the financial assistance provided under this subchapter and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.].

(Pub. L. 85–151, § 3, Aug. 16, 1957, 71 Stat. 371.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in par. (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Act is classified generally to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 2005c. Payments

The Surgeon General shall make payments under section 2005 of this title in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine.

(Pub. L. 85–151, § 4, Aug. 16, 1957, 71 Stat. 371.)

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 2005d. Eligibility of assisted project for aid under other acts; excluded costs

Neither assistance provided under this subchapter for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.] or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under this subchapter shall not be included in the cost of construction in which the Federal Government shares under such title VI or other Federal Act.

(Pub. L. 85–151, § 5, Aug. 16, 1957, 71 Stat. 371.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Act is classified generally to subchapter IV (§ 291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

§ 2005e. Definitions

As used in this subchapter:

(a) ''Hospital'' includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) ''Diagnostic or treatment center'' means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

(c) ''Nonprofit'' means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) ''Construction'' means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land.

(Pub. L. 85–151, § 6, Aug. 16, 1957, 71 Stat. 371.)

§ 2005f. Supervision or control of assisted hospitals

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under this subchapter.

(Pub. L. 85–151, § 7, Aug. 16, 1957, 71 Stat. 372.)

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Division A—Atomic Energy

SUBCHAPTER I—GENERAL PROVISIONS

§ 2011. Congressional declaration of policy

Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

(Aug. 1, 1946, ch. 724, title I, § 1, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, § 601, Aug. 8, 2005, 119 Stat. 779, provided that: ''This subtitle [subtitle A (§§ 601–610) of title VI of Pub. L. 109–58, amending sections 2210 and 2282a of this title and enacting provisions set out as notes under sections 2210 and 2282a of this title] may be cited as the 'Price-Anderson Amendments Act of 2005'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–245, § 1, July 10, 2000, 114 Stat. 501, provided that: ''This Act [enacting section 285a–9 of this title and enacting and amending provisions set out as notes under section 2210 of this title] may be cited as the 'Radiation Exposure Compensation Act Amendments of 2000'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–134, title III, § 3101, Apr. 26, 1996, 110 Stat. 1321–335, provided that: ''This subchapter [subch. A

(§§ 3101–3117) of ch. 1 of title III of Pub. L. 104–134, enacting sections 2297h to 2297h–13 of this title, amending sections 2014, 2239, 2243, 2282, 2296b–7, 2297f, and 2297f–1 of this title and section 9101 of Title 31, Money and Finance, repealing sections 2297 to 2297e–7 of this title, and enacting provisions set out as notes under section 2297 of this title and section 9101 of Title 31] may be cited as the 'USEC Privatization Act'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–408, § 1, Aug. 20, 1988, 102 Stat. 1066, provided that: ''This Act [enacting section 2282a of this title, amending sections 2014, 2210, and 2273 of this title, and enacting provisions set out as notes under sections 2014 and 2210 of this title] may be cited as the 'Price-Anderson Amendments Act of 1988'.''

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88–489, § 21, Aug. 26, 1964, 78 Stat. 607, provided that: ''This Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2221, 2233, and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under sections 2012 and 2072 of this title] may be cited as the 'Private Ownership of Special Nuclear Materials Act'.''

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85–846, § 1, Aug. 28, 1958, 72 Stat. 1084, provided: ''That this Act [enacting sections 2291 to 2296 of this title] may be cited as the 'EURATOM Cooperation Act of 1958'.''

SHORT TITLE

Section 291 of title I of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944, provided that: ''This Act [enacting this chapter and amending sections 1031(d) and 1032 of former Title 5, Executive Departments and Government Officers and Employees, and enacting provision set out as a note under section 2221 of this title] may be cited as the 'Atomic Energy Act of 1954'.''

SEPARABILITY

Section 281 of title I of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944, provided that: ''If any provision of this Act [enacting this chapter] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2012. Congressional findings

The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

(b) Repealed. Pub. L. 88–489, § 1, Aug. 26, 1964, 78 Stat. 602.

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(h) Repealed. Pub. L. 88–489, § 2, Aug. 26, 1964, 78 Stat. 602.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

(Aug. 1, 1946, ch. 724, title I, § 2, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921; amended Pub. L. 85–256, § 1, Sept. 2, 1957, 71 Stat. 576; Pub. L. 88–489, §§ 1, 2, Aug. 26, 1964, 78 Stat. 602; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–489, § 1, struck out subsec. (b) which found that use of United States property by others must be regulated in national interest and in order to provide for common defense and security and to protect health and safety of public.

Subsec. (h). Pub. L. 88–489, § 2, struck out subsec. (h) which found it essential to common defense and security that title to all special nuclear material be in United States while such special nuclear material is within United States.

1957—Subsec. (i). Pub. L. 85–256 added subsec. (i).

CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS

Section 20 of Pub. L. 88–489 provided that: ''Nothing in this Act [amending this section and sections 2013, 2073 to 2078, 2135, 2153, 2201, 2233 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under this section and section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byprod-

uct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives.''

§ 2013. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

(Aug. 1, 1946, ch. 724, title I, § 3, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922; amended Pub. L. 88–489, § 3, Aug. 26, 1964, 78 Stat. 602; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (c). Pub. L. 88–489 inserted ''whether owned by the Government or others'' and ''and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons''.

§ 2014. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term ''agency of the United States'' means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term ''agreement for cooperation'' means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term ''atomic energy'' means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term ''atomic weapon'' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term ''byproduct material'' means—

(1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(B) any material that—

(i) has been made radioactive by use of a particle accelerator; and

(ii) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source material, that—

(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(B) before, on, or after August 8, 2005, is extracted or converted after extraction for use

in a commercial, medical, or research activity.

(f) The term ''Commission'' means the Atomic Energy Commission.

(g) The term ''common defense and security'' means the common defense and security of the United States.

(h) The term ''defense information'' means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(i) The term ''design'' means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

(j) The term ''extraordinary nuclear occurrence'' means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines to be substantial, and which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, ''offsite'' means away from ''the location'' or ''the contract location'' as defined in the applicable Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, indemnity agreement, entered into pursuant to section 2210 of this title.

(k) The term ''financial protection'' means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(*l*) The term ''Government agency'' means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(m) The term ''indemnitor'' means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, with respect to any obligation undertaken by it in indemnity agreement entered into pursuant to section 2210 of this title.

(n) The term ''international arrangement'' means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

(*o*) The term ''Energy Committees'' means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(p) The term ''licensed activity'' means an activity licensed pursuant to this chapter and covered by the provisions of section 2210(a) of this title.

(q) The term ''nuclear incident'' means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however*, That as the term is used in section 2210(*l*) of this title, it shall include any such occurrence outside the United States: *And provided further*, That as the term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further*, That as the term is used in section 2210(c) of this title, it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to subchapters V, VI, VII, and IX of this division, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Nuclear Regulatory Commission to another person licensed by the Nuclear Regulatory Commission.

(r) The term ''operator'' means any individual who manipulates the controls of a utilization or production facility.

(s) The term ''person'' means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(t) The term ''person indemnified'' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section 2210(c) of this title, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside

the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.

(u) The term ''produce'', when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(v) The term ''production facility'' means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this division shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

(w) The term ''public liability'' means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation), except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in subsections (a), (c), and (k) of section 2210 of this title, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. ''Public liability'' also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

(x) The term ''research and development'' means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(y) The term ''Restricted Data'' means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 2162 of this title.

(z) The term ''source material'' means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 2091 of this title to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

(aa) The term ''special nuclear material'' means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 2071 of this title, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(bb) The term ''United States'' when used in a geographical sense includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

(cc) The term ''utilization facility'' means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(dd) The terms ''high-level radioactive waste'' and ''spent nuclear fuel'' have the meanings given such terms in section 10101 of this title.

(ee) The term ''transuranic waste'' means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

(ff) The term ''nuclear waste activities'', as used in section 2210 of this title, means activities subject to an agreement of indemnification under subsection (d) of such section, that the Secretary of Energy is authorized to undertake, under this chapter or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96–164 (93 Stat. 1265).

(gg) The term ''precautionary evacuation'' means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-

level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

(hh) The term ''public liability action'', as used in section 2210 of this title, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 2210 of this title, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

(jj)[1] LEGAL COSTS.—As used in section 2210 of this title, the term ''legal costs'' means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.

(Aug. 1, 1946, ch. 724, title I, § 11, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922; amended Aug. 6, 1956, ch. 1015, § 1, 70 Stat. 1069; Pub. L. 85–256, § 3, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85–602, § 1, Aug. 8, 1958, 72 Stat. 525; Pub. L. 87–206, §§ 2, 3, Sept. 6, 1961, 75 Stat. 476; Pub. L. 87–615, §§ 4, 5, Aug. 29, 1962, 76 Stat. 410; Pub. L. 89–645, § 1(a), Oct. 13, 1966, 80 Stat. 891; Pub. L. 94–197, § 1, Dec. 31, 1975, 89 Stat. 1111; Pub. L. 95–604, title II, § 201, Nov. 8, 1978, 92 Stat. 3033; Pub. L. 100–408, §§ 4(b)–5(b), 11(b), (d)(2), 16(a)(1), (b)(1), (2), (d)(1)–(3), Aug. 20, 1988, 102 Stat. 1069, 1070, 1076, 1078–1080; Pub. L. 101–575, § 5(a), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(8), title XI, § 1102, Oct. 24, 1992, 106 Stat. 2944, 2955; Pub. L. 103–437, § 15(f)(1), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–134, title III, § 3116(b)(1), Apr. 26, 1996, 110 Stat. 1321–349; Pub. L. 109–58, title VI, § 651(e)(1), Aug. 8, 2005, 119 Stat. 806.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (bb), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Section 213 of Public Law 96–164, referred to in subsec. (ff), is Pub. L. 96–164, title II, § 213, Dec. 29, 1979, 93 Stat. 1265, which is not classified to the Code.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 18 of act Aug. 1, 1946, ch. 724, 60 Stat. 774, which was classified to section 1818 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

[1] So in original. No subsec. (ii) has been enacted.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–58 substituted ''means—'' for ''means'', realigned margins of pars. (1) and (2), and added pars. (3) and (4).

1996—Subsec. (v). Pub. L. 104–134, which directed the amendment of subsec. (v) by striking out ''or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology'', was executed by striking out ''or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology'' before '', such term as used'', to reflect the probable intent of Congress.

1994—Subsec. (*o*). Pub. L. 103–437 substituted ''''Energy Committees' means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives'' for ''''Joint Committee' means the Joint Committee on Atomic Energy''.

1992—Subsec. (v). Pub. L. 102–486 amended last sentence generally. Prior to amendment, last sentence read as follows: ''Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this division shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.''

1990—Subsec. (v). Pub. L. 101–575 inserted at end ''Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this chapter shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.''

1988—Subsecs. (j), (m). Pub. L. 100–408, § 16(b)(1), substituted ''Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,'' for ''Commission'' wherever appearing.

Subsec. (q). Pub. L. 100–408, § 16(d)(1), substituted ''section'' for ''subsection'' in three places, which for purposes of codification was translated as ''section'', thus requiring no change in text.

Pub. L. 100–408, § 16(a)(1), substituted ''Nuclear Regulatory Commission'' for ''Commission'' wherever appearing.

Subsec. (t). Pub. L. 100–408, § 16(d)(2), substituted ''section'' for ''subsection'' in two places, which for purposes of codification was translated as ''section'', thus requiring no change in text.

Pub. L. 100–408, § 16(b)(2), substituted ''Secretary of Energy'' for ''Commission'' in cl. (2).

Subsec. (w). Pub. L. 100–408, § 16(d)(3), substituted ''subsections (a), (c), and (k) of section 2210 of this title'' for ''section 2210(a), (c), and (k) of this title''.

Pub. L. 100–408, § 5(a), inserted ''or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)'' after first reference to ''nuclear incident''.

Subsecs. (dd) to (ff). Pub. L. 100–408, § 4(b), added subsecs. (dd) to (ff).

Subsec. (gg). Pub. L. 100–408, § 5(b), added subsec. (gg).

Subsec. (hh). Pub. L. 100–408, § 11(b), added subsec. (hh).

Subsec. (jj). Pub. L. 100–408, § 11(d)(2), added subsec. (jj).

1978—Subsec. (e). Pub. L. 95–604 designated existing provisions as cl. (1) and added cl. (2).

1975—Subsec. (q). Pub. L. 94–197 substituted ''source, special nuclear, or byproduct material'' for ''facility or device'' and inserted proviso to include within term as used in section 2210(c) of this title any occurrence outside both the United States and any other nation.

Subsec. (t). Pub. L. 94–197 expanded definition to include nuclear incidents occurring outside the United States as the term is used in section 2210(c) of this title

and inserted reference to person required to maintain financial protection.

1966—Subsec. (j). Pub. L. 89–645, §1(a)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (*l*). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (j) and (k) as (k) and (*l*), respectively. Former subsec. (*l*) redesignated (n).

Subsec. (m). Pub. L. 89–645, §1(a)(3), added subsec. (m). Former subsec. (m) redesignated (*o*).

Subsecs. (n) to (p). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (*l*) to (n) as (n) to (p), respectively. Former subsecs. (n) to (p) redesignated (p) to (r), respectively.

Subsec. (q). Pub. L. 89–645, §1(a)(1), (4), redesignated former subsec. (*o*) as (q) and inserted ", including an extraordinary nuclear occurrence," between "occurrence" and "within", respectively. Former subsec. (q) redesignated (s).

Subsecs. (r) to (cc). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (p) to (aa) as (r) to (cc), respectively.

1962—Subsec. (*o*). Pub. L. 87–615, §4, enlarged definition of "nuclear incident" to include any occurrence within the United States causing any of the listed injuries and damages within or outside the United States, provided that as used in section 2210(*l*) of this title, term shall "include" instead of "mean" any such occurrence outside the United States, and that as used in section 2210(d) of this title, the term shall include any such occurrence outside the United States if such occurrence involves a facility or devise owned by, and used by or under contract with, the United States.

Subsec. (r). Pub. L. 87–615, §5, limited definition of "person indemnified" to nuclear incidents occurring within the United States, or in connection with the nuclear ship Savannah, and inserted provisions with respect to nuclear incidents occurring outside the United States.

1961—Subsec. (b). Pub. L. 87–206, §2, included section 2121(c) of this title in enumeration.

Subsec. (u). Pub. L. 87–206, §3, designated existing provisions as cls. (i) and (ii) and added cl. (iii).

1958—Subsec. (*o*). Pub. L. 85–602 inserted proviso defining "nuclear incident" as it is used in section 2210(*l*) of this title.

1957—Subsec. (j). Pub. L. 85–256 added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k) to (m). Pub. L. 85–256, redesignated former subsecs. (j) to (*l*) as (k) to (m), respectively. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 85–256 added subsec. (n). Former subsec. (n) redesignated (q).

Subsec. (*o*). Pub. L. 85–256 added subsec. (*o*). Former subsec. (*o*) redesignated (s).

Subsecs. (p), (q). Pub. L. 85–256 redesignated former subsecs. (m) and (n) as (p) and (q), respectively. Former subsecs. (p) and (q) redesignated (t) and (u), respectively.

Subsec. (r). Pub. L. 85–256 added subsec. (r). Former subsec. (r) redesignated (w).

Subsecs. (s), (t). Pub. L. 85–256 redesignated former subsecs. (*o*) and (p) as (s) and (t), respectively. Former subsecs. (s) and (t) redesignated (x) and (y), respectively.

Subsec. (u). Pub. L. 85–256 added subsec. (u). Former subsec. (u) redesignated (z).

Subsecs. (v) to (aa). Pub. L. 85–256 redesignated former subsecs. (q) to (v) as (v) to (aa), respectively.

1956—Subsec. (u). Act Aug. 6, 1956, substituted "the Canal Zone and Puerto Rico" for "and the Canal Zone".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 20 of Pub. L. 100–408 provided that:

"(a) Except as provided in subsection (b), the amendments made by this Act [enacting section 2282a of this title and amending this section and sections 2210 and 2273 of this title] shall become effective on the date of the enactment of this Act [Aug. 20, 1988] and shall be applicable with respect to nuclear incidents occurring on or after such date.

"(b)(1) The amendments made by section 11 [amending this section and section 2210 of this title] shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

"(2)(A) Section 234A of the Atomic Energy Act of 1954 [section 2282a of this title] shall not apply to any violation occurring before the date of the enactment of this Act.

"(B) Section 223 c. of the Atomic Energy Act of 1954 [section 2273(c) of this title] shall not apply to any violation occurring before the date of enactment of this Act."

EFFECTIVE DATE OF 1978 AMENDMENT

Section 208 of Pub. L. 95–604 provided that: "Except as otherwise provided in this title [see section 202(b) of Pub. L. 95–604, set out as an Effective Date note under section 2113 of this title] the amendments made by this title [enacting sections 2022 and 2114 of this title, amending this section and sections 2021, 2111, and 2201 of this title, and enacting provisions set out as notes under sections 2021 and 2113 of this title] shall take effect on the date of the enactment of this Act [Nov. 8, 1978]."

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2015. Transfer of property

Nothing in this chapter shall be deemed to repeal, modify, amend, or alter the provisions of section 9(a) of the Atomic Energy Act of 1946, as heretofore amended.

(Aug. 1, 1946, ch. 724, title I, §241, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Section 9(a) of the Atomic Energy Act of 1946, as heretofore amended, referred to in text, which was formerly classified to section 1809(a) of this title, provided that: "The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

"(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources (relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

"(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

''(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine.''

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765, which was classified to section 1809 of this title, prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2015a. Cold standby

The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.

(Aug. 1, 1946, ch. 724, title I, § 242, as added Pub. L. 107–222, § 1(d)(1), Aug. 21, 2002, 116 Stat. 1336.)

§ 2015b. Scholarship and fellowship program

(a) Scholarship program

To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

(1)[1] award scholarships to undergraduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) of this section to be employed by the Commission in the area of study for which the scholarship is awarded.

(b) Fellowship program

To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

(1)[1] award fellowships to graduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) of this section to be employed by the Commission in the area of study for which the fellowship is awarded.

(c) Requirements

(1) In general

As a condition of receiving a scholarship or fellowship under subsection (a) or (b) of this section, a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

(ii) interest at a rate determined by the Commission.

(2) Waiver or suspension

The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

(d) Competitive process

Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title.

(e) Direct appointment

The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has—

(1) received a scholarship or fellowship awarded by the Commission under this section; and

(2) completed the academic program for which the scholarship or fellowship was awarded.

(Aug. 1, 1946, ch. 724, title I, § 243, as added Pub. L. 109–58, title VI, § 622(a), Aug. 8, 2005, 119 Stat. 782.)

§ 2015c. Partnership program with institutions of higher education

(a) Definitions

In this section:

(1) Hispanic-serving institution

The term ''Hispanic-serving institution'' has the meaning given the term in section 1101a(a) of title 20.

(2) Historically Black college and university

The term ''historically Black college or university'' has the meaning given the term ''part B institution'' in section 1061 of title 20.

(3) Tribal college

The term ''Tribal college'' has the meaning given the term ''tribally controlled college or university'' in section 1801(a) of title 25.

(b) Partnership program

The Commission may establish and participate in activities relating to research, mentor-

[1] So in original. No par. (2) has been enacted.

ing, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

(1) to educate and train students (including present or potential employees of the Commission); and

(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.

(Aug. 1, 1946, ch. 724, title I, § 244, as added Pub. L. 109–58, title VI, § 651(c)(4)(A), Aug. 8, 2005, 119 Stat. 802.)

§ 2016. Repealed. Pub. L. 105–85, div. C, title XXXI, § 3152(a)(1), Nov. 18, 1997, 111 Stat. 2042

Section, act Aug. 1, 1946, ch. 724, title I, § 251, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; amended June 11, 1959, Pub. L. 86–43, 73 Stat. 73; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944, required Commission to submit to Congress annual report on its activities.

§ 2017. Authorization of appropriations

(a) Congressional authorization

No appropriation shall be made to the Commission, nor shall the Commission waive charges for the use of materials under the Cooperative Power Reactor Demonstration Program, unless previously authorized by legislation enacted by the Congress.

(b) Accounting

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

(c) Restoration or replacement of facilities

Notwithstanding the provisions of subsection (a) of this section, funds are hereby authorized to be appropriated for the restoration or replacement of any plant or facility destroyed or otherwise seriously damaged, and the Commission is authorized to use available funds for such purposes.

(d) Substituted construction projects

Funds authorized to be appropriated for any construction project to be used in connection with the development or production of special nuclear material or atomic weapons may be used to start another construction project not otherwise authorized if the substituted construction project is within the limit of cost of the construction project for which substitution is to be made, and the Commission certifies that—

(1) the substituted project is essential to the common defense and security;

(2) the substituted project is required by changes in weapon characteristics or weapon logistic operations; and

(3) the Commission is unable to enter into a contract with any person on terms satisfactory to it to furnish from a privately owned plant or facility the product or services to be provided by the new project.

(Aug. 1, 1946, ch. 724, title I, § 261, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; amended Pub. L. 85–79, § 1, July 3, 1957, 71 Stat. 274; Pub. L. 87–615, § 8, Aug. 29, 1962, 76 Stat. 411; Pub. L. 88–72, § 107, July 22, 1963, 77 Stat. 88; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which was classified to section 1819 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88–72 required legislative authorization of appropriations to the Commission and waiver of charges for use of materials under the Cooperative Power Reactor Demonstration Program. Former provisions of subsec. (a) authorized appropriations necessary and appropriate to carry out the provisions and purposes of this chapter, excepting in par. (1) sums necessary for acquisition of real property or facility acquisition, construction or expansion (and deeming under certain conditions a nonmilitary experimental reactor to be a facility) and in par. (2) sums necessary to carry out cooperative programs for development and construction of reactors for demonstration of their use in production of electrical power or process heat, or for propulsion, or for commercial provision of byproduct material, irradiation or other special service, for civilian use, by arrangements providing for payment of funds, rendering of services and undertaking of research and development without full reimbursement, the waiver of charges accompanying such arrangement or the provision of other financial assistance pursuant to such arrangement or the acquisition of real property or facility acquisition, construction or expansion undertaken by the Commission as part of such arrangement.

