

recommendations with regard to the operation of the system, and describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

CHAPTER 76—IMITATION FIREARMS

Sec.
5001. Penalties for entering into commerce of imitation firearms.

§ 5001. Penalties for entering into commerce of imitation firearms

(a) Acts prohibited

It shall be unlawful for any person to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in subsection (b) of this section.

(b) Distinctive marking or device; exception; waiver; adjustments and changes

(1) Except as provided in paragraph (2) or (3), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(2) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in paragraph (1) and may waive the requirement of any such marking or device for any toy, look-alike, or imitation firearm that will only be used in the theatrical, movie or television industry.

(3) The Secretary is authorized to make adjustments and changes in the marking system provided for by this section, after consulting with interested persons.

(c) "Look-alike firearm" defined

For purposes of this section, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B-B, paint-ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

(d) Study and report

The Director of the Bureau of Justice Statistics is authorized and directed to conduct a study of the criminal misuse of toy, look-alike and imitation firearms, including studying police reports of such incidences and shall report on such incidences relative to marked and unmarked firearms.

(c)¹ Technical evaluation of marking systems

The Director of² National Institute of Justice is authorized and directed to conduct a tech-

nical evaluation of the marking systems provided for in subsection (b) of this section to determine their effectiveness in police combat situations. The Director shall begin the study within 3 months after November 5, 1988, and such study shall be completed within 9 months after November 5, 1988.

(f) Effective date

This section shall become effective on the date 6 months after November 5, 1988, and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after November 5, 1988.

(g) Preemption of State or local laws or ordinances; exceptions

The provisions of this section shall supersede any provision of State or local laws or ordinances which provide for markings or identification inconsistent with provisions of this section provided that no State shall—

(i) prohibit the sale or manufacture of any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or

(ii) prohibit the sale (other than prohibiting the sale to minors) of traditional B-B, paint ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

(Pub. L. 100-615, §4, Nov. 5, 1988, 102 Stat. 3190.)

CHAPTER 77—STEEL AND ALUMINUM ENERGY CONSERVATION AND TECHNOLOGY COMPETITIVENESS

Sec.
5101. Findings and purposes.
5102. Definitions.
5103. Establishment of scientific research and development program to develop competitive manufacturing technologies and increase energy efficiency in steel and aluminum industries.
5104. Protection of proprietary rights.
5105. Coordination.
5106. Expanded steel and aluminum research program in National Institute of Standards and Technology.
5107. Reports.
5108. Authorization of appropriations.
5109. Relation of existing program.
5110. Drug-free workplace.

§ 5101. Findings and purposes

(a) Findings

The Congress finds that—

(1) maintaining viable domestic steel, aluminum, copper, and other metals industries is vital to the national security and economic well being of the United States; and

(2) the promotion of technology competitiveness and energy conservation in the American steel and aluminum industries by the Federal Government through a program of joint research and development will help maintain viable domestic steel and aluminum industries.

(b) Purposes

The purposes of this chapter are to—

(1) increase the energy efficiency and enhance the competitiveness of American steel, aluminum, and copper industries by providing

¹ So in original. Probably should be "(e)".

² So in original. Probably should be "of the".

Federal incentives for the establishment of public-private sector research and development partnerships to undertake scientific research and development to develop advanced technologies utilizing the expertise of the steel, aluminum, copper, and other metals industries, Government-owned laboratories of the Department of Energy and the National Institute of Standards and Technology, universities, State development agencies, and others; and

(2) continue steel research and development initiative efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190).

(Pub. L. 100-680, §2, Nov. 17, 1988, 102 Stat. 4073.)

REFERENCES IN TEXT

Title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), referred to in subsec. (b)(2), is Pub. L. 99-190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1244. The provisions relating to steel research and development are not classified to the Code.

SHORT TITLE

Section 1 of Pub. L. 100-680 provided that: "This Act [enacting this chapter] may be cited as the 'Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988'."

§ 5102. Definitions

As used in this chapter—

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "domestic company" means a company which is substantially involved in the United States domestic production, processing, or use of steel, aluminum, copper, or other metals and has a substantial percentage of its operations located within the United States;

(3) the terms "management plan" and "plan" mean the Steel Initiative Management Plan issued on April 1, 1987, by the Department of Energy, which establishes the management framework for the steel research and development initiative, and updates to that plan; and

(4) the term "research plan" means the Steel Initiative Research Plan issued in April 1988 by the Department of Energy, and updates to that plan.

(Pub. L. 100-680, §3, Nov. 17, 1988, 102 Stat. 4073.)

