORIES AND PLANTS.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) is amended—

(1) by striking out "committees and" and inserting in lieu thereof "committees,"; and

(2) by inserting before the period at the end the following: ", and to the President".

(c) TEN-DAY TIME LIMIT FOR TRANSMITTAL OF REPORT.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) is amended by striking out "As soon as practicable" and inserting in lieu thereof "Not later than 10 days".

(d) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE.—In addition to a director of a national security laboratory or a nuclear weapons production facility under section 4213, any member of the Nuclear Weapons Council or the Commander of the United States Strategic Command may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(e) EXPRESSION OF INDIVIDUAL VIEWS.—

(1) IN GENERAL.—No individual, including a representative of the President, may take any action against, or otherwise constrain, a director of a national security laboratory or a nuclear weapons production facility, a member of the Nuclear Weapons Council, or the Commander of the United States Strategic Command from presenting the professional views of the director, member, or Commander, as the case may be, to the President, the National Security Council, or Congress regarding—

(A) the safety, security, reliability, or credibility of the nuclear weapons stockpile and nuclear forces; or

(B) the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B) may be construed to affect the interagency budget process.

(f) REPRESENTATIVE OF THE PRESIDENT DEFINED.—In this section, the term "representative of the President" means the following:

(1) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(2) Any member or official of the National Security Council.

(3) Any member or official of the Joint Chiefs of Staff.

(4) Any official of the Office of Management and Budget.

SEC. 4219. [50 U.S.C. 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 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.

(b) AUTHORIZATION OF TWO-YEAR DELAY OF DEMONSTRATION REQUIREMENT.—The Secretary of Energy and the Secretary of Defense may jointly delay, for not more than two years, the requirement under subsection (a)(5) if—

(1) the Secretary of Defense and the Secretary of Energy jointly submit to the congressional defense committees a report describing—

(A) the justification for the proposed delay;

(B) the effects of the proposed delay on stockpile stewardship and modernization, life extension programs, future stockpile strategy, and dismantlement efforts; and

(C) whether the proposed delay is consistent with national policy regarding creation of a responsive nuclear infrastructure; and

(2) the Commander of the United States Strategic Command submits to the congressional defense committees a report containing the assessment of the Commander with respect to the potential risks to national security of the proposed delay in meeting—

(A) the nuclear deterrence requirements of the United States Strategic Command; and

(B) national requirements related to creation of a responsive nuclear infrastructure.

(c) ANNUAL CERTIFICATION.—Not later than March 1, 2015, and each year thereafter through 2027 (or, if the authority under subsection (b) is exercised, 2029), 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).

(d) PLAN.—If the Secretary of Energy does not make a certification under subsection (c) 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.

SEC. 4220. [50 U.S.C. 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 en-

sure 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 4201 and the stockpile management program under section 4204, to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons.

(c) OBJECTIVES.—The program under subsection (b) shall have the following objectives:

(1) Identify, sustain, enhance, integrate, and continually exercise all of the capabilities, infrastructure, tools, and technologies across the science, engineering, design, certification, and manufacturing cycle required to carry out all phases of the joint nuclear weapons life cycle process, with respect to both the nuclear security enterprise and relevant elements of the Department of Defense.

(2) Identify, enhance, and transfer knowledge, skills, and direct experience with respect to all phases of the joint nuclear weapons life cycle process from one generation of nuclear weapon designers and engineers to the following generation.

(3) Periodically demonstrate stockpile responsiveness throughout the range of capabilities required, including prototypes, flight testing, and development of plans for certification without the need for nuclear explosive testing.

(4) Shorten design, certification, and manufacturing cycles and timelines to minimize the amount of time and costs leading to an engineering prototype and production.

(5) Continually exercise processes for the integration and coordination of all relevant elements and processes of the Administration and the Department of Defense required to ensure stockpile responsiveness.

(6) The retention of the ability, in consultation with the Director of National Intelligence, to assess and develop prototype nuclear weapons of foreign countries and, if necessary, to conduct no-yield testing of those prototypes.

(d) JOINT NUCLEAR WEAPONS LIFE CYCLE PROCESS DEFINED.—In this section, the term "joint nuclear weapons life cycle process" means the process developed and maintained by the Secretary of Defense and the Secretary of Energy for the development, production, maintenance, and retirement of nuclear weapons.

SEC. 4221. [50 U.S.C. 2538c] LONG-TERM PLAN FOR MEETING NATIONAL SECURITY REQUIREMENTS FOR UNENCUMBERED URANIUM.

(a) IN GENERAL.—Not later than December 31 of each even-numbered year through 2026, the Secretary of Energy shall submit to the congressional defense committees a plan for meeting national security requirements for unencumbered uranium through 2065.

(b) PLAN REQUIREMENTS.—The plan required by subsection (a) shall include the following:

(1) An inventory of unencumbered uranium (other than depleted uranium), by program source and enrichment level, that, as of the date of the plan, is allocated to national security requirements.

(2) An inventory of unencumbered uranium (other than depleted uranium), by program source and enrichment level, that, as of the date of the plan, is not allocated to national security requirements but could be allocated to such requirements.

(3) An identification of national security requirements for unencumbered uranium, by program source and enrichment level.

(4) A description of any shortfall in obtaining unencumbered uranium to meet national security requirements and an assessment of whether that shortfall could be mitigated through the blending down of uranium that is of a higher enrichment level.

(5) An inventory of unencumbered depleted uranium, an assessment of the portion of that uranium that could be allocated to national security requirements through re-enrichment, and an estimate of the costs of re-enriching that uranium.

(6) A description of the swap and barter agreements involving unencumbered uranium needed to meet national security requirements that are in effect on the date of the plan.

(7) An assessment of whether additional enrichment of uranium will be required to meet national security requirements and an estimate of the time for production operations and the cost for each type of enrichment being considered.

(8) A description of changes in policy that would mitigate any shortfall in obtaining unencumbered uranium to meet national security requirements and the implications of those changes.

(c) FORM OF PLAN.—The plan required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) DEFINITIONS.—In this section:

(1) The term "depleted", with respect to uranium, means that the uranium is depleted in uranium-235 compared with natural uranium.

(2) The term "unencumbered", with respect to uranium, means that the United States has no obligation to foreign governments to use the uranium for only peaceful purposes.

SEC. 4222. [50 U.S.C. 2538d] INCORPORATION OF INTEGRATED SURETY ARCHITECTURE.

(a) SHIPMENTS.—(1) The Administrator shall ensure that shipments described in paragraph (2) incorporate surety technologies relating to transportation and shipping developed by the Integrated Surety Architecture program of the Administration.

(2) A shipment described in this paragraph is an over-the-road shipment of the Administration that involves any nuclear weapon planned to be in the active stockpile after 2025.

(b) CERTAIN PROGRAMS.—(1) The Administrator, in coordination with the Chairman of the Nuclear Weapons Council, shall ensure that each program described in paragraph (2) incorporates in-

tegrated designs compatible with the Integrated Surety Architecture program.

(2) A program described in this subsection is a program of the Administration that is a warhead development program, a life extension program, or a warhead major alteration program.

(c) DETERMINATION.—(1) If, on a case-by-case basis, the Administrator determines that a shipment under subsection (a) will not incorporate some or all of the surety technologies described in such subsection, or that a program under subsection (b) will not incorporate some or all of the integrated designs described in such subsection, the Administrator shall submit such determination to the congressional defense committees, including the results of an analysis conducted pursuant to paragraph (2).

(2) Each determination made under paragraph (1) shall be based on a documented, system risk analysis that considers security risk reduction, operational impacts, and technical risk.

(d) TERMINATION.—The requirements of subsections (a) and (b) shall terminate on December 31, 2029.

Subtitle B—Tritium

SEC. 4231. [50 U.S.C. 2541] TRITIUM PRODUCTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons.

(b) LOCATION OF TRITIUM PRODUCTION FACILITY.—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(c) IN-REACTOR TESTS.—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

SEC. 4232. [50 U.S.C. 2542] TRITIUM RECYCLING.

(a) IN GENERAL.—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) EXCEPTION.—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

[Section 4233 was repealed by section 3146(c)(11)(B) of division C of Public Law 113–66.]

SEC. 4234. [50 U.S.C. 2544] MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.

The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

(1) modernize and consolidate the facilities for recycling tritium from weapons; and

(2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

SEC. 4235. [50 U.S.C. 2545] PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.

(a) PRODUCTION OF NEW TRITIUM.—The Secretary of Energy shall produce new tritium to meet the requirements of the Nuclear Weapons Stockpile Memorandum at the Tennessee Valley Authority Watts Bar or Sequoyah nuclear power plants consistent with the Secretary's December 22, 1998, decision document designating the Secretary's preferred tritium production technology.

(b) SUPPORT.—To support the method of tritium production set forth in subsection (a), the Secretary shall design and construct a new tritium extraction facility in the H-Area of the Savannah River Site, Aiken, South Carolina.

(c) DESIGN AND ENGINEERING DEVELOPMENT.—The Secretary shall—

(1) complete preliminary design and engineering development of the Accelerator Production of Tritium technology design as a backup source of tritium to the source set forth in subsection (a) and consistent with the Secretary's December 22, 1998, decision document; and

(2) make available those funds necessary to complete engineering development and demonstration, preliminary design, and detailed design of key elements of the system consistent with the Secretary's decision document of December 22, 1998.

TITLE XLIII—PROLIFERATION MATTERS

[Section 4301 repealed by section 3117(a) of division C of Public Law 111–84. Section 4302 repealed by section 3146(d)(1)(A) of division C of Public Law 113–66. Section 4303 repealed by section 3133(a)(1) of division C of Public Law 115–91. Section 4304 repealed by section 3146(d)(2)(A) of division C of Public Law 113–66.]

SEC. 4305. [50 U.S.C. 2565] AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS.

The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

SEC. 4306. [50 U.S.C. 2566] DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE.

(a) PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY.—(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation

of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2012, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2012; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2012.

(C) Each report under subparagraph (A) for years after 2014 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) Each report under subparagraph (A) for years after 2019 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

(b) CORRECTIVE ACTIONS.—(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (g) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2012, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2012 because of a failure to achieve milestones set forth in the most recent corrective action

plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2012.

(5) If, after January 1, 2014, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under subparagraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If the MOX production objective is not achieved as of January 1, 2014, the Secretary shall, consistent with the National Environmental Policy Act of 1969 and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

(1) not later than January 1, 2016, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2022, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the MOX production objective is not achieved as of January 1, 2016, the Secretary shall, subject to the availability of appropriations, pay to the State of South Carolina each year beginning on or after that date through 2021 for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the later of—

(A) the date on which the MOX production objective is achieved in such year; or

(B) the date on which the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If, as of January 1, 2022, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than—

(i) one metric ton, in each of any two consecutive calendar years; and

(ii) three metric tons total,

the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) If the State of South Carolina obtains an injunction that prohibits the Department of Energy from taking any action necessary for the Department[3] to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM.—If on July 1 each year beginning in 2025 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY.—If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) BASELINE.—Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform

[3] Section 3142(f)(3) of PL 113–291 amends section 4306(d)(3) of the Atomic Energy Defense Act by inserting "of Energy" after "Department". Such amendment did not specify which occurrence of the word "Department" to insert this new language. The amendment was executed above to the first occurrence of such word.

with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.

(h) DEFINITIONS.—In this section:

(1) MOX PRODUCTION OBJECTIVE.—The term "MOX production objective" means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) MOX FACILITY.—The term "MOX facility" means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MATERIALS.—The terms "defense plutonium" and "defense plutonium materials" mean weapons-usable plutonium.

SEC. 4306A. [50 U.S.C. 2567] DISPOSITION OF SURPLUS DEFENSE PLUTONIUM AT SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA.