Subsec. (b). Pub. L. 88–72 substituted ''Any act appropriating funds to the Commission'' for ''The acts appropriating such sums.''

Subsec. (c). Pub. L. 88–72 struck out authorization of funds provision for advance planning, construction design and architectural services in connection with any plant or facility and inserted ''Notwithstanding'' phrase.

Subsec. (d). Pub. L. 88–72 struck out ''hereafter'' after ''Funds'' and inserted ''construction'' before ''project'' wherever appearing.

1962—Subsecs. (c), (d). Pub. L. 87–615 added subsecs. (c) and (d).

1957—Pub. L. 85–79 designated first sentence as introductory clause of subsec. (a) and as (a)(1), inserted proviso to (a)(1), added (a)(2), by designating second sentence as subsec. (b), and struck out former sentence which provided that ''Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated.''.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 107 of Pub. L. 88–72 provided that the amendment made by that section is effective Jan. 1, 1964.

§ 2017a. Omitted

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87–701, § 103, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for advance planning, construction design, and architectural services in connection with certain projects, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of

1954 which comprises this chapter. See section 2017a–1 of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Sept. 26, 1961, Pub. L. 87–315, § 103, 75 Stat. 678.
May 13, 1960, Pub. L. 86–457, § 103, 74 Stat. 121.
June 23, 1959, Pub. L. 86–50, § 103, 73 Stat. 83.
Aug. 4, 1958, Pub. L. 85–590, § 103, 72 Stat. 493.
Aug. 21, 1957, Pub. L. 85–162, title I, § 103, 71 Stat. 406.
May 3, 1956, ch. 233, § 103, 70 Stat. 129.
July 11, 1955, ch. 304, § 103, 69 Stat. 293.

§ 2017a–1. Omitted

CODIFICATION

Section, Pub. L. 95–39, title III, § 304, June 3, 1977, 91 Stat. 189, which authorized the Administrator of the Energy Research and Development Administration to perform construction design services for any Administration construction project whenever the Administrator made certain determinations, was from an Act authorizing appropriations for fiscal year 1977 to the Energy Research and Development Administration, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 5821(g) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Pub. L. 94–187, title III, § 301, Dec. 31, 1975, 89 Stat. 1073.
Pub. L. 93–276, title I, § 103, May 10, 1974, 88 Stat. 118.
Pub. L. 93–60, § 103, July 6, 1973, 87 Stat. 144.
Pub. L. 92–314, title I, § 103, June 16, 1972, 86 Stat. 225.
Pub. L. 92–84, title I, § 103, Aug. 11, 1971, 85 Stat. 306.
Pub. L. 91–273, § 103, June 2, 1970, 84 Stat. 300.
Pub. L. 91–44, § 103, July 11, 1969, 83 Stat. 47.
Pub. L. 90–289, § 103, Apr. 19, 1968, 82 Stat. 97.
Pub. L. 90–56, § 103, July 26, 1967, 81 Stat. 125.
Pub. L. 89–428, § 103, May 21, 1966, 80 Stat. 163.
Pub. L. 89–32, § 103, June 2, 1965, 79 Stat. 122.
Pub. L. 88–332, § 104, June 30, 1964, 78 Stat. 229.

§ 2017b. Omitted

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87–701, § 104, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for restoration or replacement of facilities, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 2017(c) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Sept. 26, 1961, Pub. L. 87–315, § 104, 75 Stat. 678.
May 13, 1960, Pub. L. 86–457, § 104, 74 Stat. 122.
June 23, 1959, Pub. L. 86–50, § 104, 73 Stat. 83.
Aug. 4, 1958, Pub. L. 85–590, 72 Stat. 493.
Aug. 21, 1957, Pub. L. 85–162, title I, § 104, 71 Stat. 406.
May 3, 1956, ch. 233, § 104, 70 Stat. 129.
July 11, 1955, ch. 304, § 104, 69 Stat. 293.

§ 2018. Agency jurisdiction

Nothing in this chapter shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.

(Aug. 1, 1946, ch. 724, title I, § 271, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; amended Pub. L. 89–135, Aug. 24, 1965, 79 Stat. 551; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1965—Pub. L. 89–135 inserted "produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission."

§ 2019. Applicability of Federal Power Act

Every licensee under this chapter who holds a license from the Commission for a utilization or production facility for the generation of commercial electric energy under section 2133 of this title and who transmits such electric energy in interstate commerce or sells it at wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act [16 U.S.C. 791a et seq.].

(Aug. 1, 1946, ch. 724, title I, § 272, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

§ 2020. Licensing of Government agencies

Nothing in this chapter shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

(Aug. 1, 1946, ch. 724, title I, § 273, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2021. Cooperation with States

(a) Purpose

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's

regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this division, and section 2201 of this title, with respect to any one or more of the following materials within the State:

(1) Byproduct materials (as defined in section 2014(e) of this title).

(2) Source materials.

(3) Special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) of this section shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

(1) the construction and operation of any production or utilization facility or any uranium enrichment facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 2014(e)(2) of this title. Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection (*o*) of this section and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this division, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory, and miscellaneous functions of Administrator of Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Tech-

nology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements; emergency situations; State nonaction on causes of danger; authority exercisable only during emergency and commensurate with danger

(1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(*l*) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201(b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) "State" and "agreement" defined

As used in this section, the term ''State'' means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term ''agreement'' includes any amendment to any agreement.

(*o*) State compliance requirements: compliance with section 2113(b) of this title and health and environmental protection standards; procedures for licenses, rulemaking, and license impact analysis; amendment of agreements for transfer of State collected funds; proceedings duplication restriction; alternative requirements

In the licensing and regulation of byproduct material, as defined in section 2014(e)(2) of this title, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection (b) of this section, a State shall require—

(1) compliance with the requirements of subsection (b) of section 2113 of this title (respecting ownership of byproduct material and land), and

(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 2113, 2114, and 2022 of this title, and

(3) procedures which—

(A) in the case of licenses, provide procedures under State law which include—

(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

(ii) an opportunity for cross examination, and

(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014(e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 2113(b) of this title, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 2201(x) of this title. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

(Aug. 1, 1946, ch. 724, title I, § 274, as added Pub. L. 86–373, § 1, Sept. 23, 1959, 73 Stat. 688; amended 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086; Pub. L. 95–604, title II, § 204(a)–(e)(1), (f), Nov. 8, 1978, 92 Stat. 3036–3038; Pub. L. 96–295, title II, § 205, June 30, 1980, 94 Stat. 787; Pub. L. 97–415, § 19(a), Jan. 4, 1983, 96 Stat. 2078; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(6), (8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 651(e)(2), Aug. 8, 2005, 119 Stat. 807.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (n), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (h) of this section, provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council pursuant to Reorg. Plan No. 3 of 1970, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 substituted ''State:'' for ''State—'' in introductory provisions, added pars. (1) to (3), and struck out former pars. (1) to (4) which read as follows:

''(1) byproduct materials as defined in section 2014(e)(1) of this title;

''(2) byproduct materials as defined in section 2014(e)(2) of this title;

''(3) source materials;

''(4) special nuclear materials in quantities not sufficient to form a critical mass.''

1992—Subsec. (c)(1). Pub. L. 102–486, § 902(a)(6), inserted before semicolon at end ''or any uranium enrichment facility''.

1983—Subsec. (*o*). Pub. L. 97–415 inserted provisions relating to the adoption of equivalent alternative requirements by the States.

1980—Subsec. (j). Pub. L. 96–295 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (b). Pub. L. 95–604, § 204(a), inserted in par. (1) ''as defined in section 2014(e)(1) of this title'' after ''byproduct materials'', added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c). Pub. L. 95–604, § 204(f), required the Commission to retain authority under the agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 2014(e)(2) of this title.

Subsec. (d)(2). Pub. L. 95–604, § 204(b), inserted ''in accordance with the requirements of subsection (o) of this section and in all other respects'' before ''compatible''.

Subsec. (j). Pub. L. 95–604, § 204(d), inserted ''all or part of'' after ''suspend'', designated provision requiring termination or suspension be necessary to protect the public health and safety as cl. (1), added cl. (2), and inserted provision requiring the Commission to periodically review the agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

Subsec. (n). Pub. L. 95–604, § 204(c), inserted definition of ''agreement''.

Subsec. (*o*). Pub. L. 95–604, § 204(e)(1), added subsec. (*o*).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 204(e)(2) of Pub. L. 95–604, as added by Pub. L. 96–106, § 22(d), Nov. 9, 1979, 93 Stat. 800, provided that: ''The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection *o*. to section 274 of the Atomic Energy Act of 1954 [this section]) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978].''

Amendment by Pub. L. 95–604 effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as a note under section 2014 of this title.

STATE AUTHORITIES AND AGREEMENTS RESPECTING BYPRODUCT MATERIAL; ENTRY AND EFFECTIVE DATES OF AGREEMENTS

Section 204(g), (h) of Pub. L. 95–604, as amended by Pub. L. 96–106, § 22(a), (b), Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–415, § 19(b), Jan. 4, 1983, 96 Stat. 2079, provided that:

''(g) Nothing in any amendment made by this section [amending this section] shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 [this chapter] respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

''(h)(1) During the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954 [this section]) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title], or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 *o*. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act) [subsec. (*o*) of this section]. The Commission shall have the authority to ensure that such section 274 *o*. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 [section 2022 of this title] as may be necessary to implement title I of this Act [section 7911 et seq. of this title].

''(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 [this section] with respect to byproduct material as defined in section 11 e. (2) of such Act. [section 2014(e)(2) of this title], may be entered into at any time after the date of the enactment of this Act [Nov. 8, 1978] but no such agreement may take effect before the date three years after the date of the enactment of this Act.

''(3) Notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954 [subsec. (b) of this section], authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act [section 2014(e)(2) of this title], the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material: *Provided, however*, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954 [this section], the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274j. of the Atomic Energy Act of 1954 [subsec. (j) of this section].''

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

EXECUTIVE ORDER NO. 12192

Ex. Ord. No. 12192, Feb. 12, 1980, 45 F.R. 9727, which established the State Planning Council on Radioactive Waste Management and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, § 13, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 2021a. Storage or disposal facility planning

(a) Any person, agency, or other entity proposing to develop a storage or disposal facility, in-

cluding a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) of this section within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

(Pub. L. 95–601, § 14, Nov. 6, 1978, 92 Stat. 2953.)

REFERENCES IN TEXT

Commission, referred to in text, probably means the Nuclear Regulatory Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

CODIFICATION

Section was enacted as part of an act authorizing appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PLAN FOR PERMANENT DISPOSAL OF WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES; SUBMISSION OF PLAN TO CONGRESS NOT LATER THAN JUNE 30, 1983

Pub. L. 97–90, title II, § 213, Dec. 4, 1981, 95 Stat. 1171, directed President to submit to Committees on Armed Services of Senate and of House of Representatives not later than June 30, 1983, a report setting forth his plans for permanent disposal of high-level and transuranic wastes resulting from atomic energy defense activities, such report to include, but not be limited to, for each State in which such wastes are stored in interim storage facilities on Dec. 4, 1981, specific estimates of amounts planned for expenditure in each of the next five fiscal years to achieve the permanent disposal of such wastes and general estimates of amounts planned for expenditure in fiscal years thereafter to achieve such purpose, and a thorough and detailed program management plan for the disposal of such wastes.

WEST VALLEY DEMONSTRATION PROJECT; RADIOACTIVE WASTE MANAGEMENT; PROJECT ACTIVITIES; PUBLIC HEARINGS; REVIEW OF PROJECT AND CONSULTATIONS; AUTHORIZATION OF APPROPRIATIONS; REPORT TO CONGRESS

Pub. L. 107–66, title III, Nov. 12, 2001, 115 Stat. 503, provided in part: ''That funding for the West Valley Demonstration Project shall be reduced in subsequent fiscal years to the minimum necessary to maintain the project in a safe and stable condition, unless, not later than September 30, 2002, the Secretary: (1) provides written notification to the Committees on Appropriations of the House of Representatives and the Senate that agreement has been reached with the State of New York on the final scope of Federal activities at the West Valley site and on the respective Federal and State cost shares for those activities; (2) submits a written copy of that agreement to the Committees on Appropriations of the House of Representatives and the Senate; and (3) provides a written certification that the Federal actions proposed in the agreement will be in full compliance with all relevant Federal statutes and are in the best interest of the Federal Government.''

Pub. L. 96–368, Oct. 1, 1980, 94 Stat. 1347, as amended by Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000, provided that:

''SECTION 1. This Act may be cited as the 'West Valley Demonstration Project Act'.

''SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

''(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

''(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

''(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

''(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

''(5) The Secretary shall decontaminate and decommission—

''(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

''(B) the facilities used in the solidification of the waste, and

''(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

''(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

''(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

''(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

''(3) The Secretary shall—

''(A) undertake detailed engineering and cost estimates for the project,

''(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

''(C) conduct appropriate safety analyses of the project, and

''(D) prepare required environmental impact analyses of the project.

''(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977

[see section 6301 et seq. of Title 31, Money and Finance] under which the State will carry out the following:

''(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

''(B) The Secretary shall provide technical assistance in securing required license amendments.

''(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

''(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

''(c) Within one year from the date of the enactment of this Act [Oct. 1, 1980], the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended [this chapter], the Energy Reorganization Act of 1974, as amended [section 5801 et seq. of this title], or any other law. The agreement shall provide for the following:

''(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

''(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

''(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

''(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

''(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the United States Geological Survey, and the commercial operator of the Center.

''SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than $5,000,000 for the fiscal year ending September 30, 1981.

''(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

''(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

''SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

''SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 [this chapter] or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974 [section 5801 et seq. of this title]. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

''(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

''SEC. 6. For purposes of this Act:

''(1) The term 'Secretary' means the Secretary of Energy.

''(2) The term 'Commission' means the Nuclear Regulatory Commission.

''(3) The term 'State' means the State of New York.

''(4) The term 'high level radioactive waste' means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

''(5) The term 'transuranic waste' means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

''(6) The term 'low level radioactive waste' means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

''(7) The term 'project' means the project prescribed by section 2(a).

''(8) The term 'Center' means the Western New York Service Center in West Valley, New York.''

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 4 of Pub. L. 96–368, set out above, is listed in item 1 on page 84), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.]

§ 2021b. Definitions

For purposes of sections 2021b to 2021j of this title:

(1) Agreement State

The term ''agreement State'' means a State that—

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 2021 of this title; and

(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

(2) Allocation

The term ''allocation'' means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under sections 2021b to 2021j of this title.

(3) Commercial nuclear power reactor

The term ''commercial nuclear power reactor'' means any unit of a civilian light-water moderated utilization facility required to be licensed under section 2133 or 2134(b) of this title.

(4) Compact

The term ''compact'' means a compact entered into by two or more States pursuant to sections 2021b to 2021j of this title.

(5) Compact commission

The term ''compact commission'' means the regional commission, committee, or board established in a compact to administer such compact.

(6) Compact region

The term ''compact region'' means the area consisting of all States that are members of a compact.

(7) Disposal

The term ''disposal'' means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

(8) Generate

The term ''generate'', when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(9) Low-level radioactive waste

(A) In general

The term ''low-level radioactive waste'' means radioactive material that—

(i) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 2014(e)(2) of this title); and

(ii) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

(B) Exclusion

The term ''low-level radioactive waste'' does not include byproduct material (as defined in paragraphs (3) and (4) of section 2014(e) of this title).

(10) Non-sited compact region

The term ''non-sited compact region'' means any compact region that is not a sited compact region.

(11) Regional disposal facility

The term ''regional disposal facility'' means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

(12) Secretary

The term ''Secretary'' means the Secretary of Energy.

(13) Sited compact region

The term ''sited compact region'' means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

(14) State

The term ''State'' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 96–573, § 2, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1842; amended Pub. L. 109–58, title VI, § 651(e)(3)(B), Aug. 8, 2005, 119 Stat. 808.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021b, Pub. L. 96–573, § 2, Dec. 22, 1980, 94 Stat. 3347, related to definitions respecting low-level radioactive waste policy as used in former sections 2021b to 2021d of this title, prior to repeal by Pub. L. 99–240, § 102.

AMENDMENTS

2005—Par. (9). Pub. L. 109–58 designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

SHORT TITLE OF 1986 AMENDMENT

Section 101 of title I of Pub. L. 99–240 provided that: ''This Title [enacting this section and sections 2021c to 2021j of this title, repealing former sections 2021b to 2021d of this title, and enacting and repealing a provision set out as a note under this section] may be cited as the 'Low-Level Radioactive Waste Policy Amendments Act of 1985'.''

SHORT TITLE

Section 1 of Pub. L. 96–573, as added by Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1842, provided that: ''This Act [enacting sections 2021b to 2021j of this title] may be cited as the 'Low-Level Radioactive Waste Policy Act'.''

A prior section 1 of Pub. L. 96–573 which provided that Pub. L. 96–573 [enacting former sections 2021b to 2021d of this title] could be cited as the ''Low-Level Radioactive Waste Policy Act'' was repealed by Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1842.

§ 2021c. Responsibilities for disposal of low-level radioactive waste

(a)(1) Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the Federal Government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the Federal Government except such waste that is—

(i) owned or generated by the Department of Energy;

(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections[1] 2021e or 2021f of this title.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraph (A) or (B).

(b)(1) The Federal Government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under this chapter, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

(3) Not later than 12 months after January 15, 1986, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the Federal and non-Federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a Federal responsibility pursuant to paragraph (b)(1)(D) that becomes a Federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

(Pub. L. 96–573, § 3, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1843.)

REFERENCES IN TEXT

January 15, 1986, referred to in subsec. (b)(3), was in the original ''the date of enactment of this Act'' and was translated as meaning the date of enactment of Pub. L. 99–240 to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021c, Pub. L. 96–573, § 3, Dec. 22, 1980, 94 Stat. 3347, related to the applicability of low-level radioactive waste compacts, prior to repeal by Pub. L. 99–240, § 102. See section 2021d of this title.

§ 2021d. Regional compacts for disposal of low-level radioactive waste

(a) In general

(1) Federal policy

It is the policy of the Federal Government that the responsibilities of the States under section 2021c of this title for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

(2) Interstate compacts

To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

[1] So in original. Probably should be ''section''.

(b) Applicability to Federal activities

(1) In general

(A) Activities of the Secretary

Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 2021c(a)(1)(B)(i)–(iii) of this title.

(B) Federal low-level radioactive waste disposed of at non-Federal facilities

Low-level radioactive waste owned or generated by the Federal Government that is disposed of at a regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

(2) Federal low-level radioactive waste disposal facilities

Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the Federal Government shall not be subject to any compact or any action taken under a compact.

(3) Effect of compacts on Federal law

Nothing contained in sections 2021b to 2021j of this title or any compact may be construed to confer any new authority on any compact commission or State—

(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material;

(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

(E) to require indemnification pursuant to the provisions of chapter 171 of title 28 (commonly referred to as the Federal Tort Claims Act), or section 2210 of this title, whichever is applicable.

(4) Federal authority

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency, or to alter, amend, or otherwise affect any Federal law governing the judicial review of any action taken pursuant to any compact.

(5) State authority preserved

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title expands, diminishes, or otherwise affects State law.

(c) Restricted use of regional disposal facilities

Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

(1) January 1, 1986; and

(2) the Congress by law consents to the compact.

(d) Congressional review

Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

(Pub. L. 96–573, § 4, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1845.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021d, Pub. L. 96–573, § 4, Dec. 22, 1980, 94 Stat. 3348, related to policy of Federal Government concerning low-level radioactive waste disposal, implementation of that policy, and a report to Congress and the States to assist in carrying out the policy, prior to repeal by Pub. L. 99–240, § 102.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Pub. L. 105–236, Sept. 20, 1998, 112 Stat. 1542, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Texas Low-Level Radioactive Waste Disposal Compact Consent Act'.

''SEC. 2. CONGRESSIONAL FINDING.

''The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

''SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

''The consent of the Congress to the compact set forth in section 5—

''(1) shall become effective on the date of the enactment of this Act [Sept. 20, 1998];

''(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

''(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

''SEC. 4. CONGRESSIONAL REVIEW.

''The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [Sept. 20, 1998], and at such intervals thereafter as may be provided in such compact.

''SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy

Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).

''(b) TEXT OF COMPACT.—The compact reads substantially as follows: [Text of compact appears at 112 Stat. 1543]''.

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Pub. L. 100–712, Nov. 23, 1988, 102 Stat. 4773, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act'[.]

''SEC. 2. CONGRESSIONAL FINDING.

''The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

''SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

''The consent of the Congress to the compact set forth in section 5—

''(1) shall become effective on the date of the enactment of this Act [Nov. 23, 1988];

''(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j]; and

''(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

''SEC. 4. CONGRESSIONAL REVIEW.

''The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act [Nov. 23, 1988], and at such intervals thereafter as may be provided in such compact.

''SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 4773]''.

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT

Pub. L. 100–319, May 19, 1988, 102 Stat. 471, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Appalachian States Low-Level Radioactive Waste Compact Consent Act'.

''SEC. 2. CONGRESSIONAL FINDING.

''The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

''SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

''The consent of the Congress to the compact set forth in section 5—

''(1) shall become effective on the date of the enactment of this Act [May 19, 1988],

''(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j], and

''(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

''SEC. 4. CONGRESSIONAL REVIEW.

''The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [May 19, 1988], and at such intervals thereafter as may be provided for in such compact.

''SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2) [42 U.S.C. 2021d(a)(2)]), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 471]''.

OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

Pub. L. 99–240, title II, Jan. 15, 1986, 99 Stat. 1859, provided that:

''SEC. 201. SHORT TITLE.

''This Title may be cited as the 'Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act'.

''Subtitle A—General Provisions

''SEC. 211. CONGRESSIONAL FINDING.

''The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

''SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

''The consent of the Congress to each of the compacts set forth in subtitle B—

''(1) shall become effective on the date of the enactment of this Act [Jan. 15, 1986];

''(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended [42 U.S.C. 2021b–2021j]; and

''(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

''SEC. 213. CONGRESSIONAL REVIEW.