§ 5103. Establishment of scientific research and development program to develop competitive manufacturing technologies and increase energy efficiency in steel and aluminum industries

(a) General authority

The Secretary, pursuant to the authority provided under provisions of the Federal Non-nuclear Research and Development Act of 1974

(42 U.S.C. 5901, et seq.), shall reestablish an industrial energy conservation and competitive technology program to conduct scientific research and development of steel and aluminum technologies to carry out the purposes of this chapter. Such program shall provide the financial and technical assistance and other incentives which, in the judgment of the Secretary, are necessary to carry out the purposes of this chapter.

(b) Management plan

Within 6 months after November 17, 1988, the Secretary shall publish an update of the management plan to expand the steel research and development initiative to include aluminum and to carry out the purposes of this chapter. The Secretary, from time to time, may further update the management plan. The management plan shall be subject to the following conditions:

(1) For newly initiated research and development proposals submitted under the revised management plan, the non-Federal financial share shall equal at least 30 percent of the total cost of any project.

(2) Existing facilities, equipment, supplies, and other property may be included in the non-Federal share under this section only when they are directly relevant to the project.

(3) The knowledge resulting from research and development activities conducted under this chapter shall be developed for the benefit of the domestic companies who provide financial resources to the program.

(4) The Secretary, for a period of up to 5 years after the development of information that—

(A) results from research and development activities conducted under this chapter; and

(B) would be a trade secret or commercial or financial information that is privileged or confidential, as described in section 5104(a) of this title, if the information had been obtained from a domestic company,

may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5.

(5) The plan shall assure basic research support, for the research carried out under the research plan, from independent laboratories, universities, and nonprofit organizations, by coordinating activities under the research plan with the basic research efforts of the Department of Energy, such as the Energy Conversion and Utilization Technologies Program and the Materials Processing and Sensor and Controls programs within the Office of Industrial Technologies.

(c) Priorities

Within 6 months after November 17, 1988, the Secretary shall publish an update of the research plan. In reviewing research and development activities for possible inclusion in the research plan, the Secretary shall consider the following:

(1) Steel projects

(A) The direct production of liquid steel from domestic materials.

(B) The production of near-net shape forms from liquid, powder, or solid steel.

(C) The development of universal grades of steel.

(D) The application of automatic processing technology.

(E) The removal of residual elements from steel scrap.

(F) The treatment and storage of waste materials and other byproducts from steel production and processing.

(G) The development of super-plastic steel processing.

(H) The development of advanced coatings for sheet steels.

(I) The development of technologies and equipment related to the production of steel that enhance the protection of the environment and the safety and health of workers.

(J) Other steel technologies which, in the judgment of the Secretary, further the purposes of this chapter.

(2) Aluminum and other projects

(A) The production of aluminum.

(B) The application of automatic processing technology.

(C) The treatment and storage of waste materials and other byproducts from aluminum production and processing.

(D) The manufacture of aluminum mill products.

(E) Aluminum recycling technologies.

(F) The development of technologies and equipment related to the production of aluminum that enhance the protection of the environment and the safety and health of workers.

(G) Aluminum, copper, and other metals technologies which, in the judgment of the Secretary, further the purposes of this chapter.

(d) Industry participation and review

The Secretary shall arrange for participation and review by representatives of each affected industry and by labor in the updating of the management and research plans and in the evaluation of the progress of research and development activities for their industry conducted under this chapter.

(Pub. L. 100-680, §4, Nov. 17, 1988, 102 Stat. 4074; Pub. L. 102-486, title XXI, §2106(a)(1), Oct. 24, 1992, 106 Stat. 3070.)

REFERENCES IN TEXT

The Federal Nonnuclear Research and Development Act of 1974, referred to in subsec. (a), probably means the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (b)(5). Pub. L. 102-486 substituted “Industrial Technologies” for “Industrial Programs”.

§ 5104. Protection of proprietary rights

(a) Proprietary rights

No trade secrets or commercial or financial information that is privileged or confidential,

under the meaning of section 552(b)(4) of title 5 which is obtained from a domestic company shall be disclosed in the conduct of the management plan or research plan, or as a result of activities under this chapter.

(b) Patent rights vested in United States

All patent rights from inventions developed under the management plan or the research plan implemented pursuant to this chapter shall be vested in accordance with section 5908 of title 42.

(Pub. L. 100-680, §5, Nov. 17, 1988, 102 Stat. 4075.)