(a) CONSULTATION REQUIRED.—The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) NOTICE REQUIRED.—For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) PLAN FOR DISPOSITION.—The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

(1) A review of each option considered for such disposal.

(2) An identification of the preferred option for such disposal.

(3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—

(A) a statement of the cost of construction and operation of such facilities;

(B) a schedule for the expeditious construction of such facilities, including milestones; and

(C) a firm schedule for funding the cost of such facilities.

(4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in

a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) PLAN FOR ALTERNATIVE DISPOSITION.—If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) SUBMISSION OF PLANS.—Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) LIMITATION ON PLUTONIUM SHIPMENTS.—If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) ANNUAL REPORT ON FUNDING FOR FISSILE MATERIALS DISPOSITION ACTIVITIES.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report setting forth the extent to which amounts requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

SEC. 4307. [50 U.S.C. 2572] INTERNATIONAL AGREEMENTS ON NUCLEAR WEAPONS DATA.

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

SEC. 4308. [50 U.S.C. 2573] INTERNATIONAL AGREEMENTS ON INFORMATION ON RADIOACTIVE MATERIALS.

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National

Intelligence, enter into agreements with countries or international organizations—

(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

(2) to obtain access to information described in paragraph (1) in the event of—

(A) a nuclear detonation; or

(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

SEC. 4309. [50 U.S.C. 2575] DEFENSE NUCLEAR NONPROLIFERATION MANAGEMENT PLAN.

(a) PLAN REQUIRED.—The Administrator shall develop and annually update a five-year management plan for activities associated with the defense nuclear nonproliferation programs of the Administration to prevent and counter the proliferation of materials, technology, equipment, and expertise related to nuclear and radiological weapons in order to minimize and address the risk of nuclear terrorism and the proliferation of such weapons.

(b) SUBMISSION TO CONGRESS.—(1) Not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

(2) Not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

(3) Each summary submitted under paragraph (1) and each report submitted under paragraph (2) shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) ELEMENTS.—The plan required by subsection (a) shall include, with respect to each defense nuclear nonproliferation program of the Administration, the following:

(1) A description of the policy context in which the program operates, including—

(A) a list of relevant laws, policy directives issued by the President, and international agreements; and

(B) nuclear nonproliferation activities carried out by other Federal agencies.

(2) A description of the objectives and priorities of the program during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be.

(3) A description of the activities carried out under the program during that year.

(4) A description of the accomplishments and challenges of the program during that year, based on an assessment of metrics and objectives previously established to determine the effectiveness of the program.

(5) A description of any gaps that remain that were not or could not be addressed by the program during that year.

(6) An identification and explanation of uncommitted or uncosted balances for the program, as of the date of the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, that are greater than the acceptable carryover thresholds, as determined by the Secretary of Energy.

(7) An identification of funds for the program received through contributions from or cost-sharing agreements with foreign governments consistent section 3132(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(f)) during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, and an explanation of such contributions and agreements.

(8) A description and assessment of activities carried out under the program during that year that were coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.

(9) Plans for activities of the program during the five-year period beginning on the date on which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, is submitted, including activities with respect to the following:

(A) Preventing nuclear and radiological proliferation and terrorism, including through—

(i) material management and minimization, particularly with respect to removing or minimizing the use of highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), efforts to dispose of surplus material, converting reactors from highly enriched uranium to low-enriched uranium (and identifying the countries in which such reactors are located);

(ii) global nuclear material security, including securing highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), and providing radiation detection capabilities at foreign ports and borders;

(iii) nonproliferation and arms control, including nuclear verification and safeguards;

(iv) defense nuclear research and development, including a description of activities related to developing and improving technology to detect the proliferation and detonation of nuclear weapons, verifying compliance of foreign countries with commitments under treaties and agreements relating to nuclear weapons,

and detecting the diversion of nuclear materials (including safeguards technology); and

(v) nonproliferation construction programs, including activities associated Department of Energy Order 413.1 (relating to program management controls).

(B) Countering nuclear and radiological proliferation and terrorism.

(C) Responding to nuclear and radiological proliferation and terrorism, including through—

(i) crisis operations;

(ii) consequences management; and

(iii) emergency management, including international capacity building.

(10) A threat assessment, carried out by the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), with respect to the risk of nuclear and radiological proliferation and terrorism and a description of how each activity carried out under the program will counter the threat during the five-year period beginning on the date on which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, is submitted and, as appropriate, in the longer term.

(11) A plan for funding the program during that five-year period.

(12) An identification of metrics and objectives for determining the effectiveness of each activity carried out under the program during that five-year period.

(13) A description of the activities to be carried out under the program during that five-year period and a description of how the program will be prioritized relative to other defense nuclear nonproliferation programs of the Administration during that five-year period to address the highest priority risks and requirements, as informed by the threat assessment carried out under paragraph (10).

(14) A description and assessment of activities to be carried out under the program during that five-year period that will be coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.

(15) A summary of the technologies and capabilities documented under section 4310(a).

(16) A summary of the assessments conducted under section 4310(b)(1).

(17) Such other matters as the Administrator considers appropriate.

SEC. 4310. [50 U.S.C. 2576] INFORMATION RELATING TO CERTAIN DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.

(a) TECHNOLOGIES AND CAPABILITIES.—The Administrator shall document, for efforts that are not focused on basic research, the technologies and capabilities of the defense nuclear nonproliferation research and development program that—

(1) are transitioned to end users for further development or deployment; and

(2) are deployed.

(b) ASSESSMENTS OF STATUS.—(1) In assessing projects under the defense nuclear nonproliferation research and development program or the defense nuclear nonproliferation and arms control program, the Administrator shall compare the status of each such project, including with respect to the final results of such project, to the baseline targets and goals established in the initial project plan of such project.

(2) The Administrator may carry out paragraph (1) using a common template or such other means as the Administrator determines appropriate.

SEC. 4311. [50 U.S.C. 2577] ANNUAL SELECTED ACQUISITION REPORTS ON CERTAIN HARDWARE RELATING TO DEFENSE NUCLEAR NONPROLIFERATION.

(a) ANNUAL SELECTED ACQUISITION REPORTS.—

(1) IN GENERAL.—At the end of each fiscal year, the Administrator shall submit to the congressional defense committees a report on each covered hardware project. The reports shall be known as Selected Acquisition Reports for the covered hardware project concerned.

(2) MATTERS INCLUDED.—The information contained in the Selected Acquisition Report for a fiscal year for a covered hardware project shall be the information contained in the Selected Acquisition Report for such fiscal year for a major defense acquisition program under section 2432 of title 10, United States Code, expressed in terms of the covered hardware project.

(b) COVERED HARDWARE PROJECT DEFINED.—In this section, the term "covered hardware project" means a project carried out under the defense nuclear nonproliferation research and development program that—

(1) is focused on the production and deployment of hardware, including with respect to the development and deployment of satellites or satellite payloads; and

(2) exceeds $500,000,000 in total program cost over the course of five years.

TITLE XLIV—DEFENSE ENVIRONMENTAL CLEANUP MATTERS

Subtitle A—Defense Environmental Cleanup

SEC. 4401. [50 U.S.C. 2581] DEFENSE ENVIRONMENTAL CLEANUP ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States for the Department of Energy an account to be known as the "Defense Environmental Cleanup Account" (hereafter in this section referred to as the "Account").

(b) AMOUNTS IN ACCOUNT.—All sums appropriated to the Department of Energy for defense environmental cleanup at defense nuclear facilities shall be credited to the Account. Such appropriations shall be authorized annually by law. To the extent provided

in appropriations Acts, amounts in the Account shall remain available until expended.

SEC. 4402. [50 U.S.C. 2582] REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR DEFENSE ENVIRONMENTAL CLEANUP.

(a) AUTHORITY TO DEVELOP FUTURE USE PLANS.—The Secretary of Energy may develop future use plans for any defense nuclear facility at which defense environmental cleanup activities are occurring.

(b) REQUIREMENT TO DEVELOP FUTURE USE PLANS.—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

(1) Hanford Site, Richland, Washington.

(2) Savannah River Site, Aiken, South Carolina.

(3) Idaho National Engineering Laboratory, Idaho.

(c) CITIZEN ADVISORY BOARD.—(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.

(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for defense environmental cleanup activities necessary for national security programs.

(d) REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD.—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of September 23, 1996, for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

(e) 50-YEAR PLANNING PERIOD.—A future use plan developed under this section shall cover a period of at least 50 years.

(f) REPORT.—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

(g) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before September 23, 1996.

(2) Nothing in this section may be construed to affect statutory requirements for a defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt

or impair any local land use planning or zoning authority or State authority.

SEC. 4402A. [50 U.S.C. 2582A] FUTURE-YEARS DEFENSE ENVIRONMENTAL CLEANUP PLAN.

(a) IN GENERAL.—The Secretary of Energy shall submit to Congress each year, at or about the same time that the President's budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, United States Code, a future-years defense environmental cleanup plan that—

(1) reflects the estimated expenditures and proposed appropriations included in that budget for the Department of Energy for defense environmental cleanup; and

(2) covers a period that includes the fiscal year for which that budget is submitted and not less than the four succeeding fiscal years.

(b) ELEMENTS.—Each future-years defense environmental cleanup plan required by subsection (a) shall contain the following:

(1) A detailed description of the projects and activities relating to defense environmental cleanup to be carried out during the period covered by the plan at the sites specified in subsection (c) and with respect to the activities specified in subsection (d).

(2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support such projects and activities.

(3) With respect to each site specified in subsection (c), the following:

(A) A statement of each milestone included in an enforceable agreement governing cleanup and waste remediation for that site for each fiscal year covered by the plan.

(B) For each such milestone, a statement with respect to whether each such milestone will be met in each such fiscal year.

(C) For any milestone that will not be met, an explanation of why the milestone will not be met and the date by which the milestone is expected to be met.

(c) SITES SPECIFIED.—The sites specified in this subsection are the following:

(1) The Idaho National Laboratory, Idaho.

(2) The Waste Isolation Pilot Plant, Carlsbad, New Mexico.

(3) The Savannah River Site, Aiken, South Carolina.

(4) The Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) The Hanford Site, Richland, Washington.

(6) Any defense closure site of the Department of Energy.

(7) Any site of the National Nuclear Security Administration.

(d) ACTIVITIES SPECIFIED.—The activities specified in this subsection are the following:

(1) Program support.

(2) Program direction.

(3) Safeguards and security.

(4) Technology development and deployment.

(5) Federal contributions to the Uranium Enrichment Decontamination and Decommissioning Fund established under section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g).

SEC. 4403. [50 U.S.C. 2583] INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.

(a) PLAN.—The Secretary of Energy shall develop a long-term plan for the integrated management of fissile materials by the Department of Energy. The plan shall—

(1) identify means of coordinating or integrating the responsibilities of the Office of Environmental Management, the Office of Nuclear Energy, and the Administration for the treatment, storage, and disposition of fissile materials, and for the waste streams containing fissile materials, in order to achieve budgetary and other efficiencies in the discharge of those responsibilities; and

(2) identify any expenditures necessary at the sites that are anticipated to have an enduring mission for plutonium management in order to achieve the integrated management of fissile materials by the Department.

(b) SUBMITTAL TO CONGRESS.—The Secretary shall submit the plan required by subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than March 31, 2014.

[Section 4404 repealed by section 3146(e)(5) of division C of Public Law 113–66.]

SEC. 4405. [50 U.S.C. 2585] ACCELERATED SCHEDULE FOR DEFENSE ENVIRONMENTAL CLEANUP ACTIVITIES.

(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for defense environmental cleanup activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.

(b) CONSIDERATION OF FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

(1) The cost savings achievable by the Federal Government.