''The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act [Jan. 15, 1986], and at such intervals thereafter as may be provided in such compact.

''Subtitle B—Congressional Consent to Compacts

''SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

''The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1860.]

''SEC. 222. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1863.]

''SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North

Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1871; 103 Stat. 1289.]

''SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1880; 108 Stat. 4607.]

''SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

''The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows: [Text of compact appears at 99 Stat. 1892.]

''SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1902.]

''SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

''In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021d(a)(2)], the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1910.].''

§ 2021e. Limited availability of certain regional disposal facilities during transition and licensing periods

(a) Availability of disposal capacity

(1) Pressurized water and boiling water reactors

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c) of this section.

(2) Other sources of low-level radioactive waste

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

(3) Allocation of disposal capacity

(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section and located in the sited compact region in which such waste is generated.

(B) Any State in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b) of this section: *Provided, however*, That in the event that all three States in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of 10 per centum of the average annual volume for each such facility designated in subsection (b) of this section.

(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) of this section to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b) of this section.

(4) Cessation of operation of low-level radioactive waste disposal facility

No provision of this section shall be construed to obligate any State referred to in paragraphs (1) through (3) of subsection (b) of this section to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such State ceases operations.

(b) Limitations

The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

(1) Barnwell, South Carolina

The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a

total of 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

(2) Richland, Washington

The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

(3) Beatty, Nevada

The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Beatty, Nevada to a total of 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

(c) Commercial nuclear power reactor allocations

(1) Amount

Subject to the provisions of subsections (a) through (g) of this section each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) of this section during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

Reactor Type	4-year Transition Period		3-year Licensing Period	
	In Sited Region	All Other Locations	In Sited Region	All Other Locations
PWR ...	1027	871	934	685
BWR ...	2300	1951	2091	1533

(2) Method of calculation

For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

(3) Unused allocations

Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

(4) Transferability

Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) of this section may assign any disposal capacity allocated to it under this subsection to any other person in each State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

(5) Unusual volumes

(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

(6) Limitation

During the seven-year interim access period referred to in subsection (a) of this section, the disposal facilities referred to in subsection (b) of this section shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors.

(d) Use of surcharge funds for milestone incentives; consequences of failure to meet disposal deadline

(1) Surcharges

The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2) of this section, such surcharges shall not exceed—

(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

(2) Milestone incentives

(A) Escrow account

Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) of this section shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

(i) paid or repaid in accordance with subparagraph (B) or (C); or

(ii) paid to the State collecting such fees in accordance with subparagraph (F).

(B) Payments

(i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on January 15, 1986, and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) of this section is met by the State in which such waste originated.

(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending December 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) of this section is met by the State in which such waste originated (or its compact region, where applicable).

(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) of this section is met by the State in which such waste originated (or its compact region, where applicable).

(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagrah[1] (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

(C) Failure to meet January 1, 1993 deadline

If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner notifies the State that the waste is available for shipment; or

(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however*, That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where

[1] So in original. Probably should be ''subparagraph''.

applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment.

(D) Recipients of payments

The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

(i) if the State in which such waste originated is not a member of a compact region, to such State;

(ii) if the State in which such waste originated is a member of the compact region, to the compact commission serving such State.

(E) Uses of payments

(i) Limitations

Any amount paid under subparagraphs (B) or (C) may only be used to—

(I) establish low-level radioactive waste disposal facilities;

(II) mitigate the impact of low-level radioactive waste disposal facilities on the host State;

(III) regulate low-level radioactive waste disposal facilities; or

(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

(ii) Reports

(I) Recipient

Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

(II) Department of Energy

Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

(F) Payment to States

Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

(G) Penalty surcharges

No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1) of this section.

(e) Requirements for access to regional disposal facilities

(1) Requirements for non-sited compact regions and non-member States

Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

(B) By January 1, 1988

(i) each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan;

(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan; and

(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in sections 2021b to 2021j of this title. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State.

(C) By January 1, 1990

(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

(D) By January 1, 1992, a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

(2) Penalties for failure to comply

(A) By July 1, 1986

If any State fails to comply with subparagraph (1)(A)—

(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d) of this section; and

(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(B) By January 1, 1988

If any non-sited compact region or non-member State fails to comply with paragraph (1)(B)—

(i) any generator of low-level radioactive waste within such region or non-member State shall—

(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d) of this section; and

(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d) of this section; and

(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(C) By January 1, 1990

If any non-sited compact region or non-member State fails to comply with paragraph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(D) By January 1, 1992

If any non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d) of this section.

(3) Denial of access

No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

(4) Restoration of suspended access; penalties for failure to comply

Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of this subsection shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

(f) Monitoring of compliance and denial of access to non-Federal facilities for noncompliance; information requirements of certain States; proprietary information

(1) Administration

Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section is located shall have authority—

(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

(B) to deny access to any non-Federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

(i) is in excess of the limitations or allocations established in this section; or

(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1) of this section.

(2) Availability of information during interim access period

(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate handler who fails to provide information under subparagraph (A).

(C) PROPRIETARY INFORMATION.—

(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

(II) accepts liability for wrongful disclosure; and

(III) demonstrates that such information is essential to such monitoring.

(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under sections 2021b to 2021j of this title may be required to disclose such information under State law.

(g) Nondiscrimination

Except as provided in subsections (b) through (e) of this section, low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

(Pub. L. 96–573, § 5, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1846.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021f. Emergency access

(a) In general

The Nuclear Regulatory Commission may grant emergency access to any regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

(b) Request for emergency access

Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that the Nuclear Regulatory Commission grant emergency access to a regional disposal facility or a non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

(c) Determination of Nuclear Regulatory Commission

(1) Required determination

Not later than 45 days after receiving a request under subsection (b) of this section, the Nuclear Regulatory Commission shall determine whether—

(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 2021e(c) of this title or ceasing activities that generate low-level radioactive waste.

(2) Required notification

If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-Federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe

the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e) of this section, no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

(d) Temporary emergency access

Upon determining that emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c) of this section. Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

(e) Extension of emergency access

The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c) of this section, if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

(f) Reciprocal access

Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any subsequently operating non-Federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

(g) Approval by compact commission

Any grant of access under this section shall be submitted to the compact commission for the region in which the designated disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriate authority under subsection (f) of this section.

(h) Limitations

No State shall be required to provide emergency or reciprocal access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

(i) Volume reduction and surcharges

Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in sections 2021b to 2021j of this title.

(j) Deduction from allocation

Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 2021e(c) of this title.

(k) Agreement States

Any agreement under section 2021 of this title shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

(Pub. L. 96–573, § 6, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1855.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021g. Responsibilities of Department of Energy

(a) Financial and technical assistance

The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States detemined[1] by the Secretary to require assist-

[1] So in original. Probably should be ''determined''.

ance for purposes of carrying out sections 2021b to 2021j of this title—

(1) continuing technical assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized data-base to monitor the management of low-level radioactive wastes; and

(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title.

(b) Omitted

(Pub. L. 96–573, § 7, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1858.)

CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and submit to Congress on an annual basis a report on low-level waste disposal, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 2 on page 84 of House Document No. 103–7.

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021h. Alternative disposal methods

(a) Not later than 12 months after January 15, 1986, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

(b) Not later than 24 months after January 15, 1986, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant technical information regarding the methods identified pursuant to subsection (a) of this section that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation, disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

(Pub. L. 96–573, § 8, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1858.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021i. Licensing review and approval

In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state[1] shall—

(1) not later than 12 months after January 15, 1986, establish procedures and develop the technical capability for processing applications for such licenses;

(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

(Pub. L. 96–573, § 9, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1859.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021j. Radioactive waste below regulatory concern

(a) Not later than 6 months after January 15, 1986, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

(b) The standards and procedures established by the Commission pursuant to subsection (a) of this section shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public

[1] So in original. Probably should be ''States''.

health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.

(Pub. L. 96–573, § 10, as added Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1859.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2022. Health and environmental standards for uranium mill tailings

(a) Promulgation and revision of rules for protection from hazards at inactive or depository sites

As soon as practicable, but not later than October 1, 1982, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the ''Administrator'') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7914(h)]) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911]) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911 et seq.]. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.]. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate. The Administrator may periodically revise any standard promulgated pursuant to this subsection. After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.

(b) Promulgation and revision of rules for protection from hazards at processing or disposal sites

(1) As soon as practicable, but not later than October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form, standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 2014(e)(2) of this title, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material. If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this chapter without regard to any provision of this chapter requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this chapter. Requirements established by the Commission under this chapter with respect to byproduct material as defined in section 2014(e)(2) of this title shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection (f)(3) of this section. Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 2014(e)(2) of this title pending promulgation by the Commission of any such standard of general application. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended [42 U.S.C. 6921 et seq.], which are applicable to such hazards: *Provided, however*, That no permit issued by the Administrator is required under this chapter or the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.], for the processing, possession, transfer, or disposal of byproduct material, as defined in section 2014(e)(2) of this title. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 2021(b)(2) of this title shall apply such revised standard in the case of any license for byproduct material as defined in section 2014(e)(2) of this title or any revision thereof.

(c) Publication in Federal Register; notice and hearing; consultations; judicial review; time for petition; venue; copy to Administrator; record; administrative jurisdiction; review by Supreme Court; effective date of rule

(1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. The judgement of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

(d) Federal and State implementation and enforcement

Implementation and enforcement of the standards promulgated pursuant to subsection (b) of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this chapter. States exercising authority pursuant to section 2021(b)(2) of this title shall implement and enforce such standards in accordance with subsection (*o*) of such section.

(e) Other authorities of Administrator unaffected

Nothing in this chapter applicable to byproduct material, as defined in section 2014(e)(2) of this title, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended [42 U.S.C. 7401 et seq.], or the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.].

(f) Implementation or enforcement of Uranium Mill Licensing Requirements

(1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the ''October 3 regulations''). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

(2) Following the proposal by the Administrator of standards under subsection (b) of this section, the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection (b) of this section. During the period of such suspension, the Commission shall continue to regulate byproduct material (as defined in section 2014(e)(2) of this title) under this chapter on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection (b) of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 2114 of this title to promulgate regulations to protect the public health and safety and the environment.

(Aug. 1, 1946, ch. 724, title I, § 275, as added Pub. L. 95–604, title II, § 206(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97–415, §§ 18(a), 22(b), Jan. 4, 1983, 96 Stat. 2077, 2080; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Uranium Mill Tailings Radiation Control Act of 1978, referred to in subsec. (a), is Pub. L. 95–604, Nov. 8, 1978, 92 Stat. 3021, as amended. Title I of such act is classified generally to subchapter I (§ 7911 et seq.) of chapter 88 of this title. For complete classification of this act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Solid Waste Disposal Act, as amended, referred to in subsecs. (a) and (b)(2), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. Subtitle C of the Solid

Waste Disposal Act is classified generally to subchapter III (§ 6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Clean Air Act of 1970, as amended, referred to in subsec. (e), probably means the Clean Air Act, which is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (e), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–415, §§ 18(a)(1), 22(b)(1), substituted ''October 1, 1982'' for ''one year after November 8, 1978'' inserted provisions relating to the application of the Administrator's proposed standards to actions by the Secretary of Energy in the event the Administrator fails to promulgate standards in final form after Oct. 1, 1982, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (b)(1). Pub. L. 97–415, §§ 18(a)(2), (3), 22(b)(2), substituted ''October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,'' for ''eighteen months after November 8, 1978, the Administrator shall, by rule, promulgate'' inserted provisions relating to the consequences of failure by the Administrator to promulgate standards in final form by Oct. 1, 1983, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (f). Pub. L. 97–415, § 18(a)(4), added subsec. (f).

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

§ 2023. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission

(a) In general

No provision of this chapter, or of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b et seq.], may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after October 24, 1992, exempts such waste from regulation.

(b) Relation to other State authority

This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a) of this section, this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

(c) Definitions

For purposes of this section:

(1) The term ''low-level radioactive waste'' means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on October 24, 1992.

(2) The term ''off-site incineration'' means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

(3) The term ''State'' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Aug. 1, 1946, ch. 724, title I, § 276, as added Pub. L. 102–486, title XXIX, § 2901(a), Oct. 24, 1992, 106 Stat. 3122.)

REFERENCES IN TEXT

The Low-Level Radioactive Waste Policy Act, referred to in subsec. (a), is Pub. L. 96–573, as amended generally by Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1842, which is classified generally to section 2021b et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2021b of this title and Tables.

SUBCHAPTER II—ORGANIZATION

§§ 2031, 2032. Repealed. Pub. L. 93–438, title I, § 104(a), Oct. 11, 1974, 88 Stat. 1237

Section 2031, act Aug. 1, 1946, ch. 724, § 21, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924; amended Aug. 9, 1955, ch. 697, § 3, 69 Stat. 630, provided for establishment of Atomic Energy Commission, its composition, Chairman, acting Chairman, quorum, official spokesman, and seal.

Provisions similar to section 2031 were contained in section 1802(a)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2032, act Aug. 1, 1946, ch. 724, § 22, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924; amended Sept. 4, 1957, Pub. L. 85–287, § 1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, § 305(10)(A), 78 Stat. 423, provided for appointment of members of Commission, terms of office, and prohibition from engaging in any other vocation, business, or employment, by the members.

Provisions similar to section 2032 were contained in section 1802(a)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of this title.

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

Ex. Ord. No. 9816, eff. Dec. 31, 1946, 12 F.R. 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fission-

able material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records, may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act of 1946 [this chapter].

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of nonagreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District. War Department, shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice, to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 9001, of December 27, 1941, as amended, in so far as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

Ex. Ord. No. 9816, was amended by Ex. Ord. No. 10657, Feb. 15, 1956, 21 F.R. 1063, and Ex. Ord. No. 11105, Apr. 19, 1963, 28 F.R. 3909, formerly set out as notes under section 2313 of this title, to the extent that it may be inconsistent with such Executive orders.

EX. ORD. NO. 9829. EXTENSION OF EXECUTIVE ORDER NO. 9177 TO ATOMIC ENERGY COMMITTEE

Ex. Ord. No. 9829, eff. Feb. 21, 1947, 12 F.R. 1259, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, approved December 18, 1941 (55 Stat. 838), and in the interest of the internal management of the Government, I hereby extend the provisions of Executive Order No. 9177 of May 30, 1942 (7 F.R. 4195), to the United States Atomic Energy Commission; and, subject to the limitations contained in that order, I hereby authorize the United States Atomic Energy Commission to perform and exercise all of the functions and powers vested in and granted to the Secretary of War, the Secretary of the Treasury, the Secretary of Agriculture, and the Reconstruction Finance Corporation by that order.

This order shall be applicable to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 1947.

§ 2033. Principal office

The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia.

(Aug. 1, 1946, ch. 724, title I, § 23, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

EXPENSES FOR MOVE TO NEW PRINCIPAL OFFICE

Pub. L. 85–162, title I, § 109, Aug. 21, 1957, 71 Stat. 407, as amended by Pub. L. 85–590, § 108, Aug. 4, 1958, 72 Stat. 493, authorized the Commission to use its funds for the payment for travel and transportation expenses in connection with the relocation of residence of employees in order to facilitate retention and relocation of Commission headquarter employees.

§ 2034. General Manager, Deputy and Assistant General Managers

There is established within the Commission—

(a) General Manager; chief executive officer; duties; appointment; removal

a General Manager, who shall be the chief executive officer of the Commission, and who shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the Commission, shall

serve at the pleasure of the Commission and shall be removable by the Commission.

(b) Deputy General Manager; duties; appointment; removal

a Deputy General Manager, who shall act in the stead of the General Manager during his absence when so directed by the General Manager, and who shall perform such other administrative and executive functions as the General Manager shall direct. The Deputy General Manager shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(c) Assistant General Managers; duties; appointment; removal

Assistant General Managers, or their equivalents (not to exceed a total of three positions), who shall perform such administrative and executive functions as the General Manager shall direct. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, title I, § 24, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925; amended Pub. L. 85–287, § 2, Sept. 4, 1957, 71 Stat. 612; Pub. L. 88–426, title III, § 306(f)(1)–(3), Aug. 14, 1964, 78 Stat. 429; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(A) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426, § 306(f)(1), struck out provisions which prescribed the compensation of the General Manager. Such compensation is now prescribed by section 5315 of Title 5, Government Organization and Employees.

Subsec. (b). Pub. L. 88–426, § 306(f)(2), struck out provisions which prescribed the compensation of the Deputy General Manager. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88–426, § 306(f)(3), struck out provisions which prescribed the compensation of the Assistant General Managers. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

1957—Subsec. (a). Pub. L. 85–287 designated existing provisions as subsec. (a), designated the General Manager as the chief executive officer of the Commission, and increased his compensation from $20,000 to $22,000 per annum.

Subsecs. (b), (c). Pub. L. 85–287 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

§ 2035. Divisions, offices, and positions

There is established within the Commission—

(a) Program divisions; appointment and powers of Assistant General Manager and Division Directors

a Division of Military Application and such other program divisions (not to exceed ten in number) as the Commission may determine to the necessary to the discharge of its responsibilities, including a division or divisions the primary responsibilities of which include the development and application of civilian uses of atomic energy. The Division of Military Application shall be under the direction of an Assistant General Manager for Military Application, who shall be appointed by the Commission and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate. Each other program division shall be under the direction of a Director who shall be appointed by the Commission. The Commission shall require each such division to exercise such of the Commission's administrative and executive powers as the Commission may determine;

(b) General Counsel

an Office of the General Counsel under the direction of the General Counsel who shall be appointed by the Commission; and

(c) Inspection Division; duties

an Inspection Division under the direction of a Director who shall be appointed by the Commission. The Inspection Division shall be responsible for gathering information to show whether or not the contractors, licensees, and officers and employees of the Commission are complying with the provisions of this chapter (except those provisions for which the Federal Bureau of Investigation is responsible) and the appropriate rules and regulations of the Commission.

(d) Executive management positions; appointment; removal

such other executive management positions (not to exceed six in number) as the Commission may determine to be necessary to the discharge of its responsibilities. Such positions shall be established by the General Manager with the approval of the Commission. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, title I, § 25, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925; amended Pub. L. 85–287, § 3, Sept. 4, 1957, 71 Stat. 612; Pub. L. 88–426, title III, § 306(f)(4)–(7), Aug. 14, 1964, 78 Stat. 429, 430; Pub. L. 90–190, § 5, Dec. 14, 1967, 81 Stat. 577; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(B) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 substituted an Assistant General Manager for Military Application, who

would be appointed by the Commission, for the Director of the Division of Military Application as the head of the Division of Military Application, inserted requirement that the Assistant General Manager be a commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate, and substituted ''other program division'' for ''such division''.

1964—Subsec. (a). Pub. L. 88–426, § 306(f)(4), struck out provisions which prescribed the compensation of directors of program divisions.

Subsec. (b). Pub. L. 88–426, § 306(f)(5), struck out provisions which prescribed compensation of General Counsel. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88–426, § 306(f)(6), struck out provisions which prescribed compensation of Director of Inspection Division.

Subsec. (d). Pub. L. 88–426, § 306(f)(7), struck out provisions which prescribed compensation of executive management positions.

1957—Pub. L. 85–287 substituted ''Divisions, offices, and positions'' for ''Divisions and offices'' in section catchline.

Subsec. (a). Pub. L. 85–287 increased compensation of Director from $16,000 to $19,000 per annum.

Subsec. (b). Pub. L. 85–287 increased compensation of General Counsel from $16,000 to $19,500 per annum.

Subsec. (c). Pub. L. 85–287 increased compensation of Director from $16,000 to $19,000 per annum.

Subsec. (d). Pub. L. 85–287 added subsec. (d).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

TRANSFER OF FUNCTIONS

Divisions of Military Application and Naval Reactors, both established under this section, transferred to Department of Energy by section 7158 of this title, with such organizational units to be deemed organizational units established by chapter 84 (§ 7101 et seq.) of this title. Energy Research and Development Administration terminated pursuant to sections 7151(a) and 7293 of this title.

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. Divisions of Military Application and Naval Reactors established under this section transferred to Energy Research and Development Administration and functions of Atomic Energy Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See also Transfer of Functions notes set out under sections 5814 and 5841 of this title.

§ 2036. Repealed. Pub. L. 95–91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608

Section, act Aug. 1, 1946, ch. 724, § 26, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, established a General Advisory Committee to advise the Atomic Energy Commission on scientific and technical matters relating to materials, production, and research and development.

Provisions similar to this section were contained in section 1802(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2037. Repealed. Pub. L. 99–661, div. C, title I, § 3137(c), Nov. 14, 1986, 100 Stat. 4066

Section, act Aug. 1, 1946, ch. 724, § 27, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926; amended Aug. 14, 1964, Pub. L. 88–426, title III, § 305(10)(B), 78 Stat. 423, related to Military Liaison Committee, its composition and duties, and authority of Defense Department to make recommendations to Committee.

§ 2038. Appointment of Army, Navy, or Air Force officer as Assistant General Manager for Military Application; Chairman of Military Liaison Committee; compensation

Notwithstanding the provisions of any other law, the officer of the Army, Navy, or Air Force serving as Assistant General Manager for Military Application shall serve without prejudice to his commissioned status as such officer. Any such officer serving as Assistant General Manager for Military Application shall receive in addition to his pay and allowances, including special and incentive pays, for which pay and allowances the Commission shall reimburse his service, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation established for this position. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay.

(Aug. 1, 1946, ch. 724, title I, § 28, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926; amended Pub. L. 88–426, title III, § 306(f)(8), Aug. 14, 1964, 78 Stat. 430; Pub. L. 88–448, title IV, § 401(f), Aug. 19, 1964, 78 Stat. 490; Pub. L. 90–190, § 6, Dec. 14, 1967, 81 Stat. 577; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 107–107, div. A, title X, § 1048(i)(11), Dec. 28, 2001, 115 Stat. 1230.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2001—Pub. L. 107–107 struck out '', subject to section 201 of the Dual Compensation Act'' before period at end.