§ 5105. Coordination

The Secretary shall coordinate the research and development conducted under this chapter with other research and development being conducted by the Department of Energy and other Federal agencies in order to increase efficiency and avoid duplication of effort.

(Pub. L. 100-680, §6, Nov. 17, 1988, 102 Stat. 4076.)

§ 5106. Expanded steel and aluminum research program in National Institute of Standards and Technology

The National Institute of Standards and Technology, through its Institute for Materials Science and Engineering and, as appropriate, in coordination with the Department of Energy and other Federal agencies, shall conduct an expanded program of steel and aluminum research to provide necessary instrumentation and measurement research and development in support of activities conducted under this chapter.

(Pub. L. 100-680, §7, Nov. 17, 1988, 102 Stat. 4076.)

§ 5107. Reports

The Secretary shall prepare and submit annually to the President and the Congress at the close of each fiscal year a complete report of the research and development activities carried out under this chapter during the fiscal year involved, including the actual and anticipated obligation of funds, for such activities, together with such recommendations as the Secretary may consider appropriate for further legislative, administrative, and other actions, including actions by the American steel, aluminum, copper, and other metals industries, which should be taken in order to achieve the purposes of this chapter. The report submitted at the close of fiscal year 1991 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this chapter. The reports submitted at the close of fiscal years 1993, 1995, and 1997 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this chapter.

(Pub. L. 100-680, §8, Nov. 17, 1988, 102 Stat. 4076; Pub. L. 102-486, title XXI, §2106(a)(2), Oct. 24, 1992, 106 Stat. 3070.)

AMENDMENTS

1992—Pub. L. 102-486 inserted sentence at end relating to reports submitted at the close of fiscal years 1993, 1995, and 1997.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 90 of House Document No. 103-7.

§ 5108. Authorization of appropriations**(a) To Secretary**

(1) There are authorized to be appropriated to the Secretary, to carry out the functions of the Department of Energy under this chapter, \$2,000,000 for fiscal year 1989, \$20,000,000 for fiscal year 1990, \$25,000,000 for fiscal year 1991, \$17,968,000 for fiscal year 1992, and \$18,091,000 for each of the fiscal years 1993 through 1997, to be derived from sums authorized under section 13451(e) of title 42.

(2) Funds previously appropriated for the steel research and development initiative—

(A) under title II of the Interior and Related Agencies portion of the joint resolution entitled “Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes”, approved December 19, 1985 (Public Law 99-190); or

(B) under subsequent appropriation Acts,

which remain available under the terms of such Acts may be used for the purposes of this chapter.

(b) To Institute

There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the functions of the Institute under this chapter, \$3,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997, to be derived from sums otherwise authorized to be appropriated to the Institute.

(Pub. L. 100-680, § 9, Nov. 17, 1988, 102 Stat. 4076; Pub. L. 102-486, title XXI, § 2106(a)(3), (4), Oct. 24, 1992, 106 Stat. 3070.)

REFERENCES IN TEXT

Title II of the Interior and Related Agencies portion of the joint resolution entitled “Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes”, approved December 19, 1985 (Public Law 99-190), referred to in subsec. (a)(2)(A), is Pub. L. 99-190, § 101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1244. The provisions relating to steel research and development are not classified to the Code.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-486, § 2106(3), substituted “\$25,000,000 for fiscal year 1991, \$17,968,000 for fiscal year 1992, and \$18,091,000 for each of the fiscal years 1993 through 1997, to be derived from sums authorized under section 13451(e) of title 42” for “and \$25,000,000 for fiscal year 1991”.

Subsec. (b). Pub. L. 102-486, § 2106(4), substituted “1991, 1992, 1993, 1994, 1995, 1996, and 1997, to be derived from sums otherwise authorized to be appropriated to the Institute” for “and 1991”.

§ 5109. Relation of existing program

Proposals received by the Department of Energy before November 17, 1988, may be carried

out without regard to changes in the management plan and research plan required by this chapter.

(Pub. L. 100-680, § 10, Nov. 17, 1988, 102 Stat. 4076.)

§ 5110. Drug-free workplace

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this chapter for fiscal year 1989, fiscal year 1990, fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997, or under any other Act authorizing appropriations for fiscal year 1989, fiscal year 1990, fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997, shall obligate or spend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act [21 U.S.C. 801 et seq.]) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so authorized to be appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party’s board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplace of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act [21 U.S.C. 801 et seq.]) by the officers and employees of such recipient, contractor, or party.

(Pub. L. 100-680, § 11, Nov. 17, 1988, 102 Stat. 4077; Pub. L. 102-486, title XXI, § 2106(a)(5), Oct. 24, 1992, 106 Stat. 3070.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in text, is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486 substituted “fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997” for “or fiscal year 1991” in two places.