(2) The potential for reuse of the site.

(3) The risks that the site poses to local health and safety.

(4) The proximity of the site to populated areas.

(c) SAVINGS PROVISION.—Nothing in this section may be construed to affect a specific statutory requirement for a specific defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment.

SEC. 4406. [50 U.S.C. 2586] DEFENSE ENVIRONMENTAL CLEANUP TECHNOLOGY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for—

(1) the reduction of environmental hazards and contamination resulting from defense waste; and

(2) environmental restoration of inactive defense waste disposal sites.

(b) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 4407. [50 U.S.C. 2587] REPORT ON DEFENSE ENVIRONMENTAL CLEANUP EXPENDITURES.

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31, United States Code), the Secretary of Energy shall submit to Congress a report on how the defense environmental cleanup funds of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

SEC. 4408. [50 U.S.C. 2588] PUBLIC PARTICIPATION IN PLANNING FOR DEFENSE ENVIRONMENTAL CLEANUP.

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and attorneys general of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for defense environmental cleanup activities at Department of Energy defense nuclear facilities.

Subtitle B—Closure of Facilities

[Section 4421 repealed by section 3146(e)(10) of division C of Public Law 113–66.]

SEC. 4422. [50 U.S.C. 2602] REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES.

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility permanently ceases all production and processing operations, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the defense environmental cleanup activities at such facility. The discussion shall include the actions that should be taken

by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of defense environmental cleanup activities at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 4423. [50 U.S.C. 2603] PLAN FOR DEACTIVATION AND DECOMMISSIONING OF NONOPERATIONAL DEFENSE NUCLEAR FACILITIES.

(a) IN GENERAL.—The Secretary of Energy shall, during each even-numbered year beginning in 2016, develop and subsequently 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 2016, develop and subsequently carry out a plan under which the Administrator shall transfer, by March 31, 2019, to the Assistant Secretary for Environmental Management the responsibility for decontaminating and decommissioning facilities of the Administration that the Secretary determines—

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

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

(d) SUBMISSION TO CONGRESS.—Not later than March 31 of each even-numbered year beginning in 2016, 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 submitting during 2016, the plan required by subsection (c); and

(4) 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.

(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, 2026.

(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 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) 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.

Subtitle C—Hanford Reservation, Washington

SEC. 4441. [50 U.S.C. 2621] SAFETY MEASURES FOR WASTE TANKS AT HANFORD NUCLEAR RESERVATION.

(a) IDENTIFICATION AND MONITORING OF TANKS.—Not later than February 3, 1991, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether

continuous monitoring is being carried out to detect a release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.

(b) ACTION PLANS.—Not later than March 5, 1991, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).

(c) PROHIBITION.—Beginning March 5, 1991, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under subsection (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

SEC. 4442. [50 U.S.C. 2622] HANFORD WASTE TANK CLEANUP PROGRAM REFORMS.

(a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION.—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the "Office of River Protection" (in this section referred to as the "Office").

(b) MANAGEMENT AND RESPONSIBILITIES OF OFFICE.—(1) The Office shall be headed by a senior official of the Department of Energy, who shall report to the Assistant Secretary of Energy for Environmental Management.

(2) The head of the Office shall be responsible for managing all aspects of the River Protection Project, Richland, Washington, including Hanford Tank Farm operations and the Waste Treatment Plant.

(c) DEPARTMENT RESPONSIBILITIES.—The Secretary shall provide the manager of the Office with the resources and personnel necessary to manage the tank waste privatization program at Hanford in an efficient and streamlined manner.

(d) NOTIFICATION.—The Assistant Secretary of Energy for Environmental Management shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notification detailing any changes in the roles, responsibilities, and reporting relationships that involve the Office.

(e) TERMINATION.—The Office shall terminate on September 30, 2024. The Office may be extended beyond that date if the Assistant Secretary of Energy for Environmental Management determines in writing that termination would disrupt effective management of the Hanford Tank Farm operations.

SEC. 4443. [50 U.S.C. 2623] RIVER PROTECTION PROJECT.

The tank waste remediation system environmental project, Richland, Washington, including all programs relating to the retrieval and treatment of tank waste at the site at Hanford, Washington, under the management of the Office of River Protection, shall be known and designated as the "River Protection Project". Any reference to that project in any law, regulation, map, docu-

ment, record, or other paper of the United States shall be considered to be a reference to the River Protection Project.

SEC. 4444. [50 U.S.C. 2624] FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT, RICHLAND, WASHINGTON.

The Secretary of Energy may not use appropriated funds to establish a reserve for the payment of any costs of termination of any contract relating to the River Protection Project, Richland, Washington (as designated by section 4443), that is terminated after October 30, 2000. Such costs may be paid from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for privatization initiatives in carrying out defense environmental cleanup activities necessary for national security programs, and not otherwise obligated; or

(3) funds appropriated specifically for the payment of such costs.

SEC. 4445. [50 U.S.C. 2625] PLAN FOR TANK FARM WASTE AT HANFORD NUCLEAR RESERVATION.

(a) PLAN.—Not later than June 1, 2014, the Secretary of Energy shall submit to the congressional defense committees a plan for the initial activities (as defined in subsection (d)) for the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

(b) MATTERS INCLUDED.—The plan under subsection (a) shall include the following:

(1) A list of significant requirements needed for the initial activities.

(2) A schedule of significant activities needed to carry out the initial activities.

(3) Actions required to accelerate, to the extent possible, the treatment of lower risk, low-activity waste while continuing efforts to resolve the technical challenges associated with higher risk, high-activity waste.

(4) A description of how the Secretary will—

(A) provide adequate protection to workers and the public under the plan; and

(B) incorporate into the plan any significant new science and technical information that was not available before the development of the plan.

(c) DETERMINATIONS.—(1) For each significant requirement identified by the Secretary under subsection (b)(1), the Secretary shall include in the plan submitted under subsection (a) a determination regarding whether such requirement is finalized and will be used to inform the initial activities.

(2) For each significant requirement that the Secretary cannot make a finalized determination for under paragraph (1) by the date on which the plan under subsection (a) is submitted to the congressional defense committees, the Secretary shall—

(A) include in the plan—

(i) a description of the requirement;

(ii) a list of significant activities required to finalize the requirement; and

(iii) the date on which the Secretary anticipates making such determination; and

(B) once the Secretary makes a determination that such a significant requirement is finalized, submit to such committees notification that the requirement is finalized and will be used to inform the initial activities.

(3)(A) Notwithstanding any determination made under paragraph (1) with respect to a significant requirement identified by the Secretary under subsection (b)(1)—

(i) the Secretary shall change a requirement if necessary to provide adequate protection to workers and the public; and

(ii) the Secretary may change a requirement if the Secretary determines such change is necessary.

(B) If the Secretary authorizes a change to a requirement under subparagraph (A) that will have a significant material effect on the schedule or cost of the initial activities, the Secretary shall promptly notify the congressional defense committees of such change.

(C) The authority of the Secretary under this paragraph may be delegated only to the Deputy Secretary of Energy.

(d) INITIAL ACTIVITIES DEFINED.—In this section, the term "initial activities" means activities necessary to start the operations of the Waste Treatment and Immobilization Plant at the Hanford Tank Farms of the Hanford Nuclear Reservation, Richland, Washington, with respect to the design, construction, and operating of the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

SEC. 4446. [50 U.S.C. 2626] HANFORD WASTE TREATMENT AND IMMOBILIZATION PLANT CONTRACT OVERSIGHT.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, the Secretary of Energy shall arrange to have an owner's agent advise the Secretary in carrying out the oversight responsibilities of the Secretary with respect to the contract described in subsection (b).

(b) CONTRACT DESCRIBED.—The contract described in this subsection is the contract between the Office of River Protection of the Department of Energy and Bechtel National, Inc., or its successor relating to the Hanford Waste Treatment and Immobilization Plant (contract number DE–AC27–01RV14136).

(c) DUTIES.—The duties of the owner's agent under subsection (a) shall include advising the Secretary with respect to the following:

(1) Performing design, construction, nuclear safety, and operability oversight of each facility covered by the contract described in subsection (b).

(2) Beginning not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, ensuring that the preliminary documented safety analyses for all facilities covered by the contract meet the requirements of all applicable Department of Energy regulations and guidance, including section 830.206 of title 10, Code of Federal Regulations, and the Department of Energy Standard

on the Integration of Safety into the Design Process (DOE–STD–1189–2008).

(3) Ensuring that, until the Secretary approves the documented safety analysis for each facility covered by the contract, the contractor ensures that each preliminary documented safety analysis is current.

(4) Ensuring that the contractor acts to promptly resolve any unreviewed safety questions.

(d) REPORT ON SELECTION OF THE OWNER'S AGENT.—Not later than 30 days after the selection of the owner's agent under subsection (a), the Secretary shall submit to the congressional defense committees a report on the process used to select the owner's agent to ensure that the owner's agent does not have a conflict of interest.

(e) DEFINITIONS.—In this section:

(1) The term "contractor" means Bechtel National, Inc.

(2) The term "current", with respect to a documented safety analysis, means that the documented safety analysis includes any design changes approved by the contractor and any safety evaluation reports issued by the Secretary with respect to the facility covered by the analysis before the date that is 60 days before the date of the analysis.

(3) The terms "documented safety analysis", "safety evaluation report", and "unreviewed safety question" have the meanings given those terms in section 830.3 of title 10, Code of Federal Regulations (or any corresponding similar ruling or regulation).

(4) The term "owner's agent" means a private third-party entity with nuclear safety management expertise.

SEC. 4447. [50 U.S.C. 2627] NOTIFICATION REGARDING AIR RELEASE OF RADIOACTIVE OR HAZARDOUS MATERIAL.

If the Secretary of Energy (or a designee of the Secretary) is notified of an improper release into the air of radioactive or hazardous material above applicable statutory or regulatory limits that resulted from waste generated by atomic energy defense activities at the Hanford Nuclear Reservation, Richland, Washington, the Secretary (or designee of the Secretary) shall—

(1) not later than two business days after being notified of the release, notify the congressional defense committees of the release; and

(2) not later than seven business days after being notified of the release, provide the congressional defense committees a briefing on the status of the release, including—

(A) the cause of the release, if known; and

(B) preliminary plans to address and remediate the release, including associated costs and timelines.

Subtitle D—Savannah River Site, South Carolina

SEC. 4451. [50 U.S.C. 2631] ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT THE DEFENSE WASTE PROCESSING FACILITY, SAVANNAH RIVER SITE.

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule—

(1) will achieve long-term cost savings to the Federal Government; and

(2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

SEC. 4452. [50 U.S.C. 2632] MULTI-YEAR PLAN FOR CLEAN-UP.

The Secretary of Energy shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

(1) Nuclear weapons activities carried out at the site.

(2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

SEC. 4453. [50 U.S.C. 2633] CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.

The Secretary of Energy shall continue operations and maintain a high state of readiness at the H–canyon facility at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facility.

[Sections 4453A–4453D repealed by section 3146(e)(15) of division C of Public Law 113–66.]

SEC. 4454. [50 U.S.C. 2638] LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.

No amounts authorized to be appropriated or otherwise made available for the Department of Energy by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act may be obligated or expended for purposes of commencing the decommissioning of the F–canyon facility at the Savannah River Site until the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board, a report setting forth—

(1) an assessment of whether or not all materials present in the F–canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;

(2) an assessment of whether or not the requirements applicable to the F–canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H–canyon facility at the Savannah River Site; and

(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H–canyon facility—

(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H–canyon facility; and

(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H–canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.