1967—Pub. L. 90–190 substituted ''the officer of the Army, Navy, or Air Force serving'' for ''any active officer of the Army, Navy, or Air Force may serve'' and ''Assistant General Manager for Military Application'' for ''Director of the Division of Military Application'' wherever appearing, provided for reimbursement by the Commission to the service of the Assistant General Manager for the pay and allowances received by him from his service while he is serving as Assistant General Manager, and struck out references to sections 2211 and 2213 of former title 5.

1964—Pub. L. 88–448 substituted provisions permitting a retired officer serving as Chairman of the Military Liaison Committee to receive the compensation fixed for such Chairman and his retired pay, subject to section 3102 of former title 5, for provisions which permitted a retired officer serving as Chairman to receive in addition to his retired pay, an amount equal to the difference between his retired pay and the compensation prescribed for the Chairman.

Pub. L. 88–426 substituted ''and the compensation established for this position pursuant to section 2211 or 2213 of title 5'' for ''and the compensation prescribed in section 2035 of this title''.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

§ 2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation

There is established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 2203 of this title shall be applicable to the Committee.

(Aug. 1, 1946, ch. 724, title I, § 29, as added Pub. L. 85–256, § 5, Sept. 2, 1957, 71 Stat. 579; amended Pub. L. 95–209, § 5, Dec. 13, 1977, 91 Stat. 1483; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–362, title XII, § 1201(a), Nov. 10, 1998, 112 Stat. 3292.)

AMENDMENTS

1998—Pub. L. 105–362 struck out at end ''In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977.''

1977—Pub. L. 95–209 inserted provisions which called for a study of reactor safety research and an annual report on results of study.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2040. Fellowship program of Advisory Committee on Reactor Safeguards; selection of fellowships

To assist the Advisory Committee on Reactor Safeguards in carrying out its function, the committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowship shall be for 2-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.

(Pub. L. 95–209, § 6, Dec. 13, 1977, 91 Stat. 1483.)

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954.

SUBCHAPTER III—RESEARCH

§ 2051. Research and development assistance

(a) Contracts and loans for research activities

The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development and training activities in the fields specified below, by private or public institutions or persons, and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to—

(1) nuclear processes;

(2) the theory and production of atomic energy, including processes, materials, and devices related to such production;

(3) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes;

(4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commercial uses, the generation of usable energy, and the demonstration of advances in the commercial or industrial application of atomic energy;

(5) the protection of health and the promotion of safety during research and production activities; and

(6) the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs.

(b) Grants and contributions

The Commission is authorized—

(1) to make grants and contributions to the cost of construction and operation of reactors and other facilities and other equipment to colleges, universities, hospitals, and eleemosynary or charitable institutions for the conduct of educational and training activities relating to the fields in subsection (a) of this section; and

(2) to provide grants, loans, cooperative agreements, contracts, and equipment to in-

stitutions of higher education (as defined in section 1002 of title 20) to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to the regulatory mission of the Commission.

(c) Purchase of supplies without advertising

The Commission may (1) make arrangements pursuant to this section, without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable; (2) make partial and advance payments under such arrangements; and (3) make available for use in connection therewith such of its equipment and facilities as it may deem desirable.

(d) Prevention of dissemination of information prohibited; other conditions of agreements

The arrangements made pursuant to this section shall contain such provisions (1) to protect health, (2) to minimize danger to life or property, and (3) to require the reporting and to permit the inspection of work performed thereunder, as the Commission may determine. No such arrangement shall contain any provisions or conditions which prevent the dissemination of scientific or technical information, except to the extent such dissemination is prohibited by law.

(Aug. 1, 1946, ch. 724, title I, § 31, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 927; amended Aug. 6, 1956, ch. 1015, §§ 2, 3, 70 Stat. 1069; Pub. L. 91–560, § 1, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 92–84, title II, § 201(a), Aug. 11, 1971, 85 Stat. 307; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 651(c)(1), Aug. 8, 2005, 119 Stat. 801.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 inserted heading, inserted par. (1) designation before ''to make grants'', in introductory provisions substituted ''authorized—'' for ''further authorized'', and added par. (2).

1971—Subsec. (a)(6). Pub. L. 92–84 added par. (6).

1970—Subsec. (a)(4). Pub. L. 91–560 inserted commercial uses as an additional purpose and substituted ''demonstration of advances in the commercial or industrial application of atomic energy'' for ''demonstration of the practical value of utilization or production facilities for industrial or commercial purposes''.

1956—Subsec. (a). Act Aug. 6, 1956, § 2, inserted ''and training'' after ''development'' in first sentence.

Subsecs. (b) to (d). Act Aug. 6, 1956, § 3, added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

THREE MILE ISLAND NUCLEAR STATION, PA.; FEASIBILITY OF EPIDEMIOLOGICAL RESEARCH ON HEALTH EFFECTS OF LOW-LEVEL RADIATION; REPORT TO CONGRESS

Pub. L. 96–295, title III, § 308(a), June 30, 1980, 94 Stat. 792, provided that in the conduct of the study required by Pub. L. 95–601, § 5(d), Nov. 6, 1978, 92 Stat. 2949, on options for Federal epidemiological research on the health effects of low-level ionizing radiation, set out below, the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, evaluate the feasibility of epidemiological research on the health effects of low-level ionizing radiation exposure to licensee, contractor, and subcontractor employees as a result of the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania, the efforts to stabilize such facility or reduce or prevent radioactive unplanned offsite releases in excess of allowable limits for normal operation established by the Commission, or efforts to decontaminate, decommission, or repair such facility, with the report required by such section 5(d) of Pub. L. 95–601 to include the results of this evaluation.

STUDY ON HEALTH EFFECTS OF LOW-LEVEL RADIATION; REPORT TO CONGRESS

Pub. L. 95–601, § 5, Nov. 6, 1978, 92 Stat. 2949, as amended by Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96–295, title III, § 308(b), June 30, 1980, 94 Stat. 792, provided that the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation, within thirty days after Nov. 6, 1978, the Commission and the Environmental Protection Agency submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies, on or before Apr. 1, 1979, the Commission and the Environmental Protection Agency submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low-level ionizing radiation, and on or before Sept. 30, 1980, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiation with evaluations of the feasibility of such options.

§ 2052. Research by Commission

The Commission is authorized and directed to conduct, through its own facilities, activities and studies of the types specified in section 2051 of this title.

(Aug. 1, 1946, ch. 724, title I, § 32, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2053. Research for others; charges

Where the Commission finds private facilities or laboratories are inadequate for the purpose, it is authorized to conduct for other persons, through its own facilities, such of those activities and studies of the types specified in section 2051 of this title as it deems appropriate to the development of energy. To the extent the Commission determines that private facilities or laboratories are inadequate for the purpose, and that the Commission's facilities, or scientific or technical resources have the potential of lending

significant assistance to other persons in the fields of protection of public health and safety, the Commission may also assist other persons in these fields by conducting for such persons, through the Commission's own facilities, research and development or training activities and studies. The Commission is authorized to determine and make such charges as in its discretion may be desirable for the conduct of the activities and studies referred to in this section.

(Aug. 1, 1946, ch. 724, title I, § 33, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928; amended Pub. L. 90–190, § 7, Dec. 14, 1967, 81 Stat. 577; Pub. L. 92–84, title II, § 201(b), Aug. 11, 1971, 85 Stat. 307; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1971—Pub. L. 92–84 substituted provisions authorizing the Commission to conduct research for other persons for the development of energy, for provisions authorizing the Commission to conduct research for other persons for the development of atomic energy.

1967—Pub. L. 90–190 inserted provision which authorized the Commission, to the extent the Commission made certain determinations, to assist other persons on the fields of protection of public health and safety by conducting for such persons, through the facilities of the Commission, research and development or training activities and studies, and substituted ''the activities and studies referred to in this section'' for ''such activities and studies''.

SUBCHAPTER IV—PRODUCTION OF SPECIAL NUCLEAR MATERIAL

§ 2061. Production facilities

(a) Ownership

The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; (2) are licensed by the Commission under this division; or (3) are owned by the United States Enrichment Corporation.

(b) Operation of Commission's facilities

The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

(c) Operation of other facilities

Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission.

(Aug. 1, 1946, ch. 724, title I, § 41, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928; amended Pub. L. 90–190, § 8, Dec. 14, 1967, 81 Stat. 577; Pub. L. 101–575, § 5(c), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(2), (8), Oct. 24, 1992, 106 Stat. 2943, 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486, § 902(a)(2), substituted ''under this division'' for ''pursuant to under this chapter'' in cl. (2) and added cl. (3).

1990—Subsec. (a)(2). Pub. L. 101–575 substituted ''under this chapter'' for ''section 2133 or 2134 of this title''.

1967—Subsec. (b). Pub. L. 90–190 struck out provision requiring the President to determine in writing at least once each year the quantities of special nuclear material to be produced under this section, and to specify in such determination the quantities of special nuclear material to be available for distribution by the Commission pursuant to sections 2073 and 2074 of this title.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Pub. L. 103–316, title III, Aug. 26, 1994, 108 Stat. 1715, provided in part: ''That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts [see below] into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: *Provided further*, That the authority to use these amounts appropriated is effective from the date of enactment of this Act [Aug. 26, 1994]: *Provided further*, That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the

provisions of Energy and Water Development Appropriations Act (Public Law 101–101) [see below]: *Provided further*, That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Acts shall be treated as direct appropriations and shall be merged with funds appropriated under this head [ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES].''

Pub. L. 102–377, title III, Oct. 2, 1992, 106 Stat. 1334, provided in part that: ''Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101–101 [set out below] shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000 to remain available until expended.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–104, title III, Aug. 17, 1991, 105 Stat. 528.

Pub. L. 101–514, title III, Nov. 5, 1990, 104 Stat. 2090.

Pub. L. 101–101, title III, Sept. 29, 1989, 103 Stat. 659, provided in part that: ''For necessary expenses of activities related to the production, distribution, and sale of isotopes and related services, $16,243,000, to remain available until expended: *Provided*, That this amount and, notwithstanding 31 U.S.C. 3302, revenues received from the disposition of isotopes and related services shall be credited to this account to be available for carrying out these purposes without further appropriation: *Provided further*, That all unexpended balances of previous appropriations made for the purpose of carrying out activities related to the production, distribution, and sale of isotopes and related services may be transferred to this fund and merged with other balances in the fund and be available under the same conditions and for the same period of time: *Provided further*, That fees shall be set by the Secretary of Energy in such a manner as to provide full cost recovery, including administrative expenses, depreciation of equipment, accrued leave, and probable losses: *Provided further*, That all expenses of this activity shall be paid only from funds available in this fund: *Provided further*, That at any time the Secretary of Energy determines that moneys in the fund exceed the anticipated requirements of the fund, such excess shall be transferred to the general fund of the Treasury.''

§ 2062. Irradiation of materials

The Commission and persons lawfully producing or utilizing special nuclear material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing special nuclear material.

(Aug. 1, 1946, ch. 724, title I, § 42, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2063. Acquisition of production facilities

The Commission is authorized to purchase any interest in facilities for the production of special nuclear materials, or in real property on which such facilities are located, without regard to the provisions of section 5 of title 41 upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to requisition, condemn, or otherwise acquire any interest in such production facilities, or to condemn or otherwise acquire such real property, and just compensation shall be made therefor.

(Aug. 1, 1946, ch. 724, title I, § 43, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760, which was classified to section 1805 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2064. Disposition of energy; regulation on sale

If energy is produced at production facilities of the Commission or is produced in experimental utilization facilities of the Commission, such energy may be used by the Commission, or transferred to other Government agencies, or sold to publicly, cooperatively, or privately owned utilities or users at reasonable and nondiscriminatory prices. If the energy produced is electric energy, the price shall be subject to regulation by the appropriate agency having jurisdiction. In contracting for the disposal of such energy, the Commission shall give preference and priority to public bodies and cooperatives or to privately owned utilities providing electric utility services to high cost areas not being served by public bodies or cooperatives. Nothing in this chapter shall be construed to authorize the Commission to engage in the sale or distribution of energy for commercial use except such energy as may be produced by the Commission incident to the operation of research and development facilities of the Commission, or of production facilities of the Commission.

(Aug. 1, 1946, ch. 724, title I, § 44, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 7(d) of act Aug. 1, 1946, ch. 724, 60 Stat. 764, which was classified to section 1807(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

§ 2071. Determination of other material as special nuclear material; Presidential assent; effective date

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the defini-

tion as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Energy Committees, after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, § 51, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(2), Nov. 2, 1994, 108 Stat. 4592.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Energy Committees'' for ''Joint Committee'' in two places.

§ 2072. Repealed. Pub. L. 88–489, § 4, Aug. 26, 1964, 78 Stat. 603

Section, act Aug. 1, 1946, ch. 724, § 52, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929, related to Government ownership of all special nuclear material and provided for compensation of private owners of such material.

EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

Section 4 of Pub. L. 88–489 provided in part that: ''All rights, title, and interest in and to any special nuclear material vested in the United States solely by virtue of the provisions of the first sentence of such section 52 [this section], and not by any other transaction authorized by the Atomic Energy Act of 1954, as amended [this chapter], or other applicable law, are hereby extinguished.''

§ 2073. Domestic distribution of special nuclear material

(a) Licenses

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this chapter.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c) Manner of distribution; charges for material sold; agreements; charges for material leased

(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, or grant: *Provided, however*, That unless otherwise authorized by law, the Commission shall not after December 31, 1970, distribute special nuclear material except by sale to any person who possesses or operates a utilization facility under a license issued pursuant to section 2133 or 2134(b) of this title for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

(2) The Commission shall establish reasonable sales prices for the special nuclear material licensed and distributed by sale under this section. Such sales prices shall be established on a nondiscriminatory basis which, in the opinion of the Commission, will provide reasonable compensation to the Government for such special nuclear material.

(3) The Commission is authorized to enter into agreements with licensees for such period of time as the Commission may deem necessary or desirable to distribute to such licensees such quantities of special nuclear material as may be necessary for the conduct of the licensed activity. In such agreements, the Commission may agree to repurchase any special nuclear material licensed and distributed by sale which is not consumed in the course of the licensed activity, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission.

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) of this section and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed

and distributed by lease under subsection (a)(3) of this section. The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the special nuclear material will be used.

(d) Determination of charges

In determining the reasonable charge to be made by the Commission for the use of special nuclear material distributed by lease to licensees of utilization or production facilities licensed pursuant to section 2133 or 2134 of this title, in addition to consideration of the cost thereof, the Commission shall take into consideration—

(1) the use to be made of the special nuclear material;

(2) the extent to which the use of the special nuclear material will advance the development of the peaceful uses of atomic energy;

(3) the energy value of the special nuclear material in the particular use for which the license is issued;

(4) whether the special nuclear material is to be used in facilities licensed pursuant to section 2133 or 2134 of this title. In this respect, the Commission shall, insofar as practicable, make uniform, nondiscriminatory charges for the use of special nuclear material distributed to facilities licensed pursuant to section 2133 of this title; and

(5) with respect to special nuclear material consumed in a facility licensed pursuant to section 2133 of this title, the Commission shall make a further charge equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title.

(e) License conditions

Each license issued pursuant to this section shall contain and be subject to the following conditions—

(1) Repealed. Pub. L. 88–489, § 8, Aug. 26, 1964, 78 Stat. 604.

(2) no right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter;

(4) all special nuclear material shall be subject to the right of recapture or control reserved by section 2138 of this title and to all other provisions of this chapter;

(5) no special nuclear material may be used in any utilization or production facility except in accordance with the provisions of this chapter;

(6) special nuclear material shall be distributed only on terms, as may be established by rule of the Commission, such that no user will be permitted to construct an atomic weapon;

(7) special nuclear material shall be distributed only pursuant to such safety standards as may be established by rule of the Commission to protect health and to minimize danger to life or property; and

(8) except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply, the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

(f) Distribution for independent research and development activities

The Commission is directed to distribute within the United States sufficient special nuclear material to permit the conduct of widespread independent research and development activities to the maximum extent practicable. In the event that applications for special nuclear material exceed the amount available for distribution, preference shall be given to those activities which are most likely, in the opinion of the Commission, to contribute to basic research, to the development of peacetime uses of atomic energy, or to the economic and military strength of the Nation.

(Aug. 1, 1946, ch. 724, title I, § 53, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 930; amended Pub. L. 85–256, § 2, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85–681, §§ 1, 2, Aug. 19, 1958, 72 Stat. 632; Pub. L. 88–489, §§ 5–8, Aug. 26, 1964, 78 Stat. 603, 604; Pub. L. 90–190, §§ 9, 10, Dec. 14, 1967, 81 Stat. 577; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(3), (8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(4) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Subsec. (c)(1). Pub. L. 102–486, § 902(a)(3), substituted ''or grant'' for ''grant,'' and struck out ''or through the provision of production or enrichment services'' before '': *Provided, however*'' and before ''to any person''.

1967—Subsec. (c)(1). Pub. L. 90–190, § 10, inserted ''or through the provision of production or enrichment services'' wherever appearing.

Subsec. (f). Pub. L. 90–190, § 9, struck out reference to the limitations on the distribution of special nuclear materials set by the President in determinations made pursuant to section 2061 of this title.

1964—Subsec. (a). Pub. L. 88–489, § 5, substituted ''(i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii)'' for ''to issue licenses for the possession of, to make available for the period of the license, and''.

Subsec. (c). Pub. L. 88–489, § 6, designated existing provisions as par. (4), inserted ''by lease'' wherever appearing and ''special nuclear material will be distributed by grant and for the determination of whether'', and added pars. (1) to (3).

Subsec. (d). Pub. L. 88–489, §7, inserted ''by lease'' in introductory provisions, and in ch. (5) substituted ''equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title'' for ''based on the cost to the Commission, as estimated by the Commission, or the average fair price paid for the production of such special nuclear material as determined by section 2076 of this title, whichever is lower''.

Subsec. (e)(1). Pub. L. 88–489, §8, struck out par. (1) which provided that title to all special nuclear material shall at all times be in the United States.

1958—Subsec. (a)(4). Pub. L. 85–681, §1, added par. (4).

Subsec. (c). Pub. L. 85–681, §2, substituted ''subsections (a)(1), (2) or (4)'' for ''subsection (a)(1) or (a)(2)''.

1957—Subsec. (e)(8). Pub. L. 85–256 inserted ''except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply,''.

§ 2074. Foreign distribution of special nuclear material

(a) Compensation; distribution to International Atomic Energy Agency; procedure for distribution; repurchase of unconsumed materials; price; purchase of materials produced outside United States; price

The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however*, That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 2153 of this title, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however*, That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Energy Committees and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further*, That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further*, That prior to the elapse of the first thirty days of any such sixty-day period the Energy Committees shall submit to their respective houses reports of their views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 2134 of this title, established by the Commission pursuant to section 2076 of this title, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

(b) Distribution to persons outside United States of plutonium and other special nuclear material exempted under section 2077(d) of this title; compensation; reports

Notwithstanding the provisions of sections 2153 and 2154 of this title and section 125 of the Atomic Energy Act of 1954, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 2077(d) of this title, exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to

the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

(c) Licensing or granting permission to others to distribute special nuclear material; conditions

The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(d) Laboratory samples; medical devices; monitoring or other instruments; emergencies

The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or

(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.

(e) Arrangements for storage or disposition of irradiated fuel elements

The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirements of section 2160 of this title.

(Aug. 1, 1946, ch. 724, title I, § 54, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931; amended Pub. L. 85–177, § 7, Aug. 28, 1957, 71 Stat. 455; Pub. L. 87–206, § 4, Sept. 6, 1961, 75 Stat. 476; Pub. L. 88–489, § 9, Aug. 26, 1964, 78 Stat. 604; Pub. L. 93–377, § 2, Aug. 17, 1974, 88 Stat. 473; Pub. L. 95–242, title III, §§ 301(a), 303(b)(1), Mar. 10, 1978, 92 Stat. 125, 131; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, § 15(f)(3), Nov. 2, 1994, 108 Stat. 4592.)

REFERENCES IN TEXT

Section 125 of the Atomic Energy Act of 1954, referred to in subsec. (b), is section 125 of act Aug. 1, 1946, ch. 724, as added by Pub. L. 85–14, Apr. 12, 1957, 71 Stat. 11, as amended, and is set out as a note under section 2153 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Energy Committees and a period'' for ''Joint Committee and a period'' and ''Energy Committees shall submit to their respective houses reports of their views'' for ''Joint Committee shall submit a report to the Congress of its views''.

1978—Subsec. (d). Pub. L. 95–242, § 301(a), added subsec. (d).

Subsec. (e). Pub. L. 95–242, § 303(b)(1), added subsec. (e).

1974—Pub. L. 93–377 designated existing provisions as subsec. (a), designated initial proviso as cl. (i), added cl. (ii) and references to groups of nations, and substituted references to this subsection for references to this section, and added subsecs. (b) and (c).

1964—Pub. L. 88–489 authorized repurchase of unconsumed special nuclear materials, or any uranium remaining after irradiation of such materials, at a price not exceeding Commission's sale price for comparable material in effect at time of delivery to Commission, and purchase of special nuclear material produced outside United States through use of material leased or sold under this section, during any period when there is a guaranteed purchase price for same material as produced under section 2134 of this title, for such price as established by the Commission.

1961—Pub. L. 87–206 inserted ''five hundred grams of uranium 233 and three kilograms of plutonium'' after ''five thousand kilograms of contained uranium 235''.

1957—Pub. L. 85–177 inserted provisions requiring compensation at domestic charges for materials distributed abroad except for peaceful or medical therapy uses, and required Commission to obtain authorization of Congress for materials to be contributed to Agency beyond amount made available by all other members of Agency to July 1, 1960.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2075. Acquisition of special nuclear material; payments; just compensation

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to purchase without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section: *Providing*, That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirements of section 2160 of this title.

(Aug. 1, 1946, ch. 724, title I, § 55, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931; amended Pub. L. 88–489, § 10, Aug. 26, 1964, 78 Stat. 604; Pub. L. 95–242, title III, § 303(b)(2), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(5) of this title, prior to the general

amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1978—Pub. L. 95–424 provided that the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirement of section 2160 of this title.