EFFECTIVE DATE

For provision that the provisions of Pub. L. 100-680 relating to a drug-free workplace shall not be effective until Jan. 16, 1989, see section 215(c) of Pub. L. 100-685, set out as a Drug-Free Workplace note under section 2459 of Title 42, The Public Health and Welfare.

**CHAPTER 78—SUPERCONDUCTIVITY AND
COMPETITIVENESS**

Sec.	
5201.	Findings and purposes.
5202.	National Action Plan on Advanced Superconductivity Research and Development.
5203.	Department of Energy.
5204.	National Institute of Standards and Technology.
5205.	National Science Foundation.
5206.	National Aeronautics and Space Administration.
5207.	Department of Defense.
5208.	International cooperation.
5209.	Technology transfer.

§ 5201. Findings and purposes

(a) Findings

The Congress finds that—

(1) recent discoveries of high-temperature superconducting materials could result in significant new applications of these materials in such areas as microelectronics, computers, power systems, transportation, medical imaging, and nuclear fusion, yet most potential applications may well lie beyond our ability to predict them;

(2) full application of the new superconductors is expected to require 10 to 20 years, thus calling for long-term commitments by the public and private sector to appropriate research and development programs;

(3) the Nation's economic competitiveness and strategic well-being depend greatly on the development and application of critical advanced technologies such as those anticipated to evolve from the new superconducting materials;

(4) the United States manufacturing industries confront strong competition in both domestic and world markets as other countries are increasingly taking advantage of modern technology and production techniques and innovative management focused on quality;

(5) whereas we have as a Nation been highly successful in the conduct of basic research in a variety of scientific areas, including superconductivity, other nations have been highly successful in the commercial and military application of the results of such fundamental research;

(6) if the United States is to begin its competitive advantage, it must commit sufficient long-term resources to solving processing and manufacturing problems in parallel with basic research and development;

(7) Federal agencies have responded aggressively to this exciting challenge by reprogramming funds to basic superconductivity research while informally coordinating their efforts to avoid unnecessary duplication; and further commitment of Federal funding and efforts directed to developing manufacturing, materials processing, and fabrication technologies is essential so that these activities may be conducted in parallel;

(8) successful development and application of the new superconducting materials will require close collaboration between the Federal Government and the industrial and academic components of the private sector, as well as

coordinating among the Federal departments and agencies involved in research and development on superconductors;

(9) a committed Federal program effort with appropriate long-term goals, priorities, and adequate resources is necessary for the rapid development and application of the new superconducting materials; and

(10) a national program should serve as a test of new agency authorities directed at technological competitiveness such as those provided to the Department of Energy.

(b) Purposes

The purposes of this chapter are—

(1) to establish a 5-year national action plan to research and develop new high-temperature superconducting materials with appropriate goals and priorities;¹

(2) to designate the appropriate roles, mechanisms, and responsibilities of various Federal departments and agencies in implementing such a national research and development action plan.

(Pub. L. 100-697, § 2, Nov. 19, 1988, 102 Stat. 4613.)

SHORT TITLE

Section 1 of Pub. L. 100-697 provided that: "This Act [enacting this chapter] may be cited as the 'National Superconductivity and Competitiveness Act of 1988'."

§ 5202. National Action Plan on Advanced Superconductivity Research and Development

(a) Establishment

(1) The Director of the Office of Science and Technology Policy shall establish a 5-year National Action Plan on Advanced Superconductivity Research and Development (hereinafter in this chapter referred to as the "Superconductivity Action Plan").

(2) The Office of Science and Technology Policy shall coordinate the development of the Superconductivity Action Plan and any recommendations required by this chapter with the National Critical Materials Council and the National Commission on Superconductivity.

(b) Content and scope

The Superconductivity Action Plan shall include—

(1) goals and priorities for advanced superconductivity research and development to be carried out by individual departments and agencies and organizational elements therein;

(2) the assignment of responsibility for the conduct of advanced superconductivity research and development among the departments, agencies, and organization elements therein;

(3) recommendation of proposed funding levels for activities relating to superconductivity of the 5 years following November 19, 1988, for each of the participating departments, agencies, and organizational elements therein; and

(4) proposals for the participation by industry and academia in the planning and implementation of the Superconductivity Action Plan.

(c) Action Plan report

The Office of Science and Technology Policy, in conjunction with the National Critical Mate-

¹ So in original. Probably should be followed by "and".