TITLE XLV—SAFEGUARDS AND SECURITY MATTERS

Subtitle A—Safeguards and Security

SEC. 4501. [50 U.S.C. 2651] PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

(a) PROHIBITION ON INSPECTIONS.—The Secretary of Energy may not allow an inspection of a national security laboratory or nuclear weapons production facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no Restricted Data will be revealed during such inspection.

(b) EXTENSION OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.—[Omitted-Amendment]

[Subsection (c) repealed by section 3131(j) of division C of Public Law 112–239.]

SEC. 4502. [50 U.S.C. 2652] RESTRICTIONS ON ACCESS TO NATIONAL SECURITY LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.

(a) BACKGROUND REVIEW REQUIRED.—The Secretary of Energy may not admit to any facility of a national security laboratory other than areas accessible to the general public any individual who is a citizen or agent of a nation that is named on the current sensitive countries list unless the Secretary first completes a background review with respect to that individual.

(b) SENSE OF CONGRESS REGARDING BACKGROUND REVIEWS.—It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence should ensure that background reviews carried out under this section are completed in not more than 15 days.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "background review", commonly known as an indices check, means a review of information provided by the Director of National Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.

(2) The term "sensitive countries list" means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

SEC. 4503. [50 U.S.C. 2653] BACKGROUND INVESTIGATIONS OF CERTAIN PERSONNEL AT DEPARTMENT OF ENERGY FACILITIES.

The Secretary of Energy shall ensure that an investigation meeting the requirements of section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is made for each Department of Energy employee, or contractor employee, at a national security laboratory or nuclear weapons production facility who—

(1) carries out duties or responsibilities in or around a location where Restricted Data is present; or

(2) has or may have regular access to a location where Restricted Data is present.

SEC. 4504. [50 U.S.C. 2654] DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) NEW COUNTERINTELLIGENCE POLYGRAPH PROGRAM REQUIRED.—The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) AUTHORITIES AND LIMITATIONS.—(1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

(3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rulemaking for the new program.

(4) In the event of a counterintelligence investigation, the regulations prescribed under paragraph (1) may ensure that the persons subject to the counterintelligence polygraph program required by subsection (a) include any person who is—

(A) a national of the United States (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) and also a national of a foreign state; and

(B) an employee or contractor who requires access to classified information.

(c) REPEAL OF EXISTING POLYGRAPH PROGRAM.—Effective 30 days after the Secretary submits to the congressional defense committees the Secretary's certification that the final rule for the new counterintelligence polygraph program required by subsection (a) has been fully implemented, section 4504A is repealed.

(d) POLYGRAPH REVIEW DEFINED.—In this section, the term "Polygraph Review" means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 4505. [50 U.S.C. 2656] NOTICE TO CONGRESSIONAL COMMITTEES OF CERTAIN SECURITY AND COUNTERINTELLIGENCE FAILURES WITHIN ATOMIC ENERGY DEFENSE PROGRAMS.

(a) REQUIRED NOTIFICATION.—The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each significant atomic energy defense intelligence loss. Any such notification shall be provided only after consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate.

(b) SIGNIFICANT ATOMIC ENERGY DEFENSE INTELLIGENCE LOSSES.—In this section, the term "significant atomic energy defense intelligence loss" means any national security or counterintelligence failure or compromise of classified information at a facility of the Department of Energy or operated by a contractor of the Department that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States.

(c) MANNER OF NOTIFICATION.—Notification of a significant atomic energy defense intelligence loss under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (d), not later than 30 days after the date on which the Department of Energy determines that the loss has taken place.

(d) PROCEDURES.—The Secretary of Energy and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(e) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 3091) for the President to ensure that the congressional intelligence committees are kept fully informed of the intelligence activities of the United States and for those committees to notify promptly other congressional committees of any matter relating to intelligence activities requiring the attention of those committees.

SEC. 4506. [50 U.S.C. 2657] ANNUAL REPORT AND CERTIFICATION ON STATUS OF SECURITY OF ATOMIC ENERGY DEFENSE FACILITIES.

(a) REPORT AND CERTIFICATION ON NUCLEAR SECURITY ENTERPRISE.—(1) Not later than September 30 of each even-numbered year, the Administrator shall submit to the Secretary of Energy—

(A) a report detailing the status of security at facilities holding Category I and II quantities of special nuclear material that are administered by the Administration; and

(B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Administration and the Department of Energy.

(2) If the Administrator is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Administrator shall submit to the Secretary with the matters required by paragraph (1) a corrective action plan for the facility describing—

(A) the deficiency that resulted in the Administrator being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

(3) Not later than December 1 of each even-numbered year, the Secretary shall submit to the congressional defense committees the unaltered report, certification, and any corrective action plans submitted by the Administrator under paragraphs (1) and (2) together with any comments of the Secretary.

(b) REPORT AND CERTIFICATION ON ATOMIC ENERGY DEFENSE FACILITIES NOT ADMINISTERED BY THE ADMINISTRATION.—(1) Not later than December 1 of each even-numbered year, the Secretary shall submit to the congressional defense committees—

(A) a report detailing the status of the security of atomic energy defense facilities holding Category I and II quantities of special nuclear material that are not administered by the Administration; and

(B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Department of Energy.

(2) If the Secretary is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Secretary shall submit to the congressional defense committees, together with the matters required by paragraph (1), a corrective action plan describing—

(A) the deficiency that resulted in the Secretary being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

[Section 4507 repealed by section 3132(a) of division A of Public Law 113–66.]

[Section 4508 was repealed by section 701(f) of division M of Public Law 114–113.]

[Section 4509 was repealed by section 3135(c)(1) of division C of Public Law 115–91.]

SEC. 4510. [50 U.S.C. 2661] PROTECTION OF CERTAIN NUCLEAR FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT.

(a) AUTHORITY.—Notwithstanding any provision of title 18, United States Code, the Secretary of Energy may take such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Energy, in consultation with

the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire, oral, or electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Energy shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Energy is subject to forfeiture to the United States.

(d) REGULATIONS.—The Secretary of Energy and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(e) DEFINITIONS.—In this section:

(1) The term "covered facility or asset" means any facility or asset that is—

(A) identified by the Secretary of Energy for purposes of this section;

(B) located in the United States (including the territories and possessions of the United States); and

(C) owned by the United States or contracted to the United States, to store or use special nuclear material.

(2) The terms "unmanned aircraft" and "unmanned aircraft system" have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

Subtitle B—Classified Information

SEC. 4521. [50 U.S.C. 2671] REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.

(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains Restricted Data.

(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order No. 13526 (50 U.S.C. 3161 note) if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing Restricted Data.

SEC. 4522. [50 U.S.C. 2672] PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

(a) PLAN FOR PROTECTION AGAINST RELEASE.—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 13526 (50 U.S.C. 3161 note).

(b) PLAN ELEMENTS.—The plan under subsection (a) shall include the following:

(1) The actions to be taken in order to ensure that records subject to Executive Order No. 13526 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.

(4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.

(5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.

(6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.

(7) The funding, personnel, and other resources required to carry out the plan.

(8) A timetable for implementation of the plan.

(c) LIMITATION ON DECLASSIFICATION OF CERTAIN RECORDS.—(1) Effective on October 17, 1998, and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.

(2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.

(3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

(d) SUBMISSION OF PLAN.—The Secretary of Energy shall submit the plan required under subsection (a) to the following:

(1) The Committee on Armed Services of the Senate.

(2) The Committee on Armed Services of the House of Representatives.

(3) The Assistant to the President for National Security Affairs.

(e) REPORT AND NOTIFICATION REGARDING INADVERTENT RELEASES.—(1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before October 17, 1998.

(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 13526 discovered in the two-year period preceding the submittal of the report.

SEC. 4523. [50 U.S.C. 2673] SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

(a) SUPPLEMENT TO PLAN.—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement to the plan required under subsection (a) of section 4522.

(b) CONTENTS OF SUPPLEMENT.—The supplement shall provide for the application of that plan (including in particular the element of the plan required by subsection (b)(1) of section 4522) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.

(c) LIMITATION ON DECLASSIFICATION OF RECORDS.—All records referred to in subsection (b) shall be treated, for purposes of subsection (a) of section 4522, in the same manner as records referred to in subsection (a) of such section.

(d) SUBMISSION OF SUPPLEMENT.—The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 4522.

SEC. 4524. [50 U.S.C. 2674] PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.

(a) PROVISION OF TRAINING.—The Secretary of Energy shall ensure that all Department of Energy employees and Department of Energy contractor employees participating in laboratory-to-laboratory cooperative exchange activities are fully trained in matters relating to the protection of classified information and to potential espionage and counterintelligence threats.

(b) COUNTERING OF ESPIONAGE AND INTELLIGENCE-GATHERING ABROAD.—(1) The Secretary shall establish a pool of Department employees and Department contractor employees who are specially trained to counter threats of espionage and intelligence-gathering by foreign nationals against Department employees and Department contractor employees who travel abroad for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(2) The Director of Counterintelligence of the Department of Energy may assign at least one employee from the pool established under paragraph (1) to accompany a group of Department employees or Department contractor employees who travel to any nation designated to be a sensitive country for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

SEC. 4525. [50 U.S.C. 2675] IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES.

(a) AMOUNTS FOR DECLASSIFICATION OF RECORDS.—The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order No. 13526 (50 U.S.C. 3161 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.

(b) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS.—No records of the Department of Energy that have not as of October 5, 1999, been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.

TITLE XLVI—PERSONNEL MATTERS

Subtitle A—Personnel Management

SEC. 4601. [50 U.S.C. 2701] AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5, United States Code.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2020.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 4602. [50 U.S.C. 2702] WHISTLEBLOWER PROTECTION PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Energy shall establish a program to ensure that covered individuals may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures.

(b) COVERED INDIVIDUALS.—For purposes of this section, a covered individual is an individual who is an employee of the Department of Energy, or of a contractor of the Department, who is engaged in the defense activities of the Department.

(c) PROTECTED DISCLOSURES.—For purposes of this section, a protected disclosure is a disclosure—

(1) made by a covered individual who takes appropriate steps to protect the security of the information in accordance with guidance provided under this section;

(2) made to a person or entity specified in subsection (d); and

(3) of classified or other information that the covered individual reasonably believes to provide direct and specific evidence of any of the following:

(A) A violation of law or Federal regulation.

(B) Gross mismanagement, a gross waste of funds, or abuse of authority.

(C) A false statement to Congress on an issue of material fact.

(d) PERSONS AND ENTITIES TO WHICH DISCLOSURES MAY BE MADE.—A person or entity specified in this subsection is any of the following:

(1) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates.

(2) An employee of Congress who is a staff member of such a committee and has an appropriate security clearance for access to information of the type disclosed.

(3) The Inspector General of the Department of Energy.

(4) The Federal Bureau of Investigation.

(5) Any other element of the Government designated by the Secretary as authorized to receive information of the type disclosed.

(e) OFFICIAL CAPACITY OF PERSONS TO WHOM INFORMATION IS DISCLOSED.—A member of, or an employee of Congress who is a staff member of, a committee of Congress specified in subsection (d) who receives a protected disclosure under this section does so in that member or employee's official capacity as such a member or employee.

(f) ASSISTANCE AND GUIDANCE.—The Secretary, acting through the Inspector General of the Department of Energy, shall provide assistance and guidance to each covered individual who seeks to make a protected disclosure under this section. Such assistance and guidance shall include the following:

(1) Identifying the persons or entities under subsection (d) to which that disclosure may be made.

(2) Advising that individual regarding the steps to be taken to protect the security of the information to be disclosed.

(3) Taking appropriate actions to protect the identity of that individual throughout that disclosure.

(4) Taking appropriate actions to coordinate that disclosure with any other Federal agency or agencies that originated the information.