1964—Pub. L. 88–489 limited the authorization to the extent necessary to effectuate the chapter, inserted ''without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn,'' and ''Any contract of purchase made under this section may be made'', provided for just compensation for any right, property, or interest taken, requisitioned, or condemned under this section, and struck out ''outside the United States'' after ''any interest therein''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2076. Guaranteed purchase prices

The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 2134 of this title and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary, but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 2133 or section 2134 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided*, That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 2073 of this title.

(Aug. 1, 1946, ch. 724, title I, § 56, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931; amended Pub. L. 88–489, § 11, Aug. 26, 1964, 78 Stat. 605; Pub. L. 91–560, § 2, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1970—Pub. L. 91–560 extended the power of the Commission to establish guaranteed purchase prices for uranium produced by persons licensed under section 2133 of this title.

1964—Pub. L. 88–489 substituted provisions which directed the Commission to establish guaranteed purchase prices for plutonium produced by a person licensed under section 2134 of this title and delivered to the Commission prior to Jan. 1, 1971, and for uranium enriched in the isotope 233, for such periods of time as it deems necessary, but not exceeding ten years as to any such period, if produced by a person licensed under said section 2134, and delivered within the period of the guarantee, provided that guaranteed prices established under this section shall not exceed the Commission's estimated value of enriched plutonium or uranium as fuel in reactors, and shall be on a nondiscriminatory basis, and authorized such guaranteed prices only for such enriched plutonium or uranium as is produced through use of material leased or sold pursuant to section 2073 of this title, for provisions requiring the Commission to determine the fair price of special nuclear material by considering the value of the material for its intended use by the United States, and by giving such weight to the cost of production as it found to be equitable, providing that such price was to apply to all licensed producers of the same material, and permitting the Commission to establish guaranteed fair prices for all such material delivered to the Commission for such time as it deemed necessary, but not exceeding seven years.

§ 2077. Unauthorized dealings in special nuclear material

(a) Handling by persons

Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant to section 2073 of this title, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

(b) Engagement or participation in development or production

It shall be unlawful for any person to directly or indirectly engage or participate in the development or production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 2153 of this title, including a specific authorization in a subsequent arrangement under section 2160 of this title, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency ad-

ministrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any request proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in section 2014(v)(2) or (cc)(2) of this title shall be governed by sections 2139 and 2155 of this title: *Provided further*, That notwithstanding section 7172(d) of this title, the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 2074(d), section 2094, or section 2141(b) of this title.

(c) Distribution by Commission

The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 2074 of this title; or

(2) distribute any special nuclear material or issue a license pursuant to section 2073 of this title to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(d) Establishment of classes of special nuclear material; exemption of materials, kinds of uses and users from requirement of license

The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

(e) Transfer, etc., of special nuclear material

Special nuclear material, as defined in section 2014 of this title, produced in facilities licensed under section 2133 or 2134 of this title may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.

(Aug. 1, 1946, ch. 724, title I, § 57, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932; amended Pub. L. 88–489, § 12, Aug. 26, 1964, 78 Stat. 605; Pub. L. 93–377, § 3, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–242, title III, § 302, Mar. 10, 1978, 92 Stat. 126; Pub. L. 97–415, § 14, Jan. 4, 1983, 96 Stat. 2075; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–277, div. G, title XII, § 1225(d)(1), Oct. 21, 1998, 112 Stat. 2681–774; Pub. L. 108–458, title VI, § 6803(a), Dec. 17, 2004, 118 Stat. 3768.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 substituted ''or participate in the development or production of any special nuclear material'' for ''in the production of any special nuclear material''.

1998—Subsec. (b). Pub. L. 105–277 struck out ''the Arms Control and Disarmament Agency,'' after ''after consultation with'' in first sentence and ''the Director of the Arms Control and Disarmament Agency,'' after ''Defense, and Commerce,'' in second sentence.

1983—Subsec. (e). Pub. L. 97–415 added subsec. (e).

1978—Subsec. (b). Pub. L. 95–242 substituted ''except (1) as specifically authorized under an agreement for cooperation made pursuant to section 2153 of this title, including a specific authorization in a subsequent arrangement under section 2160 of this title, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States'' for ''except (1) under an agreement for cooperation made pursuant to section 2153 of this title, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States'' in existing provisions and inserted provisos relating to determinations by the Secretary of Energy, the procedures to be followed in processing authorization requests, the export of component parts, and the jurisdiction of the Secretary of Energy.

1974—Subsec. (d). Pub. L. 93–377 added subsec. (d).

1964—Pub. L. 88–489 amended section generally, and among other changes, included all special nuclear materials within the section, struck out condition that such material be ''the property of the United States'', included delivery, acquisition, ownership and receiving possession of or title to any special nuclear material within the acts prohibited to persons, prohibited the Commission from issuing a license pursuant to section 2073 of this title if the Commission finds that the issuance would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public, and extended the power of the Commission to refuse to distribute any special nuclear material if it finds that the distribution would constitute an unreasonable risk to the health and safety of the public.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges

Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 2076 of this title, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 2073 of this title, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Energy Committees and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided*, *however*, That the Energy Committees, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 1, 1946, ch. 724, title I, § 58, as added Pub. L. 85–79, § 2, July 3, 1957, 71 Stat. 275; amended Pub. L. 88–489, § 13, Aug. 26, 1964, 78 Stat. 605; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, § 15(f)(4), Nov. 2, 1994, 108 Stat. 4592.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Energy Committees'' for ''Joint Committee'' in two places.

1964—Pub. L. 88–489 substituted ''guaranteed purchase'' and ''purchase'' for ''fair'' wherever appearing, ''licensed and distributed'' for ''licensed or distributed'', and provided that the Joint Committee resolution waiving the conditions of the forty-five-day period must be in writing.

SUBCHAPTER VI—SOURCE MATERIAL

§ 2091. Determination of source material

The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided*, *however*, That the Energy Committees, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, § 61, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(4), Nov. 2, 1994, 108 Stat. 4592.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Energy Committees'' for ''Joint Committee'' in two places.

§ 2092. License requirements for transfers

Unless authorized by a general or specific license issued by the Commission which the Commission is authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

(Aug. 1, 1946, ch. 724, title I, § 62, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2093. Domestic distribution of source material

(a) License

The Commission is authorized to issue licenses for and to distribute source material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title; or

(4) for any other use approved by the Commission as an aid to science or industry.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of source material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the source material to be distributed;

(2) the quantities of source material to be distributed; and

(3) the intended use of the source material to be distributed.

(c) Determination of charges

The Commission may make a reasonable charge determined pursuant to section 2201(m) of this title for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) of this section and shall make a reasonable charge determined pursuant to section 2201(m) of this title, for the source material licensed and distributed under subsection (a)(3) of this section. The Commission shall establish criteria in writing for the determination of whether a charge will be made for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the source material will be used.

(Aug. 1, 1946, ch. 724, title I, § 63, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2094. Foreign distribution of source material

The Commission is authorized to cooperate with any nation by distributing source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 2153 of this title. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States. The authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.

(Aug. 1, 1946, ch. 724, title I, § 64, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933; amended Pub. L. 95–242, title III, § 301(b), Mar. 10, 1978, 92 Stat. 125; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1978—Pub. L. 95–242 provided that the authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2095. Reports

The Commission is authorized to issue such rules, regulations, or orders requiring reports of ownership, possession, extraction, refining, shipment, or other handling of source material as it may deem necessary, except that such reports shall not be required with respect to (a) any source material prior to removal from its place of deposit in nature, or (b) quantities of source material which in the opinion of the Commission are unimportant or the reporting of which will discourage independent prospecting for new deposits.

(Aug. 1, 1946, ch. 724, title I, § 65, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(4) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2096. Acquisition of source material; payments

The Commission is authorized and directed, to the extent it deems necessary to effectuate the provisions of this chapter—

(a) to purchase, take, requisition, condemn, or otherwise acquire supplies of source material;

(b) to purchase, condemn, or otherwise acquire any interest in real property containing deposits of source material; and

(c) to purchase, condemn, or otherwise acquire rights to enter upon any real property deemed by the Commission to have possibilities of containing deposits of source material in order to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this section may be made without regard to the provisions of section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and ad-

vanced payments may be made under contracts for such purposes. The Commission may establish guaranteed prices for all source material delivered to it within a specified time. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, condemned, or otherwise acquired under this section.

(Aug. 1, 1946, ch. 724, title I, § 66, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(5) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2097. Operations on lands belonging to United States

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to issue leases or permits for prospecting for, exploration for, mining of, or removal of deposits of source material in lands belonging to the United States: *Provided, however*, That notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President by Executive Order declares that the requirements of the common defense and security make such action necessary.

(Aug. 1, 1946, ch. 724, title I, § 67, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2098. Public and acquired lands

(a) Conditions on location, entry, and settlement

No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement or caused the same to be made for his, or its, or their benefit.

(b) Reservation of mineral rights; release

Any reservation of radioactive mineral substances, fissionable materials, or source material, together with the right to enter upon the land and prospect for, mine, and remove the same, inserted pursuant to Executive Order 9613 of September 13, 1945, Executive Order 9701 of March 4, 1946, the Atomic Energy Act of 1946 [42 U.S.C. 1801 et seq.], or Executive Order 9908 of December 5, 1947, in any patent, conveyance, lease, permit, or other authorization or instrument disposing of any interest in public or acquired lands of the United States, is released, remised, and quitclaimed to the person or persons entitled upon August 19, 1958 under the grant from the United States or successive grants to the ownership, occupancy, or use of the land under the applicable Federal or State laws: *Provided, however*, That in cases where any such reservation on acquired lands of the United States has been heretofore released, remised, or quitclaimed subsequent to August 12, 1954, in reliance upon authority deemed to have been contained in the Atomic Energy Act of 1946, as amended, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as heretofore amended, the same shall be valid and effective in all respects to the same extent as if public lands and not acquired lands had been involved. The foregoing release shall be subject to any rights which may have been granted by the United States pursuant to any such reservation, but the releases shall be subrogated to the rights of the United States.

(c) Prior locations

Notwithstanding the provisions of the Atomic Energy Act of 1946, as amended [42 U.S.C. 1801 et seq.], and particularly section 5(b)(7) thereof [42 U.S.C. 1805(b)(7)], or the provisions of sections 501 to 505 of title 30, and particularly section 503 of title 30, any mining claim, heretofore located under the mining laws of the United States, for or based upon a discovery of a mineral deposit which is a source material and which, except for the possible contrary construction of said Atomic Energy Act, would have been locatable under such mining laws, shall, insofar as adversely affected by such possible contrary construction, be valid and effective, in all respects to the same extent as if said mineral deposit were a locatable mineral deposit other than a source material.

(Aug. 1, 1946, ch. 724, title I, § 68, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934; amended Pub. L. 85–681, § 3, Aug. 19, 1958, 72 Stat. 632; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Atomic Energy Act of 1946, referred to in subsecs. (b) and (c), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§ 1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, 68 Stat. 921. The act of Aug. 1, 1946, ch. 724, is now known as the Atomic Energy Act of 1954, and is classified principally to this chapter (§ 2011 et seq.). For complete classification of the Atomic Energy Act of 1954 to the Code, see Short Title note set out under section 2011 of this title and Tables.

Section 5(b)(7) thereof, referred to in subsec. (c), was classified to section 1805(b)(7) of this title and was omitted in the general amendment of the Atomic Energy Act of 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

The Atomic Energy Act of 1954, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The mining laws of the United States, referred to in subsec. (c), are classified generally to Title 30, Mineral Lands and Mining.

Ex. Ord. No. 9908, eff. Dec. 5, 1947, 12 F.R. 8223; Ex. Ord. No. 9701 eff. Mar. 7, 1946, 11 F.R. 2369, and Ex. Ord.

No. 9613, eff. Sept. 13, 1945, 10 F.R. 11789, referred to in subsec. (b), related to reservation of source material in certain lands owned by the United States; reservation of rights to fissionable materials in lands owned by the United States; and withdrawal and reservation for the use of the United States lands containing radio-active mineral substances. Ex. Ord. No. 10596, eff. Feb. 15, 1955, 20 F.R. 1007, revoked Ex. Ord. No. 9908, which had revoked Ex. Ord. No. 9701, which had earlier revoked Ex. Ord. No. 9613.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(7) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1958—Subsec. (b). Pub. L. 85–681 provided a general release of reservations of fissionable materials or source materials under acquired lands of the United States as well as public lands.

§ 2099. Prohibitions against issuance of license

The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, § 69, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(d)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SUBCHAPTER VII—BYPRODUCT MATERIALS

§ 2111. Domestic distribution

(a) In general

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 2112 or section 2114 of this title. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to qualified applicants with or without charge: *Provided, however*, That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

(b) Requirements

(1) In general

Except as provided in paragraph (2), byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, may only be transferred to and disposed of in a disposal facility that—

(A) is adequate to protect public health and safety; and

(B)(i) is licensed by the Commission; or

(ii) is licensed by a State that has entered into an agreement with the Commission under section 2021(b) of this title, if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

(2) Effect of subsection

Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(c) Treatment as low-level radioactive waste

Byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(2) carrying out a compact that is—

(A) entered into in accordance with that Act (42 U.S.C. 2021b et seq.); and

(B) approved by Congress.

(Aug. 1, 1946, ch. 724, title I, § 81, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935; amended Pub. L. 93–377, § 4, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–604, title II, § 205(b), Nov. 8, 1978, 92 Stat. 3039; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 651(e)(3)(A), Aug. 8, 2005, 119 Stat. 807.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b)(2), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Low-Level Radioactive Waste Policy Act, referred to in subsec. (c)(2)(A), is Pub. L. 96–573, as amended generally by Pub. L. 99–240, title I, § 102, Jan. 15, 1986, 99 Stat. 1842, which is classified generally to section 2021b et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2021b of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(c)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Pub. L. 109–58 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1978—Pub. L. 95–604 inserted reference to section 2114 of this title.

1974—Pub. L. 93–377 substituted ''qualified applicants with or without charge'' for ''licensees with or without charge'', and struck out ''Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material'' before ''The Commission shall not''.

§ 2112. Foreign distribution of byproduct material

(a) Cooperation with other Nations

The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 2153 of this title.

(b) Distribution to individuals

The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such material as would be charged for the material if it were distributed within the United States: *Provided, however*, That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further*, That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

(c) Distributor's license

The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(Aug. 1, 1946, ch. 724, title I, § 82, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2113. Ownership and custody of certain byproduct material and disposal sites

(a) Specific assurances in license for pre-termination actions

Any license issued or renewed after the effective date of this section under section 2092 or section 2111 of this title for any activity which results in the production of any byproduct material, as defined in section 2014(e)(2) of this title, shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

(2) ownership of any byproduct material, as defined in section 2014(e)(2) of this title, which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection (b)(1) of this section to acquire land used for the disposal of byproduct material.

Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.

(b) Transfer of title; health and environmental protection through maintenance of property and materials; use of surface or subsurface estates: first refusal rights of transferor; maintenance, monitoring, and emergency measures and other authorized action; licensee-transferor liability for fraud or negligence; administrative and legal costs limitation; government retransfers under section 7914(h) of this title

(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 2014(e)(2) of this title, pursuant to such license shall be transferred to—

(i) the United States, or

(ii) the State in which such land is located,

at the option of such State,

unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 2231 of this title. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 2111 of this title in such manner as will protect the public health, safety, and the environment.

(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection (c) of this section, assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection (d) of this section, assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

(4) In the case of any such license under section 2092 of this title, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 2114 of this title. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after November 8, 1978.

(6) The transfer of title to land or byproduct materials, as defined in section 2014(e)(2) of this title, to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 7914(h) of this title.

(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 2014(e)(2) of this title, the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

(c) Compliance with applicable standards and license requirements; determination upon termination of license

Upon termination on[1] any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.

(Aug. 1, 1946, ch. 724, title I, §83, as added Pub. L. 95–604, title II, §202(a), Nov. 8, 1978, 92 Stat. 3033; amended Pub. L. 96–106, §22(c), (e), Nov. 9, 1979, 93 Stat. 800; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Effective date of this section, referred to in subsecs. (a) and (b)(1)(A), (4), is three years after Nov. 8, 1978, see section 202(b) of Pub. L. 95–604, set out as an Effective Date note below.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–106, §22(c), substituted ''Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination'' for ''Any license in effect on November 8, 1978, shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs''.

Subsec. (b)(1)(A). Pub. L. 96–106, §22(e), among other changes, substituted reference to section 2111 of this title for reference to section 2114(b) of this title.

EFFECTIVE DATE

Section 202(b) of Pub. L. 95–604 provided that: ''This section [enacting this section] shall be effective three years after the enactment of this Act [Nov. 8, 1978].''

[1] So in original. Probably should be ''of''.

CONSOLIDATION OF LICENSES AND PROCEDURES

Section 209 of Pub. L. 95–604 provided that: ''The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title [see Effective Date of 1978 Amendment note set out under section 2014 of this title] with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954 [this chapter].''

[Provision effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title].

§ 2114. Authorities of Commission respecting certain byproduct material

(a) Management function

The Commission shall insure that the management of any byproduct material, as defined in section 2014(e)(2) of this title, is carried out in such manner as—

(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and non-radiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,,[1]

(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 2022 of this title, and

(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.].

(b) Rules, regulations, or orders for certain activities; civil penalty

In carrying out its authority under this section, the Commission is authorized to—

(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 2111 of this title to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 2113 of this title shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 2282 of this title. Nothing in this section affects any authority of the Commission under any other provision of this chapter.

[1] So in original.

(c) Alternative requirements or proposals

In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this chapter. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title.

(Aug. 1, 1946, ch. 724, title I, § 84, as added Pub. L. 95–604, title II, § 205(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97–415, §§ 20, 22(a), Jan. 4, 1983, 96 Stat. 2079, 2080; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, as amended, referred to in subsec. (a)(3), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97–415, § 22(a), inserted provision that the Commission is to take into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate.

Subsec. (c). Pub. L. 97–415, § 20, added subsec. (c).

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

SUBCHAPTER VIII—MILITARY APPLICATION OF ATOMIC ENERGY

§ 2121. Authority of Commission

(a) Research and development; weapons production; hazardous wastes; transfers of technologies

The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy;

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been

obtained, which consent and direction shall be obtained at least once each year;

(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.

(b) Material for Department of Defense use

The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however*, That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

(c) Sale, lease, or loan to other Nations of materials for military applications

The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however*, That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further*, That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title: *And provided further*, That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

(Aug. 1, 1946, ch. 724, title I, §91, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 85–479, §1, July 2, 1958, 72 Stat. 276; Pub. L. 101–189, div. C, title XXXI, §3157, Nov. 29, 1989, 103 Stat. 1684; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1989—Subsec. (a)(3) to (5). Pub. L. 101–189 added pars. (3) to (5).

1958—Subsec. (c). Pub. L. 85–479 added subsec. (c).

DELEGATION OF FUNCTIONS

Authority vested in President by subsec. (c) of this section delegated to Secretary of Defense and Secretary of Energy, see section 2(a)(1) of Ex. Ord. No. 10841, as amended, set out as a note under section 2153 of this title.

FORM OF CERTIFICATIONS REGARDING SAFETY OR RELIABILITY OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 106–398, §1 [div. C, title XXXI, §3194], Oct. 30, 2000, 114 Stat. 1654, 1654A–481, which was formerly set out as a note under this section, was renumbered section 4206 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(e)(7), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2526 of Title 50, War and National Defense.

AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO DEPARTMENT OF ENERGY AND CONTRACTOR EMPLOYEES FOR EXEMPLARY SERVICE IN STOCKPILE STEWARDSHIP AND SECURITY

Pub. L. 106–398, §1 [div. C, title XXXI, §3195], Oct. 30, 2000, 114 Stat. 1654, 1654A–481, which was formerly set out as a note under this section, was renumbered section 4605 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(i)(6), Nov. 24, 2003, 117 Stat. 1778, and is classified to section 2705 of Title 50, War and National Defense.

NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM

Pub. L. 106–65, div. C, title XXXI, § 3133, Oct. 5, 1999, 113 Stat. 926, which was formerly set out as a note under this section, was renumbered section 4204 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(5)(A)–(C), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2524 of Title 50, War and National Defense.

REPORT ON STOCKPILE STEWARDSHIP CRITERIA

Pub. L. 105–261, div. C, title XXXI, § 3158, Oct. 17, 1998, 112 Stat. 2257, as amended by Pub. L. 106–65, div. A, title X, § 1067(3), Oct. 5, 1999, 113 Stat. 774, which was formerly set out as a note under this section, was renumbered section 4202 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(3), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2522 of Title 50, War and National Defense.

PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE

Pub. L. 105–261, div. C, title XXXI, § 3159, Oct. 17, 1998, 112 Stat. 2258, as amended by Pub. L. 106–65, div. A, title X, § 1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. C, title XXXI, § 3156, Dec. 28, 2001, 115 Stat. 1379; Pub. L. 107–314, div. C, title XXXI, § 3175, Dec. 2, 2002, 116 Stat. 2745, provided that:

''(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Secretary of Energy, shall enter into a contract with a federally funded research and development center to establish a panel for the assessment of the certification process for the reliability, safety, and security of the United States nuclear stockpile.

''(b) COMPOSITION AND ADMINISTRATION OF PANEL.—(1) The panel shall consist of private citizens of the United States with knowledge and expertise in the technical aspects of design, manufacture, and maintenance of nuclear weapons.

''(2) The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including selection of a panel chairman.

''(c) DUTIES OF PANEL.—Each year the panel shall review and assess the following:

''(1) The annual certification process, including the conclusions and recommendations resulting from the process, for the safety, security, and reliability of the nuclear weapons stockpile of the United States, as carried out by the directors of the national weapons laboratories.

''(2) The long-term adequacy of the process of certifying the safety, security, and reliability of the nuclear weapons stockpile of the United States.

''(3) The adequacy of the criteria established by the Secretary of Energy pursuant to section 3158 [formerly set out as a note above] for achieving the purposes for which those criteria are established.

''(d) REPORT.—Not later than October 1 of 1999 and 2000, and not later than February 1, 2002, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth its findings and conclusions resulting from the review and assessment carried out for the year covered by the report. The report shall be submitted in classified and unclassified form.

''(e) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the panel considers necessary to carry out its duties.

''(2) For carrying out its duties, the panel shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y–12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the chairman of the panel determines as having information described in paragraph (1).

''(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the panel.

''(f) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the panel to carry out its duties. Funds available for the Department of Energy for the National Nuclear Security Administration shall be available for the Department of Energy contribution.

''(g) TERMINATION OF PANEL.—The panel shall terminate April 1, 2003.

''(h) INITIAL IMPLEMENTATION.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998]. The panel shall convene its first meeting not later than 30 days after the date as of which all members of the panel have been appointed.

''(i) FOLLOW-UP REPORT.—Not later than February 1, 2003, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a follow-up report assessing progress toward meeting the expectations set forth by the panel for the United States stockpile stewardship program, and making recommendations for corrective legislative action where progress has been unsatisfactory.''

COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE

Pub. L. 104–201, div. C, title XXXI, § 3162, Sept. 23, 1996, 110 Stat. 2843, as amended by Pub. L. 105–85, div. C, title XXXI, § 3163, Nov. 18, 1997, 111 Stat. 2049, provided that:

''(a) ESTABLISHMENT.—There is hereby established a commission to be known as the 'Commission on Maintaining United States Nuclear Weapons Expertise' (in this section referred to as the 'Commission').

''(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

''(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).

''(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

''(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

''(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

''(v) Two shall be appointed by the Secretary of Energy.

''(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives. The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).

''(D) Members shall be appointed not later than 60 days after the date of the enactment of this Act [Sept. 23, 1996].

''(E) The Commission may commence its activities under this section upon the designation of the chairman of the Commission under subparagraph (C).

''(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

''(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

''(2) In developing the plan, the Commission shall—

''(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

''(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

''(d) REPORT.—Not later than March 15, 1999, the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

''(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

''(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

''(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101 [110 Stat. 2820], not more than $1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.''

[Section 3163(a) of Pub. L. 105–85 provided that the amendment made by that section to section 3162(b)(1) of Pub. L. 104–201, set out above, is effective Jan. 1, 1998.]

TRITIUM PRODUCTION PROGRAM

Pub. L. 104–106, div. C, title XXXI, § 3133, Feb. 10, 1996, 110 Stat. 618, which was formerly set out as a note under this section, was renumbered section 4231 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(16)(A)–(C), Nov. 24, 2003, 117 Stat. 1761, and is classified to section 2541 of Title 50, War and National Defense.

MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 104–106, div. C, title XXXI, § 3137, Feb. 10, 1996, 110 Stat. 620, as amended by Pub. L. 104–201, div. C, title XXXI, § 3132(a), (b), Sept. 23, 1996, 110 Stat. 2829, which was formerly set out as a note under this section, was renumbered section 4212 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(13)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and is classified to section 2532 of Title 50, War and National Defense.

FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX

Pub. L. 104–106, div. C, title XXXI, § 3140, Feb. 10, 1996, 110 Stat. 621, as amended by Pub. L. 106–65, div. C, title XXXI, § 3162(a)–(d), Oct. 5, 1999, 113 Stat. 943, which was formerly set out as a note under this section, was renumbered section 4623 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(i)(10), Nov. 24, 2003, 117 Stat. 1779, and is classified to section 2723 of Title 50, War and National Defense.

STUDY ON NUCLEAR TEST READINESS POSTURES

Pub. L. 104–106, div. C, title XXXI, § 3152, Feb. 10, 1996, 110 Stat. 623, as amended by Pub. L. 106–398, § 1 [div. C, title XXXI, § 3192], Oct. 30, 2000, 114 Stat. 1654, 1654A–480, which was formerly set out as a note under this section, was renumbered section 4208 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(9), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2528 of Title 50, War and National Defense.

PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE

Pub. L. 105–85, div. C, title XXXI, § 3151, Nov. 18, 1997, 111 Stat. 2041, which was formerly set out as a note under this section, was renumbered section 4203 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(4), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2523 of Title 50, War and National Defense.

REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE

Pub. L. 103–337, div. C, title XXXI, § 3154, Oct. 5, 1994, 108 Stat. 3091, directed Secretary of Energy, not later than Mar. 31, 1996, to submit to Congress report containing description of all waste streams generated before 1992 during each step of complete cycle of production and disposition of nuclear weapon components by Department of Energy, with description for each such step to be based on unit of analysis appropriate for that step, and to include estimate of volume of waste generated per unit of analysis and analysis of characteristics of each waste stream.

PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS

Pub. L. 103–160, div. C, title XXXI, § 3136, Nov. 30, 1993, 107 Stat. 1946, expressed policy of United States with respect to research and development of low-yield nu-

clear weapons, prior to repeal by Pub. L. 108–136, div. C, title XXXI, § 3116(a), Nov. 24, 2003, 117 Stat. 1746.

[Pub. L. 108–136, div. C, title XXXI, § 3116(b), Nov. 24, 2003, 117 Stat. 1746, provided that: ''Nothing in the repeal made by subsection (a) [repealing section 3136 of Pub. L. 103–160, formerly set out as a note above] shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.'']

STOCKPILE STEWARDSHIP PROGRAM

Pub. L. 105–85, div. C, title XXXI, § 3156, Nov. 18, 1997, 111 Stat. 2045, expressed findings of Congress and policy of United States about the direction and conduct of the stockpile stewardship program, prior to repeal by Pub. L. 105–261, div. C, title XXXI, § 3157, Oct. 17, 1998, 112 Stat. 2257.

Pub. L. 103–160, div. C, title XXXI, § 3138, Nov. 30, 1993, 107 Stat. 1946, as amended by Pub. L. 105–85, div. C, title XXXI, § 3152(e), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4201 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(2), Nov. 24, 2003, 117 Stat. 1758, and is classified to section 2521 of Title 50, War and National Defense.

LIMITATIONS ON UNITED STATES NUCLEAR WEAPONS TESTING

Pub. L. 103–160, div. A, title II, § 261, Nov. 30, 1993, 107 Stat. 1608, provided that:

''(a) LIMITATION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds in preparation for any activity of the Department of Defense, including the so-called 'Mighty Uncle' test, to study the effects of a nuclear weapon explosion through underground nuclear weapons testing unless that test is permitted in accordance with the provisions of section 507 of Public Law 102–377 [set out below] (106 Stat. 1343).

''(b) CERTAIN ACTIONS NOT PROHIBITED.—Subsection (a) does not preclude the Secretary of Defense, acting through the Director of the Defense Nuclear Agency, from—

''(1) proceeding with underground nuclear test tunnel deactivation and environmental cleanup; or

''(2) expending funds for infrastructure activities not covered by the limitation in subsection (a).

''(c) FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 [107 Stat. 1583] for Defense-wide activities, not more than $38,000,000 may be used for activities described in subsection (b).''

Pub. L. 103–160, div. C, title XXXI, § 3137, Nov. 30, 1993, 107 Stat. 1946, which was formerly set out as a note under this section, was renumbered section 4211 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(12)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and is classified to section 2531 of Title 50, War and National Defense.

Pub. L. 102–377, title V, § 507, Oct. 2, 1992, 106 Stat. 1343, as amended by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(11), Nov. 24, 2003, 117 Stat. 1760, provided that:

''(a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

''(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

''(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

''(1) only if—

''(A) the President has submitted the annual report required under subsection (d);

''(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

''(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

''(2) only if the test is conducted during the period covered by the report.

''(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

''(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

''(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

''(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

''(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

''(i) will not be in the United States stockpile of active nuclear weapons;

''(ii) will remain under the control of the Department of Defense; and

''(iii) will not be transferred to the Department of Energy for dismantlement.

''(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

''(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

''(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

''(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

''(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

''(3) For the purposes of paragraph (1), 'joint resolution' means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: 'The Congress disapproves the report of the President on nuclear weapons testing, dated .' (the blank space being appropriately filled in).

''(4) No report is required under this subsection after 1996.

''(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

''(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

''(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

''(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

''(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

''(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

''(B) For the purposes of subparagraph (A), 'joint resolution' means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: 'The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated .' (the blank space being appropriately filled in).

''(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

''(f) [Transferred to section 2530 of Title 50, War and National Defense.]

''(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

''(h) In this section, the term 'modern safety feature' means any of the following features:

''(1) An insensitive high explosive (IHE).

''(2) Fire resistant pits (FRP).

''(3) An enhanced detonation safety (ENDS) system.''

NUCLEAR TEST BAN READINESS PROGRAM

Pub. L. 100–456, div. A, title XIV, § 1436, Sept. 29, 1988, 102 Stat. 2075, as amended by Pub. L. 105–85, div. C, title XXXI, § 3152(i), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4207 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(8)(A)–(C), Nov. 24, 2003, 117 Stat. 1759, and is classified to section 2527 of Title 50, War and National Defense.

§ 2122. Prohibitions governing atomic weapons

(a) It shall be unlawful, except as provided in section 2121 of this title, for any person, inside or outside of the United States, to knowingly participate in the development of, manufacture, produce, transfer, acquire, receive, possess, import, export, or use, or possess and threaten to use, any atomic weapon. Nothing in this section shall be deemed to modify the provisions of section 2051(a) or 2131 of this title.

(b) Conduct prohibited by subsection (a) of this section is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

(2) the offense is committed against a national of the United States while the national is outside the United States;

(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(Aug. 1, 1946, ch. 724, title I, § 92, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Pub. L. 85–479, § 2, July 2, 1958, 72 Stat. 277; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–458, title VI, §§ 6803(b), 6904(a), Dec. 17, 2004, 118 Stat. 3768, 3771.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Pub. L. 108–458, § 6904(a)(1), designated existing provisions as subsec. (a).

Pub. L. 108–458, § 6803(b)(2), inserted ''participate in the development of,'' after ''interstate or foreign commerce,''.

Pub. L. 108–458, § 6803(b)(1), inserted '', inside or outside of the United States,'' after ''for any person''.

Subsec. (a). Pub. L. 108–458, § 6904(a)(4), which directed amendment by striking out ''transfer or receive in interstate or foreign commerce,'' before ''manufacture'', was executed by striking out such phrase before ''participate in the development of, manufacture'' to reflect the probable intent of Congress and the intervening amendment by Pub. L. 108–458, § 6803(b)(2). See above.

Pub. L. 108–458, § 6904(a)(3), (5), (6), inserted ''receive,'' after ''acquire,'', struck out ''or'' before ''export'', and inserted '', or use, or possess and threaten to use,'' before ''any atomic weapon''.

Pub. L. 108–458, § 6904(a)(2), which directed amendment by inserting ''knowingly'' after ''for any person to'', was executed by making the insertion after ''for any person, inside or outside of the United States, to'' to reflect the probable intent of Congress and the amendment by Pub. L. 108–458, § 6803(b)(1). See above.

Subsec. (b). Pub. L. 108–458, § 6904(a)(7), added subsec. (b).

1958—Pub. L. 85–479 included transfers or receipts in foreign commerce.

§ 2122a. Repealed. Pub. L. 106–65, div. C, title XXXII, § 3294(e)(1)(A), Oct. 5, 1999, 113 Stat. 970

Section, act Aug. 1, 1946, ch. 724, title I, § 93, as added Pub. L. 103–160, div. C, title XXXI, § 3156(a), Nov. 30, 1993, 107 Stat. 1953, related to congressional oversight of special access programs. See section 2426 of Title 50, War and National Defense.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

§ 2123. Transferred

CODIFICATION

Section, Pub. L. 102–190, div. C, title XXXI, § 3136, Dec. 5, 1991, 105 Stat. 1577; Pub. L. 103–35, title II, § 203(b)(3), May 31, 1993, 107 Stat. 102, which related to critical technology partnerships between laboratories of the Department of Energy and other entities, was renum-

bered section 4813 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(k)(8), Nov. 24, 2003, 117 Stat. 1785, and transferred to section 2794 of Title 50, War and National Defense.

SUBCHAPTER IX—ATOMIC ENERGY LICENSES

§ 2131. License required

It shall be unlawful, except as provided in section 2121 of this title, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 2133 or 2134 of this title.

(Aug. 1, 1946, ch. 724, title I, § 101, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, § 11, 70 Stat. 1071; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1956—Act Aug. 6, 1956, inserted ''use,'' after ''possess,''.

§ 2132. Utilization and production facilities for industrial or commercial purposes

(a) Issuance of licenses

Except as provided in subsections (b) and (c) of this section, or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

(b) Facilities constructed or operated under section 2134(b)

Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

(c) Cooperative Power Reactor Demonstration facilities

Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title.

(Aug. 1, 1946, ch. 724, title I, § 102, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Pub. L. 91–560, § 3, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1970—Pub. L. 91–560 substituted provisions authorizing Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with Commission entered into under Cooperative Power Reactor Demonstration Program, for provisions authorizing Commission to issue licenses pursuant to section 2133 of this title on a determination that such utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

§ 2133. Commercial licenses

(a) Conditions

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV of this division and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

(b) Nonexclusive basis

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

(c) License period

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years from the authorization to commence operations, and may be renewed upon the expiration of such period.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any any[1] corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by

[1] So in original.

an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(f)[2] Accident notification condition; license revocation; license amendment to include condition

Each license issued for a utilization facility under this section or section 2134(b) of this title shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 2237 of this title, the Commission shall promptly amend each license for a utilization facility issued under this section or section 2134(b) of this title which is in effect on June 30, 1980, to include the provisions required under this subsection.

(Aug. 1, 1946, ch. 724, title I, § 103, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, §§ 12, 13, 70 Stat. 1071; Pub. L. 91–560, § 4, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 96–295, title II, § 201, June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 621, Aug. 8, 2005, 119 Stat. 782.)

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–58 inserted "from the authorization to commence operations" after "forty years".

1980—Subsec. (f). Pub. L. 96–295 added subsec. (f).

1970—Subsec. (a). Pub. L. 91–560 struck out requirement of a finding of practical value under section 2132 and substituted "utilization and production facilities for industrial or commercial purposes" for "such type of utilization or production facility".

1956—Subsec. (a). Act Aug. 6, 1956, § 12, inserted "use," after "possess,".

Subsec. (d). Act Aug. 6, 1956, § 13, inserted "an alien or any" after "issued to".

§ 2134. Medical, industrial, and commercial licenses

(a) Medical therapy

The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

(b) Industrial and commercial purposes

As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter.

(c) Research and development activities

The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title and which are not facilities of the type specified in subsection (b) of this section. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, § 104, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 937; amended Pub. L. 91–560, § 5, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii) where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

§ 2135. Antitrust provisions governing licenses

(a) Violations of antitrust laws

Nothing contained in this chapter shall relieve any person from the operation of the following

[2] So in original. Probably should be "(e)".

Acts, as amended, ''An Act to protect trade and commerce against unlawful restraints and monopolies'' approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes'' approved August twenty-seven, eighteen hundred and ninety-four; ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes'' approved October fifteen, nineteen hundred and fourteen; and ''An Act to create a Federal Trade Commission, to defined its powers and duties, and for other purposes'' approved September twenty-six, nineteen hundred and fourteen. In the event a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the laws cited above, to have violated any of the provisions of such laws in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) Reports to Attorney General

The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing Acts, or to restrict free competition in private enterprise.

(c) Transmissions to Attorney General of copies of license applications; publication of advice; factors considered; exceptions

(1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to construct or operate a utilization or production facility under section 2133 of this title: *Provided, however*, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date of initial Commission publication in the Federal Register of notice of the filing of an application for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General's advice, the Commission shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Commission on such licensing matter in connection with the subject matter of his advice. The Commission shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws as specified in subsection (a) of this section.

(6) In the event the Commission's finding under paragraph (5) is in the affirmative, the Commission shall also consider, in determining whether the license should be issued or continued, such other factors, including the need for power in the affected area, as the Commission in its judgment deems necessary to protect the public interest. On the basis of its findings, the Commission shall have the authority to issue or continue a license as applied for, to refuse to issue a license, to rescind a license or amend it, and to issue a license with such conditions as it deems appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the requirements of this subsection such classes or types of licenses as the Commission may determine would not significantly affect the applicant's activities under the antitrust laws as specified in subsection (a) of this section.

(8) With respect to any application for a construction permit on file at the time of enactment into law of this subsection, which permit would be for issuance under section 2133 of this title, and with respect to any application for an operating license in connection with which a written request for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation with the Attorney General, may, upon determination that such action is necessary in the public interest to avoid un-

necessary delay, establish by rule or order periods for Commission notification and receipt of advice differing from those set forth above and may issue a construction permit or operating license in advance of consideration of and findings with respect to the matters covered in this subsection: *Provided*, That any construction permit or operating license so issued shall contain such conditions as the Commission deems appropriate to assure that any subsequent findings and orders of the Commission with respect to such matters will be given full force and effect.

(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 2133 or 2134(b) of this title that is filed on or after August 8, 2005.

(Aug. 1, 1946, ch. 724, title I, § 105, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938; amended Pub. L. 88–489, § 14, Aug. 26, 1964, 78 Stat. 606; Pub. L. 91–560, § 6, Dec. 19, 1970, 84 Stat. 1473; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 107–273, div. C, title IV, § 14102(c)(2)(D), Nov. 2, 2002, 116 Stat. 1921; Pub. L. 109–58, title VI, § 625, Aug. 8, 2005, 119 Stat. 784.)

REFERENCES IN TEXT

The act to protect trade and commerce against unlawful restraints and monopolies, referred to in subsec. (a), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Sections seventy-three to seventy-six, inclusive, of an act entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes'', referred to in subsec. (a), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, known as the Wilson Tariff Act, which are classified to sections 8 to 11, respectively, of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes'' approved October fifteen, nineteen hundred and fourteen, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, known as the Federal Trade Commission Act, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Subsec. (c)(9). Pub. L. 109–58 added par. (9).

2002—Subsec. (a). Pub. L. 107–273 substituted ''seventy-six'' for ''seventy-seven''.

1970—Subsec. (c). Pub. L. 91–560 designated existing provisions as pars. (1), (2), (4), and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134(b) of this title, and added pars. (6) to (8).

1964—Subsec. (a). Pub. L. 88–489 struck out '', including the provisions which vest title to all special nuclear material in the United States,'' before ''shall relieve any person''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107–273, set out as a note under section 3 of Title 15, Commerce and Trade.

§ 2136. Classes of facilities

The Commission may—

(a) group the facilities licensed either under section 2133 or 2134 of this title into classes which may include either production or utilization facilities or both, upon the basis of the similarity of operating and technical characteristics of the facilities;

(b) define the various activities to be carried on at each such class of facility; and

(c) designate the amounts of special nuclear material available for use by each such facility.

(Aug. 1, 1946, ch. 724, title I, § 106, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2137. Operators' licenses

The Commission shall—

(a) prescribe uniform conditions for licensing individuals as operators of any of the various classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

(c) issue licenses to such individuals in such form as the Commission may prescribe; and

(d) suspend such licenses for violations of any provision of this chapter or any rule or regulation issued thereunder whenever the Commission deems such action desirable.

(Aug. 1, 1946, ch. 724, title I, § 107, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

TECHNICAL CAPABILITY OF LICENSEE PERSONNEL IMPROVEMENT PLAN; STUDY OF LICENSE REQUIREMENT FOR PLANT MANAGERS AND SENIOR LICENSEE OFFICERS; REPORT TO CONGRESS

Pub. L. 96–395, title III, § 307, June 30, 1980, 94 Stat. 791, provided that:

''(a) The Commission is authorized and directed to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under section 103 or 104b. of the Atomic Energy Act of 1954 [sections 2133 and 2134(b) of this title]. In proposing such plan, the Commission shall consider the feasibility of requiring standard manda-

tory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954 [this section], and for the licensing of such personnel, to assure—

''(1) conformity with all conditions and requirements of the operating license;

''(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

''(3) effective response to any such event or sequence.

Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator—

''(A) has been actively and extensively engaged in the duties listed in such license,

''(B) has discharged such duties safely to the satisfaction of the Commission,

''(C) is capable of continuing such duties, and

''(D) has participated in a requalification training program.

Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including—

''(i) written questions, and

''(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment of this Act [June 30, 1980], and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

''(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954 [this section], plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act [June 30, 1980] on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment.''

§ 2138. Suspension of licenses during war or national emergency

Whenever the Congress declares that a state of war or national emergency exists, the Commission is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility.

(Aug. 1, 1946, ch. 724, title I, § 108, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; amended Pub. L. 86–373, § 2, Sept. 23, 1959, 73 Stat. 691; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1959—Pub. L. 86–373 struck out ''distributed under the provisions of section 2073(a) of this title,'' before ''or to order''.

§ 2139. Component and other parts of facilities

(a) Licenses for domestic activities

With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v)(2) or 2014(cc)(2) of this title the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

(b) Export licenses

After consulting with the Secretaries of State, Energy, and Commerce, the Commission is authorized and directed to determine which component parts as defined in section 2014(v)(2) or 2014(cc)(2) of this title and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 2155(b)(2) of this title, no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 2155 of this title.

(c) Exports inimical to common defense and security of United States

The Commission shall not issue an export license under the authority of subsection (b) of this section if it is advised by the executive branch, in accordance with the procedures established under section 2155(a) of this title, that the export would be inimical to the common defense and security of the United States.

(Aug. 1, 1946, ch. 724, title I, § 109, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; amended Pub. L. 87–615, § 9, Aug. 29, 1962, 76 Stat. 411; Pub. L. 89–645, § 1(b), Oct. 13, 1966, 80 Stat. 891; Pub. L. 95–242, title III, § 309(a), Mar. 10, 1978, 92 Stat. 141; renumbered title I, Pub. L. 102–486, title IX,

§ 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–277, div. G, title XII, § 1225(d)(2), Oct. 21, 1998, 112 Stat. 2681–774.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 struck out ''and the Director'' after ''Energy, and Commerce''.