(g) REGULATIONS.—The Secretary shall prescribe regulations to ensure the security of any information disclosed under this section.

(h) NOTIFICATION TO COVERED INDIVIDUALS.—The Secretary shall notify each covered individual of the following:

(1) The rights of that individual under this section.

(2) The assistance and guidance provided under this section.

(3) That the individual has a responsibility to obtain that assistance and guidance before seeking to make a protected disclosure.

(i) COMPLAINT BY COVERED INDIVIDUALS.—If a covered individual believes that that individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the individual may submit a complaint relating to such matter to the Director of the Office of Hearings and Appeals of the Department of Energy.

(j) INVESTIGATION BY OFFICE OF HEARINGS AND APPEALS.—(1) For each complaint submitted under subsection (i), the Director of the Office of Hearings and Appeals shall—

(A) determine whether or not the complaint is frivolous; and

(B) if the Director determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Director shall submit a report on each investigation undertaken under paragraph (1)(B) to—

(A) the individual who submitted the complaint on which the investigation is based;

(B) the contractor concerned, if any; and

(C) the Secretary of Energy.

(k) REMEDIAL ACTION.—(1) Whenever the Secretary determines that a covered individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the Secretary shall—

(A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(l) RELATIONSHIP TO OTHER LAWS.—The protections provided by this section are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 16) or any other law that may

provide protection for disclosures of information by employees of the Department of Energy or of a contractor of the Department.

(m) ANNUAL REPORT.—(1) Not later than 30 days after the commencement of each fiscal year, the Director shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the investigations undertaken under subsection (j)(1)(B) during the preceding fiscal year, including a summary of the results of each such investigation.

(2) A report under paragraph (1) may not identify or otherwise provide any information about an individual submitting a complaint under this section without the consent of the individual.

[Section 4603 repealed by section 3146(g)(3)(A) of division C of Public Law 113–66.]

SEC. 4604. [50 U.S.C. 2704] DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORKFORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy shall develop a plan for restructuring the workforce for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—(1) In developing a plan referred to in subsection (a), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the workforce at a Department of Energy defense nuclear facility—

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (con-

sistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A)[6] programs carried out by the Secretary of Labor under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

[Note: Section 512(e) of Public Law 113–128 provides for an amendment to strike and insert text in section 4604(c)(6)(A). Section 506(a) of such Public Law provides as follows: "[e]xcept as otherwise provided in this Act, this Act, including the amendments made by this Act, shall take effect on the first day of the first full program year after the date of enactment of this Act [enactment date is July 22, 2014]". The effective date for the execution of such amendment is July 1, 2015. Upon such date, section 4604(c)(6)(A) (as amended) reads as follows:]

(A) programs carried out by the Secretary of Labor under title I of the Workforce Innovation and Opportunity Act;

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, workforce bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a

[6] For version of law for section 4604(c)(6)(A), as amended by section 512(d) of Public Law 113–128, see note below.

defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.

(2) In addition to the plans submitted under paragraph (1), the Secretary shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under subsection (c)(6).

(f) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term "Department of Energy defense nuclear facility" means—

(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, and the 236 H facility at Savannah River, South Carolina), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program; [7]

(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada National Security Site, Nevada, and the Pantex facility, Texas);

(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(5) any facility described in paragraphs (1) through (4) that—

(A) is no longer in operation;

(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(C) was operated for national security purposes.

SEC. 4605. [50 U.S.C. 2705] AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO DEPARTMENT OF ENERGY AND CONTRACTOR EMPLOYEES FOR EXEMPLARY SERVICE IN STOCKPILE STEWARDSHIP AND SECURITY.

(a) AUTHORITY TO PRESENT CERTIFICATE OF COMMENDATION.—The Secretary of Energy may present a certificate of commendation to any current or former employee of the Department of Energy, and any current or former employee of a Department contractor, whose service to the Department in matters relating to stockpile stewardship and security assisted the Department in furthering the national security interests of the United States.

(b) CERTIFICATE.—The certificate of commendation presented to a current or former employee under subsection (a) shall include

[7] The text of the executive order is set out in this volume under Selected Other Matters.

an appropriate citation of the service of the current or former employee described in that subsection, including a citation for dedication, intellect, and sacrifice in furthering the national security interests of the United States by maintaining a strong, safe, and viable United States nuclear deterrent during the cold war or thereafter.

(c) DEPARTMENT OF ENERGY DEFINED.—For purposes of this section, the term "Department of Energy" includes any predecessor agency of the Department of Energy.

Subtitle B—Education and Training

SEC. 4621. [50 U.S.C. 2721] EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall at a minimum include instruction in the following areas:

(1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to defense environmental cleanup.

SEC. 4622. [50 U.S.C. 2722] STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—As part of the stockpile stewardship program established pursuant to section 4201, the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the national security laboratories.

(b) SUPPORT OF DUAL-USE PROGRAMS.—As part of the recruitment and training program, the directors of the national security laboratories may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the national security laboratories, shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

SEC. 4623. [50 U.S.C. 2723] FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO THE NUCLEAR SECURITY ENTERPRISE.

(a) IN GENERAL.—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the nuclear security enterprise. Under the fellowship program, the Secretary shall provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the nuclear security enterprise.

(b) ELIGIBLE INDIVIDUALS.—Individuals eligible for participation in the fellowship program are United States citizens who are either of the following:

(1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.

(2) Individuals engaged in postdoctoral studies in such fields.

(c) COVERED FACILITIES.—The Secretary shall carry out the fellowship program at or in connection with the national security laboratories and nuclear weapons production facilities.

(d) ADMINISTRATION.—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) ALLOCATION OF FUNDS.—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) AGREEMENT.—(1) The Secretary may allow an individual to participate in the program only if the individual signs an agreement described in paragraph (2).

(2) An agreement referred to in paragraph (1) shall be in writing, shall be signed by the participant, and shall include the participant's agreement to serve, after completion of the course of study for which the assistance was provided, as a full-time employee in a position in the nuclear security enterprise for a period of time to be established by the Secretary of Energy of not less than one year, if such a position is offered to the participant.

Subtitle C—Worker Safety

SEC. 4641. [50 U.S.C. 2731] WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.

(a) TRAINING GRANT PROGRAM.—(1) The Secretary of Energy is authorized to award grants to organizations referred to in paragraph (2) in order for such organizations—

(A) to provide training and education to persons who are or may be engaged in hazardous substance response or emer-

gency response at Department of Energy nuclear weapons facilities; and

(B) to develop curricula for such training and education.

(2)(A) Subject to subparagraph (B), the Secretary is authorized to award grants under paragraph (1) to non-profit organizations that have demonstrated (as determined by the Secretary) capabilities in—

(i) implementing and conducting effective training and education programs relating to the general health and safety of workers; and

(ii) identifying, and involving in training, groups of workers whose duties include hazardous substance response or emergency response.

(B) The Secretary shall give preference in the award of grants under this section to employee organizations and joint labor-management training programs that are grant recipients under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a).

(3) An organization awarded a grant under paragraph (1) shall carry out training, education, or curricula development pursuant to Department of Energy orders relating to employee safety training, including orders numbered 5480.4 and 5480.11.

(b) ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS.—(1) Subject to paragraph (2), the Secretary shall assess civil penalties against any contractor of the Department of Energy who (as determined by the Secretary)—

(A) employs individuals who are engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) fails (i) to provide for the training of such individuals to carry out such hazardous substance response or emergency response, or (ii) to certify to the Department of Energy that such employees are adequately trained for such response pursuant to orders issued by the Department of Energy relating to employee safety training (including orders numbered 5480.4 and 5480.11).

(2) Civil penalties assessed under this subsection may not exceed $5,000 for each day in which a failure referred to in paragraph (1)(B) occurs.

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(d) DEFINITIONS.—For the purposes of this section, the term "hazardous substance" includes radioactive waste and mixed radioactive and hazardous waste.

SEC. 4642. [50 U.S.C. 2732] SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

SEC. 4643. [50 U.S.C. 2733] PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) IMPLEMENTATION OF PROGRAM.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;

(E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

(F) ensure that employee participation in the program is voluntary.

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and Prevention and the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health risks under Federal and State occupational, health, and safety standards.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection and Measurements.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall provide for each employee identified under paragraph (1)(B) and provided with any medical examination or test under paragraph (1) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1).

(6) The Secretary shall commence carrying out the program described in this subsection not later than October 23, 1993.

(c) AGREEMENT WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than April 23, 1993, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.

(d) DEFINITIONS.—In this section:

(1) The term "Department of Energy defense nuclear facility" has the meaning given that term in section 4604(f).

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any em-

ployee of a contractor or subcontractor of the Department of Energy employed at such a facility.

SEC. 4644. [50 U.S.C. 2734] PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), the Secretary of Energy shall make available $3,000,000 to the State of Washington, $1,000,000 to the State of Oregon, and $1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.

(b) PROGRAMS.—The programs to be developed by the States may include only the following activities:

(1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.

(2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.

(3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(c) PLAN AND REPORTS.—(1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.

(2) Not later than May 5, 1991, such States shall submit to the Secretary of Energy and Congress a copy of the plan developed under paragraph (1).

(3) Not later than May 5, 1992, such States shall submit to the Secretary of Energy and Congress a single report on the implementation of the plan developed under paragraph (1).

(4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid Disease Study of the Centers for Disease Control and Prevention and the Hanford Environmental Dose Reconstruction Project of the Department of Energy), and may not cause substantial damage to such research programs.

(d) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—(1) Except as provided in paragraph (2), a person may not disclose to the public the following:

(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

(A) The disclosure of information under paragraph (2).

(B) The use of the Hanford Health Information Network database.

(C) The future disposition of the database.

(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.

SEC. 4645. [50 U.S.C. 2735] USE OF PROBABILISTIC RISK ASSESSMENT TO ENSURE NUCLEAR SAFETY OF FACILITIES OF THE ADMINISTRATION AND THE OFFICE OF ENVIRONMENTAL MANAGEMENT.

(a) NUCLEAR SAFETY AT NNSA AND DOE FACILITIES.—The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.

(b) ADEQUATE PROTECTION.—The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 182 of the Atomic Energy Act of 1954 (42 U.S.C. 2232) that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

(c) FACILITIES SPECIFIED.—Subsection (a) shall apply—

(1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and

(2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy.

SEC. 4646. [50 U.S.C. 2736] NOTIFICATION OF NUCLEAR CRITICALITY AND NON-NUCLEAR INCIDENTS.

(a) NOTIFICATION.—The Secretary of Energy or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

(b) ELEMENTS OF NOTIFICATION.—Each notification submitted under subsection (a) shall include the following:

(1) A description of the incident, including the cause of the incident.

(2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.

(3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.

(4) Any corrective action taken in response to the incident.

(c) DATABASE.—(1) The Secretary shall maintain a record of incidents described in paragraph (2).

(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

(A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.

(B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

(d) COOPERATION.—In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

(e) DEFINITIONS.—In this section:

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

(A) the congressional defense committees; and

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

(2) The term "covered facility" means—

(A) a facility of the nuclear security enterprise; and

(B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.

(3) The term "covered program" means—

(A) programs of the Administration; and

(B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.

TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

Subtitle A—Recurring National Security Authorization Provisions

SEC. 4701. [50 U.S.C. 2741] DEFINITIONS.

In this subtitle:

(1) The term "DOE national security authorization" means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2) The term "minor construction threshold" means $20,000,000.

SEC. 4702. [50 U.S.C. 2742] REPROGRAMMING.

(a) IN GENERAL.—Except as provided in subsection (b) and in sections 4710 and 4711, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) $5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) REPORT.—The report referred to in this subsection is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(d) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) LIMITATIONS.—

(1) TOTAL AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) PROHIBITED ITEMS.—Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

SEC. 4703. [50 U.S.C. 2743] MINOR CONSTRUCTION PROJECTS.