1978—Subsec. (a). Pub. L. 95–242 designated existing provisions as subsec. (a) and substituted ''the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security'' for ''the Commission may (a) issue general licenses for activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security''.

Subsecs. (b), (c). Pub. L. 95–242 added subsecs. (b) and (c).

1966—Pub. L. 89–645 substituted ''section 2014(v)(2) or 2014 (cc)(2)'' for ''section 2014(t)(2) or 2014(aa)(2)''.

1962—Pub. L. 87–615 substituted ''section 2014(t)(2) or 2014(aa)(2)'' for ''section 2014(p)(2) or 2014(v)(2)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXPORTS CONTRACTED FOR PRIOR TO NOV. 1, 1977, MADE WITHIN ONE YEAR OF MAR. 10, 1978; SAVINGS PROVISION

Section 309(d) of Pub. L. 95–242 provided that: ''The amendments to section 109 of the 1954 Act [this section] made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments [Mar. 10, 1978].''

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2139a. Regulations implementing requirements relating to licensing for components and other parts of facilities

(a) Omitted

(b) The Commission, not later than one hundred and twenty days after March 10, 1978, shall publish regulations to implement the provisions of subsections (b) and (c) of section 2139 of this title. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, and the Department of Commerce.

(c) The President, within not more than one hundred and twenty days after March 10, 1978, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations by the Department of Commerce with the Department of State, the Commission, the Department of Energy, and the Department of Defense.

(Pub. L. 95–242, title III, § 309(b), (c), Mar. 10, 1978, 92 Stat. 141; Pub. L. 103–236, title VII, § 714(b), Apr. 30, 1994, 108 Stat. 498; Pub. L. 105–277, div. G, title XII, § 1225(e)(4), Oct. 21, 1998, 112 Stat. 2681–775.)

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is based on subsecs. (b) and (c) of Pub. L. 95–242. Subsec. (a) of Pub. L. 95–242 amended section 2139 of this title, and subsec. (d) is set out as a note under section 2139 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, § 1225(e)(4)(A), substituted ''and the Department of Commerce'' for ''the Department of Commerce, and the Arms Control and Disarmament Agency''.

Subsec. (c). Pub. L. 105–277, § 1225(e)(4)(B), struck out ''the Arms Control and Disarmament Agency,'' after ''Department of State,''.

1994—Subsec. (c). Pub. L. 103–236 struck out '', as required,'' after ''prior consultations'' in last sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of Commerce to be responsible for performing function vested in President by subsec. (c) of this section, see section 3 of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978,

92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2140. Exclusions from license requirement

Nothing in this subchapter shall be deemed—

(a) to require a license for (1) the processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission; or (2) the construction or operation of facilities under contract with and for the account of the Commission; or

(b) to require a license for the manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 2121 of this title, or for the use of such facility by the Department of Defense or a contractor thereof.

(Aug. 1, 1946, ch. 724, title I, § 110, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2141. Licensing by Nuclear Regulatory Commission of distribution of special nuclear material, source material, and byproduct material by Department of Energy

(a) The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to section 2074, 2094, and 2112 of this title, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 2112 of this title.

(b) The Department of Energy shall not distribute any special nuclear material or source material under section 2074 or 2094 of this title other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Nuclear Regulatory Commission and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after March 10, 1978, and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 2156 of this title or their equivalent and any applicable criteria in section 2157 of this title are met, and that the proposed distribution would not be inimical to the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 111, as added Pub. L. 95–242, title III, § 301(c), Mar. 10, 1978, 92 Stat. 125; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 105–277, div. G, title XII, § 1225(d)(3), Oct. 21, 1998, 112 Stat. 2681–774.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 substituted ''the Nuclear Regulatory Commission'' for ''the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission,''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

TRANSFER OF FUNCTIONS

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

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

SUBCHAPTER X—INTERNATIONAL ACTIVITIES

§ 2151. Effect of international arrangements

Any provision of this chapter or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangements made after August 30, 1954 shall be deemed to be of no force or effect.

(Aug. 1, 1946, ch. 724, title I, § 121, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2152. Policies contained in international arrangements

In the performance of its functions under this chapter, the Commission shall give maximum effect to the policies contained in any international arrangement made after August 30, 1954.

(Aug. 1, 1946, ch. 724, title I, § 122, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(c) of this title, prior to the general amend-

ment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2153. Cooperation with other nations

No cooperation with any nation, group of nations or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) Terms, conditions, duration, nature, scope, and other requirements of proposed agreements for cooperation; Presidential exemptions; negotiations; Nuclear Proliferation Assessment Statement

the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

(3) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title, a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

(4) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States;

(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

(7) except in the case of agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

(8) except in the case of agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that no plutonium, no uranium 233, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation, or recovered from any source or special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

(9) except in the case of agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

The President may exempt a proposed agreement for cooperation (except an agreement ar-

ranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title) from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy; and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, and the Nuclear Regulatory Commission. The Secretary of State shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this chapter, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B) regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. Each Nuclear Proliferation Assessment Statement prepared pursuant to this chapter shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information. In the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(d) of this title which are to be implemented by the Department of Defense, by the Secretary of Defense;

(b) Presidential approval and authorization for execution of proposed agreements for cooperation

the President has submitted text of the proposed agreement for cooperation (except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title), together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 2159(g) of this title) concerning the consistency of the terms of the proposed agreement with all the requirements of this chapter, and the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

(c) Submittal of proposed agreements for cooperation to Congressional committees

the proposed agreement for cooperation (if not an agreement subject to subsection (d) of this section), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in section 2159(g) of this title): *Provided, however*, That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

(d) Congressional action

the proposed agreement for cooperation (if arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, or if entailing implementation of section 2073, 2074(a), 2133, or 2134 of this title in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided*, That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto, when required by subsection (a) of this section, have been submitted to the Congress: *Provided further*, That an agreement for cooperation exempted by the President pursuant to subsection (a) of this section from any requirement contained in that subsection, or an agreement exempted pursuant to section 8003(a)(1) of title 22, shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement. During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or dis-

approved. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 2159(i) of this title.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

If, after March 10, 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection (a)(2) of this section, such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to section 2157(b)(3) of this title for purposes of the Commission's consideration of applications and requests under section 2155(a)(2) of this title and there shall be no congressional review pursuant to section 2157 of this title of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

(Aug. 1, 1946, ch. 724, title I, §123, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; amended Pub. L. 85–479, §§3, 4, July 2, 1958, 72 Stat. 277; Pub. L. 85–681, §4, Aug. 19, 1958, 72 Stat. 632; Pub. L. 88–489, §15, Aug. 26, 1964, 78 Stat. 606; Pub. L. 93–377, §5, Aug. 17, 1974, 88 Stat. 475; Pub. L. 93–485, §1, Oct. 26, 1974, 88 Stat. 1460; Pub. L. 95–242, title IV, §401, Mar. 10, 1978, 92 Stat. 142; Pub. L. 99–64, title III, §301(a), (b), July 12, 1985, 99 Stat. 159, 160; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. C, title XXXI, §3155(c)(1), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–106, div. A, title XV, §1505(g), Feb. 10, 1996, 110 Stat. 515; Pub. L. 105–277, div. G, title XII, §1225(d)(4), Oct. 21, 1998, 112 Stat. 2681–774; Pub. L. 109–401, title I, §104(e), Dec. 18, 2006, 120 Stat. 2734.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–401, in second proviso, inserted ", or an agreement exempted pursuant to section 8003(a)(1) of title 22," after "that subsection".

1998—Pub. L. 105–277, §1225(d)(4)(C), in first undesignated paragraph of concluding provisions, struck out "the Arms Control and Disarmament Agency," after "Department of Energy,".

Subsec. (a). Pub. L. 105–277, §1225(d)(4)(A), in concluding provisions, struck out "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director')" before "; and after consultation", inserted "and" after "Secretary of Energy,", substituted "Commission. The Secretary of State" for "Commission, and the Director, who", and inserted "Each Nuclear Proliferation Assessment Statement prepared pursuant to this chapter shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information." after "nuclear explosive purpose."

Subsec. (d). Pub. L. 105–277, §1225(d)(4)(B), in first proviso, substituted "Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto," for "Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency," and substituted "have been" for "has been".

1996—Subsec. (a). Pub. L. 104–106 substituted ", 2164(b), or 2164(d)" for "2164(b), or 2164(d)" in concluding provisions.

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in penultimate paragraph.

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" in penultimate paragraph.

Subsec. (a). Pub. L. 103–337, §3155(c)(1)(B), substituted "2164(b), or 2164(d)" for "or 2164(b)" in provisions following par. (9).

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" wherever appearing.

Subsec. (b). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Pub. L. 103–337, §3155(c)(1)(C), inserted "(except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title)" after "the President has submitted text of the proposed agreement for cooperation".

Subsec. (c). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Subsec. (d). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in two places.

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" in two places.

1985—Subsec. (a). Pub. L. 99–64, §301(a)(1), in provisions following par. (9) inserted "(A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this chapter, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)" after "Assessment Statement".

Subsec. (b). Pub. L. 99–64, §301(a)(2), inserted "the President has submitted text of the proposed agreement for cooperation, together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 2159(g) of this title) concerning the consistency of the terms of the proposed agreement with all the requirements of this chapter, and".

Subsec. (d). Pub. L. 99–64, §301(a)(3), (b), substituted "adopts, and there is enacted, a joint resolution" for "adopts a concurrent resolution", inserted a further proviso directing that an agreement for cooperation exempted by the President pursuant to subsection (a) of this section from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement, inserted sentence directing that during the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved, and substituted "section 2159(i) of this title" for "section 2159 of this title for the consideration of Presidential submissions".

1978—Subsec. (a). Pub. L. 95–242 amended and carried forward into pars. (3), (5), and (6) the existing provisions relating to the terms and conditions required for inclusion in all new agreements for cooperation, inserted new terms and conditions set out in pars. (1), (2), (4), (7), (8), and (9), inserted provisions empowering the President to exempt proposed agreements from any of the requirements if he determines that inclusion of the requirement would be seriously prejudicial to the achievement of United States nonproliferation objectives or jeopardize the common defense and security for any other reason, provided for Congressional rejection of any such Presidential exemption, and provided that agreements be negotiated by the Department of State, with an exception for defense related agreements.

Subsec. (b). Pub. L. 95–242 reenacted existing provisions with only minor changes in punctuation.

Subsec. (c). Pub. L. 95–242 inserted ''(if not an agreement subject to subsection (d) of this section)'' after ''the proposed agreement for cooperation'', substituted ''submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations for a period of thirty days of continuous session (as defined in section 2159(g) of this title)'' for ''submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of the adjournment of more than three days)'', and substituted reference to ''these committees'' for reference to ''the Joint Committee'' in proviso.

Subsec. (d). Pub. L. 95–242 provided that proposed agreements be laid before the Committees on International Relations and Foreign Relations rather than the Joint Committee on Atomic Energy and that for major agreements the Nuclear Proliferation Assessment Statement, if any, prepared in conjunction with the President's review of the proposed agreement, also be submitted to the committees, and added unlettered paragraphs following subsec. (d) relating to the submission of agency views to Congressional committees and the failure of the Congress to act on agreements which exempt the recipient nation from the requirements of subsec. (a)(2).

1974—Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title in opening par.

Subsec. (d). Pub. L. 93–485 inserted reference to proposed agreements entailing implementation of sections 2073, 2074, 2133, or 2134 of this title, or in relation to reactors capable of producing more than five thermal megawatts or special nuclear material in connection therewith, inserted provision requiring the Joint Committee to submit a report to Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution favoring or otherwise of such agreement within the first thirty days of the sixty day period and providing that such concurrent resolution so reported shall become the pending business of the House in question within twenty-five days and shall be voted on within five days thereafter unless such House determined otherwise, and struck out the proviso that during the 85th Congress the waiting period shall be thirty days.

1964—Pub. L. 88–489 inserted reference to section 2073 in opening par.

1958—Pub. L. 85–479, § 3, inserted reference to section 2121 in opening par.

Subsec. (a). Pub. L. 85–479, § 3, included agreements for cooperation arranged pursuant to section 2121(c) of this title, and inserted in cl. (3) the exception in the case of agreements arranged pursuant to section 2121(c) of this title.

Subsec. (c). Pub. L. 85–681 inserted proviso clause relating to waiver waiting period.

Subsec. (d). Pub. L. 85–479, § 4, added subsec. (d).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 301(d) of Pub. L. 99–64 provided that: ''The amendments made by this section [amending this section and section 2159 of this title] shall apply to any agreement for cooperation which is entered into after the date of the enactment of this Act [July 12, 1985].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–485 provided that: ''This Act [amending this section] shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter [Oct. 26, 1974] submitted to the Congress.''

APPLICABILITY OF NOTICE AND WAIT PROVISIONS

Section 3155(b) of Pub. L. 103–337, as amended by Pub. L. 104–201, div. C, title XXXI, § 3160, Sept. 23, 1996, 110 Stat. 2843; Pub. L. 107–314, div. D, title XLV, § 4501(b), formerly Pub. L. 104–106, div. C, title XXXI, § 3154(b), Feb. 10, 1996, 110 Stat. 624, renumbered § 4501(b) of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, § 3141(h)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1771, provided that: ''Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act [42 U.S.C. 2164(d)], as inserted by subsection (a), until October 1, 1997.''

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

FUEL CYCLE EVALUATIONS; REPORT TO CONGRESS

Pub. L. 95–601, § 9, Nov. 6, 1978, 92 Stat. 2951, directed Commission to monitor and assist, as requested, International Fuel Cycle Evaluation and studies and evaluations of various nuclear fuel cycle systems by Department of Energy in progress as of Nov. 6, 1978, and report to Congress semiannually through calendar year 1980 and annually through calendar year 1982 on status of domestic and international evaluations of nuclear fuel cycle systems, with report to include a summary of in-

formation developed by and available to Commission on health, safety, and safeguards implications of leading fuel cycle technologies.

ADEQUACY OF LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT OF NUCLEAR MATERIALS, ETC., AND SAFEGUARDS PREVENTING PROLIFERATION OF NUCLEAR MATERIALS

Pub. L. 93–500, §14, Oct. 29, 1974, 88 Stat. 1557, directed President to review and report to Congress within six months after Oct. 29, 1974, on all laws and pertinent regulations issued thereunder, governing the export and re-export of nuclear materials and information relating to the design and development thereof, in order to curb further domestic and international nuclear proliferation, diversion, or theft of nuclear materials.

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, title I, §125, as added by Apr. 12, 1957, Pub. L. 85–14, 71 Stat. 11; amended by Aug. 17, 1974, Pub. L. 93–377, §5, 88 Stat. 475; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944, provided that the President could authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with this section, on behalf of Berlin, which for the purposes of this chapter comprised those areas over which the Berlin Senate exercised jurisdiction (the United States, British, and French sectors) and the Commission could thereafter cooperate with Berlin pursuant to section 2074(a), 2077, 2094, 2112, 2133, or 2134 of this title, with provision that the guaranties required by this section were to be made by Berlin with the approval of the allied commandants.

EX. ORD. NO. 10841. INTERNATIONAL COOPERATION

Ex. Ord. No. 10841, eff. Sept. 30, 1959, 24 F.R. 7941, as amended by Ex. Ord. No. 10956, eff. Aug. 10, 1961, 26 F.R. 7315; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

SECTION 1. Whenever the President, pursuant to section 123 of the Act [this section], has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act [sections 2121(c), 2164(a), 2164(b), 2164(c) of this title], such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c [sections 2121(c), 2164(a), 2164(b), or 2164(c) of this title], as pertinent. In respect of sections 91c, 144b, and 144c [sections 2121(c), 2164(b), and 2164(c) of this title], authorizations by the President to cooperate shall be subject to the requirements of sections 123d of the Act [subsec. (d) of this section] and shall also be subject to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Secretary of Energy are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following-described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act [section 2121(c) of this title] to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act [section 2164(b) of this title] to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided*, That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.

(3) The authority vested in the President by section 144c of the Act [section 2164(c) of this title] to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Secretary of Energy are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act [section 2121(c) of this title] of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act [this chapter] shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act [this chapter] shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

§2153a. Approval for enrichment after export of source or special nuclear material; export of major critical components of enrichment facilities

(a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approval of the United States for such enrichment: *Provided*, That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 2160 of this title, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further*, That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after March 10, 1978, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to section 2121(c), 2164(b), or 2164(c) of this title) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term ''major critical component'' means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

(Pub. L. 95–242, title IV, §402, Mar. 10, 1978, 92 Stat. 145.)

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of function vested in President under subsec. (b) of this section, see section 1(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153b. Export policies relating to peaceful nuclear activities and international nuclear trade

The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) Undertakings by transferee nations receiving nuclear material and equipment or sensitive nuclear technology

No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose, except as permitted by Article V, the Treaty;

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measures will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

(b) Enrichment of source or special nuclear material only under effective international auspices and inspection

(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in section 2014(aa)(2) of this title) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Establishment of physical security measures

Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) United States military activities

Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

(Pub. L. 95–242, title IV, § 403, Mar. 10, 1978, 92 Stat. 146.)

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153c. Renegotiation of agreements for cooperation

(a) Application to existing agreements of undertakings required of new agreements after March 10, 1978

The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on March 10, 1978, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under this chapter. To the extent that an agreement for cooperation in effect on March 10, 1978, with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 2156 of this title with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on March 10, 1978, with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 2153(a) of this title, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in this chapter shall be deemed to relinquish any rights which the United States may have under any agreement for cooperation in force on March 10, 1978.

(b) Presidential review of export agreement conditions and policy goals

The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 2153(a) of this title and the export policy goals set forth in section 2153b of this title to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

(c) Presidential proposals for additional export criteria

If the President proposes enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) Congressional action

If the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, after reviewing the President's annual report or any proposed legislation, determines that it is in the interest of United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to section 2159(b) through (g) of this title.

(Pub. L. 95–242, title IV, § 404, Mar. 10, 1978, 92 Stat. 147; Pub. L. 103–437, § 15(g), Nov. 2, 1994, 108 Stat. 4593.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section 2153b of this title, referred to in subsec. (b), was in the original "section 401", meaning section 401 of Pub. L. 95–242, which amended section 2153 of this title. Section 401 has been translated as section 2153b of this title, which was enacted by section 403 of Pub. L. 95–242, to reflect the probable intent of Congress in view of the reference to the export policy goals which are set forth in section 2153b of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the

promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

SUPPLY OF ADDITIONAL LOW-ENRICHED URANIUM UNDER INTERNATIONAL AGREEMENTS FOR COOPERATION IN CIVIL USES OF NUCLEAR ENERGY

Pub. L. 96–280, June 18, 1980, 94 Stat. 550, provided that:

''SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

''SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 [this chapter] and by the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.].

''(b) The term 'low-enriched uranium' means uranium enriched to less than 20 per centum in the isotope 235.''

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153d. Authority to continue agreements for cooperation entered into prior to March 10, 1978

(a) The amendments to section 2153 of this title made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to March 10, 1978.

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

(Pub. L. 95–242, title IV, § 405, Mar. 10, 1978, 92 Stat. 148.)

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153e. Protection of environment

The President shall endeavor to provide in any agreement entered into pursuant to section 2153 of this title for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

(Pub. L. 95–242, title IV, § 407, Mar. 10, 1978, 92 Stat. 148.)

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153e–1. Effectiveness of rule, regulation, or procedure with regard to exports subject to Nuclear Non-Proliferation Act of 1978

No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled ''Protection of the Environment'' which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.

(Pub. L. 95–630, title XIX, § 1913, Nov. 10, 1978, 92 Stat. 3727.)

REFERENCES IN TEXT

The Nuclear Non-Proliferation Act of 1978, referred to in text, is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of Title 12, Banks and Banking.

§ 2153f. Savings clause; Nuclear Non-Proliferation Act of 1978

(a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 2121(c), 2164(b), or 2164(c) of this title or arrangements pursuant thereto as it was in effect immediately prior to March 10, 1978.

(Pub. L. 95–242, title VI, § 603(a), (b), Mar. 10, 1978, 92 Stat. 152.)

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2154. International atomic pool

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074(a), 2077, 2094, 2112, 2133, 2134, or 2164(a) of this title: *Provided, however*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(Aug. 1, 1946, ch. 724, title I, § 124, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940; amended Pub. L. 93–377, § 5, Aug. 17, 1974, 88 Stat. 475; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1974—Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2155. Export licensing procedures

(a) Executive branch judgment on export applications; criteria governing United States nuclear exports

No license may be issued by the Nuclear Regulatory Commission (the ''Commission'') for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 2074, 2094, or 2112 of this title, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

(1) the Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, and the Nuclear Regulatory Commission, for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the ex-

tent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations con[1] be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 2153b or 2153c(a) of this title;

(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 2156 of this title will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 2156 of this title or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 2154 of this title shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 2156 of this title for a period of thirty days after March 10, 1978, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 2153c(a) of this title; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on March 10, 1978: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 2156 of this title, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 2159 of this title: *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no material changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission inde-

[1] So in original. Probably should be ''can''.

pendently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

(b) Requests to be given timely consideration; Presidential review if Commission is unable to make required statutory determinations; Commission review

(1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this chapter, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and shall be referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 2155a of this title shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 2155a of this title, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection (a)(1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection (a)(1) of this section.

(c) Additional export criteria

In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this chapter, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 2159 of this title.

(Aug. 1, 1946, ch. 724, title I, §126, as added Pub. L. 95–242, title III, §304(a), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105–277, div. G, title XII, §1225(d)(5), Oct. 21, 1998, 112 Stat. 2681–774.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–277 substituted ''and the Nuclear Regulatory Commission,'' for ''the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission''.

1994—Pub. L. 103–437 substituted ''Foreign Affairs'' for ''International Relations'' wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States

Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

TRANSFER OF FUNCTIONS

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

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to the functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

NUCLEAR EXPORT REPORTING REQUIREMENT

Pub. L. 105–261, div. A, title XV, § 1523, Oct. 17, 1998, 112 Stat. 2180, as amended by Pub. L. 106–113, div. B, § 1000(a)(7) [div. B, title XI, § 1135], Nov. 29, 1999, 113 Stat. 1536, 1501A–494, provided that:

''(a) NOTIFICATION OF CONGRESS.—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

''(b) APPLICABILITY.—The requirements of this section shall apply only to an export or reexport to a country that—

''(1) the President has determined is a country that has detonated a nuclear explosive device; and

''(2) is not a member of the North Atlantic Treaty Organization.