(a) AUTHORITY.—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term "minor construction project" means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

SEC. 4704. [50 U.S.C. 2744] LIMITS ON CONSTRUCTION PROJECTS.

(a) CONSTRUCTION COST CEILING.—Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) EXCEPTION FOR MINOR PROJECTS.—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

SEC. 4705. [50 U.S.C. 2745] FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for

which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

(1) TRANSFERS PERMITTED.—Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) MAXIMUM AMOUNTS.—Not more than 5 percent of any such authorization may be transferred to another authorization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

SEC. 4706. [50 U.S.C. 2746] CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) CONCEPTUAL DESIGN.—

(1) REQUIREMENT.—Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) REQUESTS FOR CONCEPTUAL DESIGN FUNDS.—If the estimated cost of completing a conceptual design for a construction project exceeds $5,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) EXCEPTIONS.—The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 4707.

(b) CONSTRUCTION DESIGN.—

(1) AUTHORITY.—Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project

if the total estimated cost for such design does not exceed $2,000,000.

(2) LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PROJECTS.—If the total estimated cost for construction design in connection with any construction project exceeds $2,000,000, funds for that design must be specifically authorized by law.

SEC. 4707. [50 U.S.C. 2747] AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 4706(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 4708. [50 U.S.C. 2748] SCOPE OF AUTHORITY TO CARRY OUT PLANT PROJECTS.

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

SEC. 4709. [50 U.S.C. 2749] AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to a DOE national security authorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

SEC. 4710. [50 U.S.C. 2750] TRANSFER OF DEFENSE ENVIRONMENTAL CLEANUP FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL CLEANUP FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental cleanup funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental cleanup funds at the field office.

(4) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 4702 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for defense environmental cleanup activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental cleanup funds have been authorized and appropriated.

(2) The term "defense environmental cleanup funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out defense environmental cleanup activities necessary for national security programs.

SEC. 4711. [50 U.S.C. 2751] TRANSFER OF WEAPONS ACTIVITIES FUNDS.

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) LIMITATION.—A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 4702 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.

(2) The term "weapons activities funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

SEC. 4712. [50 U.S.C. 2752] FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 4702, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 4713. [50 U.S.C. 2753] NOTIFICATION OF COST OVERRUNS FOR CERTAIN DEPARTMENT OF ENERGY PROJECTS.

(a) ESTABLISHMENT OF COST AND SCHEDULE BASELINES.—

(1) STOCKPILE LIFE EXTENSION PROJECTS.—

(A) IN GENERAL.—The Administrator shall establish a cost and schedule baseline for each nuclear stockpile life extension project of the Administration. In addition to the requirement under subparagraph (B), the cost and schedule baseline of a nuclear stockpile life extension project established under this subparagraph shall be the cost and schedule as described in the first Selected Acquisition Report submitted under section 4217(a) for the project.

(B) PER UNIT COST.—The cost baseline developed under subparagraph (A) shall include, with respect to each life extension project, an estimated cost for each warhead in the project.

(C) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Admin-

istrator shall submit the cost and schedule baseline to the congressional defense committees.

(2) MAJOR ALTERATION PROJECTS.—

(A) IN GENERAL.—The Administrator shall establish a cost and schedule baseline for each major alteration project.

(B) PER UNIT COST.—The cost baseline developed under subparagraph (A) shall include, with respect to each major alteration project, an estimated cost for each warhead in the project.

(C) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

(D) MAJOR ALTERATION PROJECT DEFINED.—In this paragraph, the term "major alteration project" means a nuclear weapon system alteration project of the Administration the cost of which exceeds $750,000,000.

(3) DEFENSE-FUNDED CONSTRUCTION PROJECTS.—

(A) IN GENERAL.—The Secretary of Energy shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each construction project that is—

(i) in excess of $50,000,000; and

(ii) carried out by the Department using funds authorized to be appropriated for a fiscal year pursuant to a DOE national security authorization.

(B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(4) DEFENSE ENVIRONMENTAL CLEANUP PROJECTS.—

(A) IN GENERAL.—The Secretary shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each defense environmental cleanup project that is—

(i) in excess of $50,000,000; and

(ii) carried out by the Department pursuant to such protocols.

(B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(b) NOTIFICATION OF COSTS EXCEEDING BASELINE.—The Administrator or the Secretary, as applicable, shall notify the congressional defense committees not later than 30 days after determining that—

(1) the total cost for a project referred to in paragraph (1), (2), (3), or (4) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and

(2)[8] in the case of a stockpile life extension project referred to in subsection (a)(1) or a major alteration project referred to in subsection (a)(2), the cost for any warhead in the project will exceed an amount that is equal to 150 percent of the cost baseline established under subsection (a)(1)(B) for each warhead in that project.

(c) NOTIFICATION OF DETERMINATION WITH RESPECT TO TERMINATION OR CONTINUATION OF PROJECTS AND ROOT CAUSE ANALYSES.—Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—

(1) notify the congressional defense committees with respect to whether the project will be terminated or continued;

(2) if the project will be continued, certify to the congressional defense committees that—

(A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension project referred to in subparagraph (A) or (B) of subsection (a)(1) or a major alteration project referred to in subsection (a)(2), a revised estimate of the cost for each warhead in the project has been made;

(B) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and

(C) a management structure is in place adequate to manage and control the cost and schedule of the project; and

(3) submit to the congressional defense committees an assessment of the root cause or causes of the growth in the total cost of the project, including the contribution of any shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

(A) unrealistic performance expectations;

(B) unrealistic baseline estimates for cost or schedule;

(C) immature technologies or excessive manufacturing or integration risk;

(D) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;

(E) changes in procurement quantities;

(F) inadequate program funding or funding instability;

(G) poor performance by personnel of the Federal Government or contractor personnel responsible for program management; or

(H) any other matters.

(d) APPLICABILITY OF REQUIREMENTS TO REVISED COST AND SCHEDULE BASELINES.—A revised cost and schedule baseline established under subsection (c) shall—

(1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2); and

[8] Section 3113(a)(2)(A)(ii)(II) of division C of Public Law 114–92 provides for an amendment to paragraph (2) by inserting "or (a)(2)(B), as applicable,". Such amendment could not be executed because it did not specify where to insert the phrase.

(2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).

SEC. 4714. [50 U.S.C. 2754] LIFE-CYCLE COST ESTIMATES OF CERTAIN ATOMIC ENERGY DEFENSE CAPITAL ASSETS.

(a) IN GENERAL.—The Secretary of Energy shall ensure that an independent life-cycle cost estimate under Department of Energy Order 413.3 (relating to program management and project management for the acquisition of capital assets) of each capital asset described in subsection (b) is conducted before the asset achieves critical decision 2 in the acquisition process.

(b) CAPITAL ASSETS DESCRIBED.—A capital asset described in this subsection is an atomic energy defense capital asset—

(1) the total project cost of which exceeds $100,000,000; and

(2) the purpose of which is to perform a limited-life, single-purpose mission.

(c) INDEPENDENT DEFINED.—For purposes of subsection (a), the term "independent", with respect to a life-cycle cost estimate of a capital asset, means that the life-cycle cost estimate is prepared by an organization independent of the project sponsor, using the same detailed technical and procurement information as the sponsor, to determine if the life-cycle cost estimate of the sponsor is accurate and reasonable.

SEC. 4715. [50 U.S.C. 2755] MATTERS RELATING TO CRITICAL DECISIONS.

(a) POST-CRITICAL DECISION 2 CHANGES.—After the date on which a plant project specifically authorized by law and carried out under Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets), or a successor order, achieves critical decision 2, the Administrator may not change the requirements for such project if such change increases the cost of such project by more than the lesser of $5,000,000 or 15 percent, unless—

(1) the Administrator submits to the congressional defense committees—

(A) a certification that the Administrator, without delegation, authorizes such proposed change; and

(B) a cost-benefit and risk analysis of such proposed change, including with respect to—

(i) the effects of such proposed change on the project cost and schedule; and

(ii) any mission risks and operational risks from making such change or not making such change; and

(2) a period of 15 days elapses following the date of such submission.

(b) REVIEW AND APPROVAL.—The Administrator shall ensure that critical decision packages are timely reviewed and either approved or disapproved.

SEC. 4716. [50 U.S.C. 2756] UNFUNDED PRIORITIES OF THE NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Administrator shall submit to the Secretary of Energy and the congressional defense committees a report on the unfunded priorities of the Administration.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report required by subsection (a) shall specify, for each unfunded priority covered by the report, the following:

(A) A summary description of that priority, including the objectives to be achieved if that priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to that priority.

(2) PRIORITIZATION OF PRIORITIES.—Each report required by subsection (a) shall present the unfunded priorities covered by the report in order of urgency of priority.

(c) LIMITATION.—If the Administrator fails to submit to the congressional defense committees a report required by subsection (a) for any of fiscal years 2020 through 2024 that includes the matters specified in subsection (b)(1) for at least one unfunded priority by the deadline specified in subsection (a), not more than 65 percent of the funds authorized to be appropriated or otherwise made available for the fiscal year in which such failure occurs for travel and transportation of persons under the Federal salaries and expenses account of the Administration may be obligated or expended until the date on which the Administrator submits such report.

(d) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement that—

(1) is not funded in the budget of the President for that fiscal year as submitted to Congress pursuant to section 1105(a) of title 31, United States Code;

(2) is necessary to fulfill a requirement associated with the mission of the Administration; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the Administrator—

(A) if additional resources were available for the budget to fund the program, activity, or mission requirement; or

(B) in the case of a program, activity, or mission requirement that emerged after the budget was formulated, if the program, activity, or mission requirement had emerged before the budget was formulated.

Subtitle B—Penalties

SEC. 4721. [50 U.S.C. 2761] RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS.

(a) RESTRICTION.—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

SEC. 4722. [50 U.S.C. 2762] RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if—

(1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance; or

(2) the President has specifically requested appropriations for compliance and Congress has failed to appropriate funds for such purpose.

Subtitle C—Other Matters

[Section 4731 repealed by section 3131(u)(1) of division C of Public Law 112–239.]

SEC. 4732. [50 U.S.C. 2772] QUARTERLY REPORTS ON FINANCIAL BALANCES FOR ATOMIC ENERGY DEFENSE ACTIVITIES.

(a) REPORTS REQUIRED.—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development.

(b) ELEMENTS.—Each report under subsection (a) shall set forth, for each program covered by such report, the following as of the end of the fiscal year quarter covered by such report:

(1) The total amount authorized to be appropriated, including amounts authorized to be appropriated in the current fiscal

year and amounts authorized to be appropriated for prior fiscal years.

(2) The amount unobligated.

(3) The amount unobligated but committed.

(4) The amount obligated but uncosted.

(c) PRESENTATION.—Each report under subsection (a) shall present information as follows:

(1) For each program, in summary form and by fiscal year.

(2) With financial balances in connection with funding under recurring DOE national security authorizations (as that term is defined in section 4701(1)) presented separately from balances in connection with funding under any other provisions of law.

SEC. 4733. [50 U.S.C. 2773] INDEPENDENT ACQUISITION PROJECT REVIEWS OF CAPITAL ASSETS ACQUISITION PROJECTS.

(a) REVIEWS.—The appropriate head shall ensure that an independent entity conducts reviews of each capital assets acquisition project as the project moves toward the approval of each of critical decision 0, critical decision 1, and critical decision 2 in the acquisition process.

(b) PRE-CRITICAL DECISION 1 REVIEWS.—In addition to any other matters, with respect to each review of a capital assets acquisition project under subsection (a) that has not reached critical decision 1 approval in the acquisition process, such review shall include—

(1) a review using best practices of the analysis of alternatives for the project; and

(2) identification of any deficiencies in such analysis of alternatives for the appropriate head to address.

(c) INDEPENDENT ENTITIES.—The appropriate head shall ensure that each review of a capital assets acquisition project under subsection (a) is conducted by an independent entity with the appropriate expertise with respect to the project and the stage in the acquisition process of the project.

(d) DEFINITIONS.—In this section:

(1) The term "acquisition process" means the acquisition process for a project, as defined in Department of Energy Order 413.3B (relating to project management and project management for the acquisition of capital assets), or a successor order.

(2) The term "appropriate head" means—

(A) the Administrator, with respect to capital assets acquisition projects of the Administration; and

(B) the Assistant Secretary of Energy for Environmental Management, with respect to capital assets acquisition projects of the Office of Environmental Management.

(3) The term "capital assets acquisition project" means a project—

(A) the total project cost of which is more than $500,000,000; and

(B) that is covered by Department of Energy Order 413.3, or a successor order, for the acquisition of capital assets for atomic energy defense activities.

TITLE XLVIII—ADMINISTRATIVE MATTERS

Subtitle A—Contracts

SEC. 4801. [50 U.S.C. 2781] COSTS NOT ALLOWED UNDER COVERED CONTRACTS.

(a) IN GENERAL.—The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b)(1) REGULATIONS.—Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41, United States Code.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or ad-

vice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(c) DEFINITION.—In this section, "covered contract" means a contract for an amount more than $100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

(d) EFFECTIVE DATE.—Subsection (a) shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) are issued.

SEC. 4802. [50 U.S.C. 2782] PROHIBITION AND REPORT ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.

(a) PROHIBITION.—The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.

(b) REGULATIONS.—The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than March 1, 1990.

SEC. 4802A. [50 U.S.C. 2782a] ASSESSMENTS OF EMERGENCY PREPAREDNESS OF DEFENSE NUCLEAR FACILITIES.

The Secretary of Energy shall include, in each award-fee evaluation conducted under section 16.401 of title 48, Code of Federal Regulations, of a management and operating contract for a Department of Energy defense nuclear facility in 2016 or any even-numbered year thereafter, an assessment of the adequacy of the emergency preparedness of that facility, including an assessment of the seniority level of management and operating contractor employees that participate in emergency preparedness exercises at that facility.

SEC. 4803. [50 U.S.C. 2783] CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the "Atomic Testing Liability Act".

(b) FEDERAL REMEDIES APPLICABLE; EXCLUSIVENESS OF REMEDIES.—

(1) REMEDY.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or by chapter 309 or 311 of title 46, United States Code, as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic

weapons testing program under a contract with the United States.

(2) EXCLUSIVITY.—The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) PROCEDURE.—A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) ACTIONS COVERED.—The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on November 5, 1990, or commenced on or after such date. Notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding to which this section applies is pending on November 5, 1990, and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28, United States Code.

(e) "CONTRACTOR" DEFINED.—For purposes of this section, the term "contractor" includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

SEC. 4804. [50 U.S.C. 2784] NOTICE-AND-WAIT REQUIREMENT APPLICABLE TO CERTAIN THIRD-PARTY FINANCING ARRANGEMENTS.

(a) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of Energy may not enter into an arrangement described in subsection (b) until 30 days after the date on which the Secretary notifies the congressional defense committees in writing of the proposed arrangement.

(b) COVERED ARRANGEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an arrangement referred to in subsection (a) is any alternative financing arrangement, third-party financing arrangement, public-private partnership, privatization arrangement, private capital arrangement, or other financing arrangement that—

(A) is entered into in connection with a project conducted using funds authorized to be appropriated to the Department of Energy to carry out programs necessary for national security; and

(B) involves a contractor or Federal agency obtaining and charging to the Department of Energy as an allowable cost under a contract the use of office space, facilities, or other real property assets with a value of at least $5,000,000.

(2) EXCEPTION.—An arrangement referred to in subsection (a) does not include an arrangement that—

(A) involves the Department of Energy or a contractor acquiring or entering into a capital lease for office space, facilities, or other real property assets; or

(B) is entered into in connection with a capital improvement project undertaken as part of an energy savings performance contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).

SEC. 4805. [50 U.S.C. 2785] PUBLICATION OF CONTRACTOR PERFORMANCE EVALUATIONS LEADING TO AWARD FEES.

(a) IN GENERAL.—The Administrator shall take appropriate actions to make available to the public, to the maximum extent practicable, contractor performance evaluations conducted by the Administration of management and operating contractors of the nuclear security enterprise that results in the award of an award fee to the contractor concerned.

(b) FORMAT.—Performance evaluations shall be made public under this section in a common format that facilitates comparisons of performance evaluations between and among similar management and operating contracts.

SEC. 4806. [50 U.S.C. 2786] ENHANCED PROCUREMENT AUTHORITY TO MANAGE SUPPLY CHAIN RISK.

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Energy may—

(1) carry out a covered procurement action; and

(2) notwithstanding any other provision of law, limit, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action.

(b) REQUIREMENTS.—The Secretary may exercise the authority under subsection (a) only after—

(1) obtaining a risk assessment that demonstrates that there is a significant supply chain risk to a covered system;

(2) making a determination in writing, in unclassified or classified form, that—

(A) the use of the authority under subsection (a) is necessary to protect national security by reducing supply chain risk;

(B) less restrictive measures are not reasonably available to reduce the supply chain risk; and

(C) in a case in which the Secretary plans to limit disclosure of information under subsection (a)(2), the risk to national security of the disclosure of the information outweighs the risk of not disclosing the information; and

(3) submitting to the appropriate congressional committees, not later than seven days after the date on which the Secretary makes the determination under paragraph (2), a notice of such determination, in classified or unclassified form, that includes—

(A) the information required by section 3304(e)(2)(A) of title 41, United States Code;

(B) a summary of the risk assessment required under paragraph (1); and

(C) a summary of the basis for the determination, including a discussion of less restrictive measures that were considered and why such measures were not reasonably available to reduce supply chain risk.

(c) NOTIFICATIONS.—If the Secretary has exercised the authority under subsection (a), the Secretary shall—

(1) notify appropriate parties of the covered procurement action and the basis for the action only to the extent necessary to carry out the covered procurement action;

(2) notify other Federal agencies responsible for procurement that may be subject to the same or similar supply chain risk, in a manner and to the extent consistent with the requirements of national security; and

(3) ensure the confidentiality of any notifications under paragraph (1) or (2).

(d) LIMITATION OF REVIEW.—No action taken by the Secretary under the authority under subsection (a) shall be subject to review in any Federal court.

(e) REVIEW BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not later than one year after the effective date specified in subsection (g)(1), and annually for four years thereafter, the Comptroller General of the United States shall—

(1) review the authority provided under subsection (a), including—

(A) the adequacy of resources, such as trained personnel, to effectively exercise that authority during the four-year period beginning on that effective date; and

(B) the sufficiency of determinations under subsection (b)(2);

(2) review the thoroughness of the process and systems utilized by the Office of the Chief Information Officer and the Office of Intelligence and Counterintelligence of the Depart-

ment of Energy to reasonably detect supply chain threats to the national security functions of the Department; and

(3) submit to the appropriate congressional committees a report that includes—

(A) the results of the reviews conducted under paragraphs (1) and (2);

(B) any recommendations of the Comptroller General for improving the process and systems described in paragraph (2); and

(C) a description of the status of the implementation of recommendations, if any, with respect to that process and such systems made by the Comptroller General in previous years.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—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) COVERED ITEM OF SUPPLY.—The term "covered item of supply" means an item—

(A) that is purchased for inclusion in a covered system; and

(B) the loss of integrity of which could result in a supply chain risk for a covered system.

(3) COVERED PROCUREMENT.—The term "covered procurement" means the following:

(A) A source selection for a covered system or a covered item of supply involving either a performance specification, as described in subsection (a)(3)(B) of section 3306 of title 41, United States Code, or an evaluation factor, as described in subsection (b)(1) of such section, relating to supply chain risk.

(B) The consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of title 41, United States Code, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk.

(C) Any contract action involving a contract for a covered system or a covered item of supply if the contract includes a clause establishing requirements relating to supply chain risk.

(4) COVERED PROCUREMENT ACTION.—The term "covered procurement action" means, with respect to an action that occurs in the course of conducting a covered procurement, any of the following:

(A) The exclusion of a source that fails to meet qualification requirements established pursuant to section 3311 of title 41, United States Code, for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor pro-

viding for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The withholding of consent for a contractor to subcontract with a particular source or the direction to a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(5) COVERED SYSTEM.—The term "covered system" means the following:

(A) National security systems (as defined in section 3552(b) of title 44, United States Code) and components of such systems.

(B) Nuclear weapons and components of nuclear weapons.

(C) Items associated with the design, development, production, and maintenance of nuclear weapons or components of nuclear weapons.

(D) Items associated with the surveillance of the nuclear weapon stockpile.

(E) Items associated with the design and development of nonproliferation and counterproliferation programs and systems.

(6) SUPPLY CHAIN RISK.—The term "supply chain risk" means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system or covered item of supply so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of the system or item of supply.

(g) TERMINATION.—The authority under this section shall terminate on June 30, 2023.

SEC. 4807. [50 U.S.C. 2787] COST-BENEFIT ANALYSES FOR COMPETITION OF MANAGEMENT AND OPERATING CONTRACTS.

(a) BRIEFINGS ON REQUESTS FOR PROPOSALS.—Not later than 7 days after issuing a request for proposals for a contract to manage and operate a facility of the Administration, the Administrator shall brief the congressional defense committees on the preliminary assessment of the Administrator of the costs and benefits of the competition for the contract, including a preliminary assessment of the matters described in subsection (c) with respect to the contract.

(b) REPORTS AFTER TRANSITION TO NEW CONTRACTS.—If the Administrator awards a new contract to manage and operate a facility of the Administration, the Administrator shall submit to the congressional defense committees a report that includes the matters described in subsection (c) with respect to the contract by not later than 30 days after the completion of the period required to transition to the contract.

(c) MATTERS DESCRIBED.—The matters described in this subsection, with respect to a contract, are the following:

(1) A clear and complete description of the cost savings the Administrator expects to result from the competition for the contract over the life of the contract, including associated analyses, assumptions, and information sources used to determine such expected cost savings.

(2) A description of any key limitations or uncertainties that could affect such costs savings, including costs savings that are anticipated but not fully known.

(3) The costs of the competition for the contract, including the immediate costs of conducting the competition, the costs of the transition to the contract from the previous contract, and any increased costs over the life of the contract.

(4) A description of any disruptions or delays in mission activities or deliverables resulting from the competition for the contract.

(5) A clear and complete description of the benefits expected by the Administrator with respect to mission performance or operations resulting from the competition.

(6) How the competition for the contract complied with the Federal Acquisition Regulation regarding federally funded research and development centers, if applicable.

(7) The factors considered and processes used by the Administrator to determine—

(A) whether to compete or extend the previous contract; and

(B) which activities at the facility should be covered under the contract rather than under a different contract.

(8) With respect to the matters included under paragraphs (1) through (7), a detailed description of the analyses conducted by the Administrator to reach the conclusions presented in the report, including any assumptions, limitations, and uncertainties relating to such conclusions.

(9) Any other matters the Administrator considers appropriate.

(d) INFORMATION QUALITY.—Each briefing required by subsection (a) and report required by subsection (b) shall be prepared in accordance with—

(1) the information quality guidelines of the Department of Energy that are relevant to the clear and complete presentation of the matters described in subsection (c); and

(2) best practices of the Government Accountability Office and relevant industries for cost estimating, if appropriate.

(e) REVIEW OF REPORTS BY COMPTROLLER GENERAL OF THE UNITED STATES.—

(1) INITIAL REVIEW.—The Comptroller General of the United States shall provide a briefing to the congressional defense committees that includes a review of each report required by subsection (b) not later than 180 days after the report is submitted to such committees.

(2) COMPREHENSIVE REVIEW.—

(A) DETERMINATION.—The Comptroller General shall determine, in consultation with the congressional defense committees, whether to conduct a comprehensive review of a report required by subsection (b).

(B) SUBMISSION.—The Comptroller General shall submit a comprehensive review conducted under subparagraph (A) of a report required by subsection (b) to the congressional defense committees not later than 3 years after that report is submitted to such committees.

(C) ELEMENTS.—A comprehensive review conducted under subparagraph (A) of a report required by subsection (b) shall include an assessment, based on the most current information available, of the following:

(i) The actual cost savings achieved compared to cost savings estimated under subsection (c)(1), and any increased costs incurred under the contract that were unexpected or uncertain at the time the contract was awarded.

(ii) Any disruptions or delays in mission activities or deliverables resulting from the competition for the contract compared to the disruptions and delays estimated under subsection (c)(4).

(iii) Whether expected benefits of the competition with respect to mission performance or operations have been achieved.

(iv) Such other matters as the Comptroller General considers appropriate.

(f) APPLICABILITY.—

(1) IN GENERAL.—The requirements for briefings under subsection (a) and reports under subsection (b) shall apply with respect to requests for proposals issued or contracts awarded, as applicable, by the Administrator during fiscal years 2019 through 2022.

(2) NAVAL REACTORS.—The requirements for briefings under subsection (a) and reports under subsection (b) shall not apply with respect to a management and operations contract for a Naval Reactor facility.

Subtitle B—Research and Development

SEC. 4811. [50 U.S.C. 2791] LABORATORY–DIRECTED RESEARCH AND DEVELOPMENT PROGRAMS.

(a) AUTHORITY.—Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) REGULATIONS.—The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) FUNDING.—Of the funds provided by the Department of Energy to a national security laboratory for national security activities, the Secretary shall provide a specific amount, of not less than 5 percent and not more than 7 percent of such funds, to be used by the laboratory for laboratory-directed research and development.

(d) DEFINITION.—For purposes of this section, the term "laboratory-directed research and development" means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

SEC. 4812. [50 U.S.C. 2792] LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT PURPOSES.

(a) LIMITATION ON USE OF WEAPONS ACTIVITIES FUNDS.—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for weapons activities may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) LIMITATION ON USE OF CERTAIN OTHER FUNDS.—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for defense environmental cleanup may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the defense environmental cleanup mission of the Department of Energy.

SEC. 4812A. [50 U.S.C. 2793] REPORT ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

(a) REPORT REQUIRED.—Not later than February 1 each year, the Secretary of Energy shall submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.

(b) PREPARATION OF REPORT.—Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(c) CRITERIA USED IN PREPARATION OF REPORT.—Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

SEC. 4813. [50 U.S.C. 2794] CRITICAL TECHNOLOGY PARTNERSHIPS AND COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.

(a) PARTNERSHIPS.—For the purpose of facilitating the transfer of technology, the Secretary of Energy shall ensure, to the maximum extent practicable, that research on and development of dual-use critical technology carried out through atomic energy defense activities is conducted through cooperative research and development agreements, or other arrangements, that involve laboratories of the Department of Energy and other entities.

(b) COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.—(1) Subject to the availability of appropriations provided for such purpose, the Administrator shall establish a cooperative research and development center described in paragraph (2) at each national security laboratory.

(2) A cooperative research and development center described in this paragraph is a center to foster collaborative scientific research, technology development, and the appropriate transfer of research and technology to users in addition to the national security laboratories.

(3) In establishing a cooperative research and development center under this subsection, the Administrator—

(A) shall enter into cooperative research and development agreements with governmental, public, academic, or private entities; and

(B) may enter into a contract with respect to constructing, purchasing, managing, or leasing buildings or other facilities.

(c) DEFINITIONS.—In this section:

(1) The term "dual-use critical technology" means a technology—

(A) that is critical to atomic energy defense activities, as determined by the Secretary of Energy;

(B) that has military applications and nonmilitary applications; and

(C) that is a defense critical technology (as defined in section 2500 of title 10, United States Code).

(2) The term "cooperative research and development agreement" has the meaning given that term by section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

(3) The term "other entities" means—

(A) firms, or a consortium of firms, that are eligible to participate in a partnership or other arrangement with a laboratory of the Department of Energy, as determined in accordance with applicable law and regulations; or

(B) firms, or a consortium of firms, described in subparagraph (A) in combination with one or more of the following:

(i) Institutions of higher education in the United States.

(ii) Departments and agencies of the Federal Government other than the Department of Energy.

(iii) Agencies of State governments.

(iv) Any other persons or entities that may be eligible and appropriate, as determined in accordance with applicable laws and regulations.

(4) The term "atomic energy defense activities" does not include activities covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program. [9]

SEC. 4814. [50 U.S.C. 2795] UNIVERSITY-BASED RESEARCH COLLABORATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The maintenance of scientific and engineering competence in the United States is vital to long-term national security and the defense and national security missions of the Department of Energy.

[9] The text of the executive order is set out in this volume under Selected Other Matters.

(2) Engaging the universities and colleges of the Nation in research on long-range problems of vital national security interest will be critical to solving the technology challenges faced within the defense and national security programs of the Department of Energy in the next century.

(3) Enhancing collaboration among the national laboratories, universities and colleges, and industry will contribute significantly to the performance of these Department of Energy missions.

(b) PROGRAM.—The Secretary of Energy shall establish a university program at a location that can develop the most effective collaboration among national laboratories, universities and colleges, and industry in support of scientific and engineering advancement in key Department of Energy defense and national security program areas.

Subtitle C—Facilities Management

SEC. 4831. [50 U.S.C. 2811] TRANSFERS OF REAL PROPERTY AT CERTAIN DEPARTMENT OF ENERGY FACILITIES.

(a) TRANSFER REGULATIONS.—(1) The Secretary of Energy shall prescribe regulations for the transfer by sale or lease of real property at Department of Energy defense nuclear facilities for the purpose of permitting the economic development of the property.

(2) The Secretary may not transfer real property under the regulations prescribed under paragraph (1) until—

(A) the Secretary submits a notification of the proposed transfer to the congressional defense committees; and

(B) a period of 30 days has elapsed following the date on which the notification is submitted.

(b) INDEMNIFICATION.—(1) Except as provided in paragraph (3) and subject to subsection (c), in the sale or lease of real property pursuant to the regulations prescribed under subsection (a), the Secretary may hold harmless and indemnify a person or entity described in paragraph (2) against any claim for injury to person or property that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located. Before entering into any agreement for such a sale or lease, the Secretary shall notify the person or entity that the Secretary has authority to provide indemnification to the person or entity under this subsection. The Secretary shall include in any agreement for such a sale or lease a provision stating whether indemnification is or is not provided.

(2) Paragraph (1) applies to the following persons and entities:

(A) Any State that acquires ownership or control of real property of a defense nuclear facility.

(B) Any political subdivision of a State that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(c) CONDITIONS.—(1) No indemnification on a claim for injury may be provided under this section unless the person or entity making a request for the indemnification—

(A) notifies the Secretary in writing within two years after such claim accrues;

(B) furnishes to the Secretary copies of pertinent papers received by the person or entity;

(C) furnishes evidence or proof of the claim;

(D) provides, upon request by the Secretary, access to the records and personnel of the person or entity for purposes of defending or settling the claim; and

(E) begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2) For purposes of paragraph (1)(A), the date on which a claim accrues is the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property referred to in subsection (b)(1) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located.

(d) AUTHORITY OF SECRETARY.—(1) In any case in which the Secretary determines that the Secretary may be required to indemnify a person or entity under this section for any claim for injury to person or property referred to in subsection (b)(1), the Secretary may settle or defend the claim on behalf of that person or entity.

(2) In any case described in paragraph (1), if the person or entity that the Secretary may be required to indemnify does not allow the Secretary to settle or defend the claim, the person or entity may not be indemnified with respect to that claim under this section.

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(f) DEFINITIONS.—In this section, the terms "hazardous substance", "release", and "pollutant or contaminant" have the meanings provided by section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 4832. [50 U.S.C. 2812] ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION BY MANAGERS OF CERTAIN NUCLEAR WEAPONS PRODUCTION FACILITIES.

(a) AUTHORITY FOR PROGRAMS AT NUCLEAR WEAPONS PRODUCTIONS FACILITIES.—The Administrator shall authorize the head of each nuclear weapons production facility to establish an Engineering and Manufacturing Research, Development, and Demonstration Program under this section.

(b) PROJECTS AND ACTIVITIES.—The projects and activities carried out through the program at a nuclear weapons production facility under this section shall support innovative or high-risk design and manufacturing concepts and technologies with potentially high payoff for the nuclear security enterprise. Those projects and activities may include—

(1) replacement of obsolete or aging design and manufacturing technologies;

(2) development of innovative agile manufacturing techniques and processes; and

(3) training, recruitment, or retention of essential personnel in critical engineering and manufacturing disciplines.

SEC. 4833. [50 U.S.C. 2813] PILOT PROGRAM RELATING TO USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN DEPARTMENT OF ENERGY ASSETS.

(a) PURPOSE.—The purpose of this section is to encourage the Secretary of Energy to dispose of or otherwise utilize certain assets of the Department of Energy by making available to the Secretary the proceeds of such disposal or utilization for purposes of defraying the costs of such disposal or utilization.

(b) USE OF PROCEEDS TO DEFRAY COSTS.—(1) Notwithstanding section 3302 of title 31, United States Code, the Secretary may retain from the proceeds of the sale, lease, or disposal of an asset under subsection (c) an amount equal to the cost of the sale, lease, or disposal of the asset. The Secretary shall utilize amounts retained under this paragraph to defray the cost of the sale, lease, or disposal.

(2) For purposes of paragraph (1), the cost of a sale, lease, or disposal shall include—

(A) the cost of administering the sale, lease, or disposal;

(B) the cost of recovering or preparing the asset concerned for the sale, lease, or disposal; and

(C) any other cost associated with the sale, lease, or disposal.

(c) COVERED TRANSACTIONS.—Subsection (b) applies to the following transactions:

(1) The sale of heavy water at the Savannah River Site, South Carolina, that is under the jurisdiction of the Defense Environmental Management Program.

(2) The sale of precious metals that are under the jurisdiction of the Defense Environmental Management Program.

(3) The lease of buildings and other facilities located at the Hanford Reservation, Washington, that are under the jurisdiction of the Defense Environmental Management Program.

(4) The lease of buildings and other facilities located at the Savannah River Site that are under the jurisdiction of the Defense Environmental Management Program.

(5) The disposal of equipment and other personal property located at the Rocky Flats Defense Environmental Technology Site, Colorado, that is under the jurisdiction of the Defense Environmental Management Program.

(6) The disposal of materials at the National Electronics Recycling Center, Oak Ridge, Tennessee that are under the jurisdiction of the Defense Environmental Management Program.

(d) APPLICABILITY OF DISPOSAL AUTHORITY.—Nothing in this section shall be construed to limit the application of subchapter II of chapter 5 and section 549 of title 40, United States Code, to the disposal of equipment and other personal property covered by this section.

Subtitle D—Other Matters

[Section 4851 repealed by section 3131(q)(2) of division C of Public Law 112–239.]

SEC. 4852. [50 U.S.C. 2822] PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA NATIONAL SECURITY SITE.

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada National Security Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada National Security Site.