''(c) CONTENT OF NOTIFICATION.—The notification required pursuant to this section shall include—

''(1) a detailed description of the articles or services to be exported or reexported, including a brief description of the capabilities of any article to be exported or reexported;

''(2) an estimate of the number of officers and employees of the United States Government and of United States Government civilian contract personnel expected to be required in such country to carry out the proposed export or reexport;

''(3) the name of each licensee expected to provide the article or service proposed to be sold and a description from the licensee of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);

''(4) the projected delivery dates of the articles or services to be exported or reexported; and

''(5) the extent to which the recipient country in the previous two years has engaged in any of the actions specified in subparagraph (A), (B), or (C) of section 129(2) of the Atomic Energy Act of 1954 [42 U.S.C. 2158(2)(A), (B), (C)].''

[Memorandum of President of the United States, July 8, 2004, 69 F.R. 43725, delegated to Secretary of State the functions conferred upon the President by section 1523 of Pub. L. 105–261, set out above.]

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 12055. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12055, Apr. 27, 1978, 43 F.R. 18157, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America and by Section 126b(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2155), as amended by Section 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242, 92 Stat. 131) [subsec. (b)(2) of this section], and having determined that withholding the export proposed pursuant to Nuclear Regulatory Commission export license application XSNM–1060 would be seriously prejudicial to the achievement of the United States non-proliferation objectives, that export to India is authorized; however, such export shall not occur for a period of 60 days as defined by Section 130g of the Atomic Energy Act of 1954, as amended [section 2159(g) of this title].

JIMMY CARTER.

EXECUTIVE ORDER NO. 12193

Ex. Ord. No. 12193, Feb. 12, 1980, 45 F.R. 9885, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1981, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EX. ORD. NO. 12218. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12218, June 19, 1980, 45 F.R. 41625, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126b. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(b)(2)), and having determined that withholding the exports proposed pursuant to Nuclear Regulatory Commission export license applications XSNM–1379, XSNM–1569, XCOM–0240, XCOM–0250, XCOM–0376, XCOM–0381 and XCOM–0395, would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security, those exports to India are authorized; however, such exports shall not occur for a period of 60 days as defined by Section 130 g. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2159(g)).

JIMMY CARTER.

EXECUTIVE ORDER NO. 12295

Ex. Ord. No. 12295, Feb. 24, 1981, 46 F.R. 14113, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1982, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617. See notes below.

EXECUTIVE ORDER NO. 12351

Ex. Ord. No. 12351, Mar. 9, 1982, 47 F.R. 10505, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1983, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12409

Ex. Ord. No. 12409, Mar. 7, 1983, 48 F.R. 9829, which extended the period of nuclear cooperation with the Euro-

pean Atomic Energy Community to Mar. 10, 1984, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12463

Ex. Ord. No. 12463, Feb. 23, 1984, 49 F.R. 7097, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1985, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12506

Ex. Ord. No. 12506, Mar. 4, 1985, 50 F.R. 8991, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1986. See notes below.

EXECUTIVE ORDER NO. 12554

Ex. Ord. No. 12554, Feb. 28, 1986, 51 F.R. 7423, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1987. See notes below.

EXECUTIVE ORDER NO. 12587

Ex. Ord. No. 12587, Mar. 9, 1987, 52 F.R. 7397, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1988, was superseded by Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875. See notes below.

EXECUTIVE ORDER NO. 12629

Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1989. See notes below.

EXECUTIVE ORDER NO. 12670

Ex. Ord. No. 12670, Mar. 9, 1989, 54 F.R. 10267, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1990, was superseded by Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313. See notes below.

EXECUTIVE ORDER NO. 12706

Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1991, was superseded by Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501. See notes below.

EXECUTIVE ORDER NO. 12753

Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1992, was superseded by Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717. See notes below.

EXECUTIVE ORDER NO. 12791

Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1993, was superseded by Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401. See notes below.

EXECUTIVE ORDER NO. 12840

Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1994, was superseded by Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473. See notes below.

EXECUTIVE ORDER NO. 12903

Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1995, was superseded by Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365. See note below.

EX. ORD. NO. 12955. NUCLEAR COOPERATION WITH EUROPEAN ATOMIC ENERGY COMMUNITY

Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such Act and extended for 12-month periods by Executive Order Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, 12791, 12840, and 12903 [see notes above], failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to December 31, 1995. Executive Order No. 12903 shall be superseded on the effective date of this Executive order.

WILLIAM J. CLINTON.

DELEGATION OF FUNCTIONS REGARDING DETERMINATION OF TIME, TERMS AND CONDITIONS OF NUCLEAR EXPORTS

Memorandum of the President of the United States, dated Oct. 3, 1980, provided:

By the authority vested in me by Title 3, United States Code, Section 301, you are hereby authorized to perform the following functions on my behalf:

1. Determination of the time, terms and conditions of exports made pursuant to any Executive Order heretofore or hereafter issued under Section 126(b)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. §2155(b)(2)).

2. Issuance of such rules, regulations and procedures as you may from time to time deem necessary or desirable for the exercise of functions delegated by paragraph 1.

This memorandum shall be published in the Federal Register.

JIMMY CARTER.

§2155a. Regulations establishing Commission procedures covering grant, suspension, revocation, or amendment of nuclear export licenses or exemptions

(a) Omitted

(b) Within one hundred and twenty days of March 10, 1978, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by this chapter, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commis-

sion: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c) The procedures to be established pursuant to subsection (b) of this section shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 2239(a) of this title, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

(Pub. L. 95–242, title III, § 304(b), (c), Mar. 10, 1978, 92 Stat. 135.)

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

This Act, referred to in subsec. (b), means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is based on subsecs. (b) and (c) of Pub. L. 95–242. Subsecs. (a) and (d) of Pub. L. 95–242 enacted sections 2155 and 2156a, respectively, of this title.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2156. Criteria governing United States nuclear exports

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 2156a of this title, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.

(Aug. 1, 1946, ch. 724, title I, § 127, as added Pub. L. 95–242, title III, § 305, Mar. 10, 1978, 92 Stat. 136; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2156a. Regulations establishing levels of physical security to protect facilities and material

Within sixty days of March 10, 1978, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy, and the Secretary of Defense, promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgement are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 2156 of this title taking into consideration variations in risks to security as appropriate.

(Pub. L. 95–242, title III, §304(d), Mar. 10, 1978, 92 Stat. 135; Pub. L. 105–277, div. G, title XII, §1225(e)(3), Oct. 21, 1998, 112 Stat. 2681–775.)

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277 substituted ''and the Secretary of Defense,'' for ''the Secretary of Defense, and the Director,''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2157. Additional export criterion and procedures

(a)(1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

(b) The criterion set forth in subsection (a) of this section shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection (a) of this section which is filed after eighteen months from March 10, 1978, or for any such application under which the first export would occur at least twenty-four months after March 10, 1978, except as provided in the following paragraphs:

(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of the law: *Provided*, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 2155 of this title, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection (a) of this section shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or

authorization submitted pursuant to paragraph (1), the criterion set forth in subsection (a) of this section shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection (a) of this section to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

(Aug. 1, 1946, ch. 724, title I, § 128, as added Pub. L. 95–242, title III, § 306, Mar. 10, 1978, 92 Stat. 137; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592.)

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–437 substituted ''Foreign Affairs'' for ''International Relations''.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing function vested in President under subsec. (a)(2) of this section and responsible for preparation of timely information and recommendations related to functions vested in President under subsec. (b) of this section, see section 2(b), (d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2158. Conduct resulting in termination of nuclear exports

(a) No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after March 10, 1978,

(A) detonated a nuclear explosive device; or

(B) terminated or abrogated IAEA safeguards; or

(C) materially violated an IAEA safeguards agreement; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

(2) any nation or group of nations that is found by the President to have, at any time after March 10, 1978,

(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 2153a(a) of this title; or

(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(C) entered into an agreement after March 10, 1978, for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in section 2159(g) of this title), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(b)(1) Notwithstanding any other provision of law, including specifically section 2151 of this title, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 2077(b) of this title and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-relat-

ed items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 2371(a) of title 22, section 2405(j)(1) of title 50, Appendix, or section 2780(d) of title 22 to have repeatedly provided support for acts of international terrorism).

(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(Aug. 1, 1946, ch. 724, title I, § 129, as added Pub. L. 95–242, title III, § 307, Mar. 10, 1978, 92 Stat. 138; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 109–58, title VI, § 632(a), Aug. 8, 2005, 119 Stat. 788.)

AMENDMENTS

2005—Pub. L. 109–58 designated existing provisions as subsec. (a) and added subsec. (b).

1994—Pub. L. 103–437 substituted ''Foreign Affairs'' for ''International Relations'' in closing provisions.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, § 632(b), Aug. 8, 2005, 119 Stat. 789, provided that: ''Subsection b. of section 129 of Atomic Energy Act of 1954 [42 U.S.C. 2158(b)], as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act [Aug. 8, 2005] but have not yet been transferred as of that date.''

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2159. Congressional review procedures

(a) Committee consideration of Presidential submissions; reports

Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by section 2155(a)(2), 2155(b)(2), 2157(b), 2158, 2160(a)(3), or 2160(f)(1)(A) of this title, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection (f) of this section, stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection (f) of this section, which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

(b) Consideration of resolution by respective Houses of Congress

When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection (a) of this section) or when a resolution has been introduced and placed on the appropriate calendar pursuant

to subsection (a) of this section, as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(c) Debate

Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (d) of this section.

(d) Vote on final approval

Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, ''does not'' in lieu of the word ''does'' if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

(e) Appeals from decisions of Chair

Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

(f) Resolution

For the purposes of subsections (a) through (e) of this section, the term ''resolution'' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: ''That the Congress (does or does not) favor the transmitted to the Congress by the President on , .'', the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

(g) Continuity of Congressional sessions; computation of time

(1) Except as provided in paragraph (2), for the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(2) For purposes of this section insofar as it applies to section 2153 of this title—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.

(h) Supersedure or change in rules

This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (f) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(i) Joint resolutions

(1) For the purposes of this subsection, the term ''joint resolution'' means a joint resolution, the matter after the resolving clause of which is as follows: ''That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .'', with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 2153(d) of this title, a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all

joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(Aug. 1, 1946, ch. 724, title I, § 130, as added Pub. L. 95–242, title III, § 308, Mar. 10, 1978, 92 Stat. 139; amended Pub. L. 99–64, title III, § 301(c), July 12, 1985, 99 Stat. 160; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592.)

REFERENCES IN TEXT

Section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (i)(5), is section 601(b)(4) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and is not classified to the Code.

AMENDMENTS

1994—Subsecs. (a), (i)(2). Pub. L. 103–437 substituted ''Foreign Affairs'' for ''International Relations''.

1985—Subsec. (a). Pub. L. 99–64, § 301(c)(1), struck out ''2153(d),'' after ''submission of the President required by section'', struck out '', and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,'' after ''Committee on Foreign Affairs of the House of Representatives'', and struck out in proviso ''and if, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution'' after ''consideration of such submission''.

Subsec. (g). Pub. L. 99–64, § 301(c)(2), designated existing provisions of subsec. (g) as par. (1), substituted ''Except as provided in paragraph (2), for'' for ''For'', redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (i). Pub. L. 99–64, § 301(c)(2)(B), added subsec. (i).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–64 applicable to any agreement for cooperation entered into after July 12, 1985, see section 301(d) of Pub. L. 99–64, set out as a note under section 2153 of this title.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2160. Subsequent arrangements

(a) Consultation and concurrence; negotiations of a policy nature; notice of proposed subsequent arrangements; Nuclear Proliferation Assessment Statement; reprocessing of material

(1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Secretary of State is required to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the requirement to prepare a Nuclear Proliferation Assessment Statement shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by

subsection (c) of this section for the preparation of such Statement, whichever occurs first.

(2) If in the view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission a proposed subsequent arrangement might significantly contribute to proliferation, the Secretary of State, in consultation with such Secretary or the Commission, shall prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term ''subsequent arrangements'' means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

(A) contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to this chapter which is not subject to the procedures set forth in section 2141(b), section 2155, or section 2139(b) of this title;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to all requests for prior approval, when required by this chapter, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 2153 of this title.

(4) All other statutory requirements under other sections of this chapter for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to paragraph (1).

(b) Reports to Congressional committees; increase in risk of proliferation

With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in section 2159(g) of this title) has elapsed: *Provided, however*, That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to March 10, 1978, or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and

(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to March 10, 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in his view, and that of the Secretary of State, satisfy the standards set forth in paragraph (2).

(c) Procedures for consideration of requests for subsequent arrangements

The Secretary of Energy shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for

necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Secretary of State shall so declare in his response to the Department of Energy. If the Secretary of State declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Secretary of State's request, the President waives the sixty-day requirement and notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

(d) Activities not prohibited, precluded, or limited

Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 3224 of title 22; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor to prejudice open and objective consideration of the results of the evaluation.

(e) Jurisdiction of Secretary of Energy

Notwithstanding section 7172(d) of this title, the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section.

(f) Subsequent arrangements involving direct or indirect commitment of United States for storage or other disposition of foreign spent nuclear fuel in United States

(1) With regard to any subsequent arrangement under subsection (a)(2)(E) of this section (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title), which plan has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions;

(B) The Secretary of Energy has complied with subsection (a) of this section; and

(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this chapter, under sections 2074 and 2075 of this title and any other applicable sections, and any other requirements of law.

(2) Paragraph (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 2074 or 2075 of this title of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees on Foreign Affairs and Science, Space, and Technology of the House of Representatives and

the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

(3) Any plan submitted by the President under paragraph (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings.

(4) For the purposes of this subsection, the term ''foreign spent nuclear fuel'' shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.

(Aug. 1, 1946, ch. 724, title I, § 131, as added Pub. L. 95–242, title III, § 303(a), Mar. 10, 1978, 92 Stat. 127; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(6), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105–277, div. G, title XII, § 1225(d)(6), (7), Oct. 21, 1998, 112 Stat. 2681–774.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–277, § 1225(d)(6)(A), in first sentence, struck out ''the Director,'' after ''shall consult with'' and, in third sentence, substituted ''the Secretary of State is required'' for ''the Director declares that he intends'' and ''the requirement to prepare a Nuclear Proliferation Assessment Statement'' for ''the Director's declaration''.

Subsec. (a)(2). Pub. L. 105–277, § 1225(d)(6)(B), substituted ''view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission'' for ''Director's view'' and ''the Secretary of State, in consultation with such Secretary or the Commission, shall prepare'' for ''he may prepare''.

Subsec. (c). Pub. L. 105–277, § 1225(d)(7), struck out '', the Director of the Arms Control and Disarmament Agency,'' before ''and the Nuclear'' in first sentence and substituted ''Secretary of State'' for ''Director'' in sixth and seventh sentences and ''Secretary of State's'' for ''Director's'' in seventh sentence.

1994—Subsecs. (b)(1), (c), (f)(1)(A). Pub. L. 103–437, § 15(f)(6)(A), substituted ''Foreign Affairs'' for ''International Relations'' wherever appearing.

Subsec. (f)(2). Pub. L. 103–437 substituted ''Foreign Affairs and Science, Space, and Technology'' for ''International Relations and Science and Technology''.

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of functions vested in President under subsecs. (a)(2)(G), (b)(1), and (f)(2) of this section, and of function vested in President under subsec. (f)(1)(A)(ii) of this section to extent that such function relates to preparation of a detailed generic plan, see section 1(b) and (c) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

Secretary of State responsible for performing function vested in President under subsec. (c) of this section, except that Secretary of State may not waive 60-day requirement for preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without approval of President, see section 2(e) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22.

LIMITATIONS ON RECEIPT AND STORAGE OF SPENT NUCLEAR FUEL FROM FOREIGN RESEARCH REACTORS

Pub. L. 103–160, div. C, title XXXI, § 3151, Nov. 30, 1993, 107 Stat. 1949, provided that:

''(a) PURPOSE.—It is the purpose of this section to regulate the receipt and storage of spent nuclear fuel at the Department of Energy defense nuclear facility located at the Savannah River Site, South Carolina (in this section referred to as the 'Savannah River Site').

''(b) RECEIPT IN EMERGENCY CIRCUMSTANCES.—When the Secretary of Energy determines that emergency circumstances make it necessary to receive spent nuclear fuel, the Secretary shall submit a notification of that determination to the Congress. The Secretary may not receive spent nuclear fuel at the Savannah River Site until the expiration of the 30-day period beginning on the date on which the Congress receives the notification.

''(c) LIMITATION ON STORAGE IN NON-EMERGENCY CIRCUMSTANCES.—The Secretary of Energy may not, under other than emergency circumstances, receive and store at the Savannah River Site any spent nuclear fuel in excess of the amount that (as of the date of the enactment of this Act [Nov. 30, 1993]) the Savannah River Site is capable of receiving and storing, until, with respect to the receipt and storage of any such spent nuclear fuel—

''(1) the completion of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

''(2) the expiration of the 90-day period (as prescribed by regulation pursuant to such Act [42 U.S.C. 4321 et seq.]) beginning on the date of such completion; and

''(3) the signing by the Secretary of a record of decision following such completion.

''(d) LIMITATIONS ON RECEIPT.—The Secretary of Energy may not, under emergency or non-emergency circumstances, receive spent nuclear fuel if the spent nuclear fuel—

''(1) cannot be transferred in an expeditious manner from its port of entry in the United States to a storage facility that is located at a Department of Energy facility and is capable of receiving and storing the spent nuclear fuel; or

''(2) will remain on a vessel in the port of entry for a period that exceeds the period necessary to unload the fuel from the vessel pursuant to routine unloading procedures.

''(e) CRITERIA FOR PORT OF ENTRY.—The Secretary of Energy shall, if economically feasible and to the maximum extent practicable, provide for the receipt of spent nuclear fuel under this section at a port of entry

in the United States which, as determined by the Secretary and compared to each other port of entry in the United States that is capable of receiving the spent nuclear fuel—

''(1) has the lowest human population in the area surrounding the port of entry;

''(2) is closest in proximity to the facility which will store the spent nuclear fuel; and

''(3) has the most appropriate facilities for, and experience in, receiving spent nuclear fuel.

''(f) DEFINITION.—In this section, the term 'spent nuclear fuel' means nuclear fuel that—

''(1) was originally exported to a foreign country from the United States in the form of highly enriched uranium; and

''(2) was used in a research reactor by the Government of a foreign country or by a foreign-owned or foreign-controlled entity.''

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2160a. Review of Nuclear Proliferation Assessment Statements

No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement, or any annexes thereto, called for in this Act or in this chapter.

(Pub. L. 95–242, title IV, § 406, Mar. 10, 1978, 92 Stat. 148; Pub. L. 105–277, div. G, title XII, § 1225(e)(5), Oct. 21, 1998, 112 Stat. 2681–775.)

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277 inserted '', or any annexes thereto,'' before ''called for in''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2160b. Authority to suspend nuclear cooperation with nations which have not ratified the Convention on the Physical Security of Nuclear Material

The President may suspend nuclear cooperation under this chapter with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.

(Aug. 1, 1946, ch. 724, title I, § 132, as added Pub. L. 99–399, title VI, § 602, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2160c. Consultation with Department of Defense concerning certain exports and subsequent arrangements

(a) In addition to other applicable requirements—

(1) a license may be issued by the Nuclear Regulatory Commission under this chapter for the export of special nuclear material described in subsection (b) of this section; and

(2) approval may be granted by the Secretary of Energy under section 2160 of this title for the transfer of special nuclear material described in subsection (b) of this section;

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

(b) Subsection (a) of this section applies to the export or transfer of more than 2 kilograms of plutonium or more than 5 kilograms of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.

(Aug. 1, 1946, ch. 724, title I, § 133, as added Pub. L. 99–399, title VI, § 603, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–236, title VIII, § 829, Apr. 30, 1994, 108 Stat. 521.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236 substituted ''5 kilograms'' for ''20 kilograms''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of Title 22, Foreign Relations and Intercourse.

§ 2160d. Further restrictions on exports

(a) In general

Except as provided in subsection (b) of this section, the Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or

test reactor only if, in addition to any other requirement of this chapter, the Commission determines that—

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

(b) Medical isotope production

(1) Definitions

In this subsection:

(A) Highly enriched uranium

The term ''highly enriched uranium'' means uranium enriched to include concentration of U–235 above 20 percent.

(B) Medical isotope

The term ''medical isotope'' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

(C) Radiopharmaceutical

The term ''radiopharmaceutical'' means a radioactive isotope that—

(i) contains byproduct material combined with chemical or biological material; and

(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

(D) Recipient country

The term ''recipient country'' means Canada, Belgium, France, Germany, and the Netherlands.

(2) Licenses

The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this chapter (except subsection (a) of this section), the Commission determines that—

(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

(i) uses an alternative nuclear reactor fuel; or

(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

(3) Review of physical protection requirements

(A) In general

The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

(B) Imposition of additional requirements

If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

(4) First report to Congress

(A) NAS study

The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

(B) Feasibility

For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of

highly enriched uranium is less than 10 percent.

(C) Report by the Secretary

Not later than 5 years after August 8, 2005, the Secretary shall submit to Congress a report that—

(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

(5) Second report to Congress

If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after August 8, 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

(6) Certification

At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

(7) Sunset provision

After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.

(c) Definitions

As used in this section—

(1) the term ''alternative nuclear reactor fuel or target'' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

(2) the term ''highly enriched uranium'' means uranium enriched to 20 percent or more in the isotope U–235; and

(3) a fuel or target ''can be used'' in a nuclear research or test reactor if—

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

(Aug. 1, 1946, ch. 724, title I, § 134, as added Pub. L. 102–486, title IX, § 903(a)(1), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 630, Aug. 8, 2005, 119 Stat. 785.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, § 630(1), inserted heading and substituted ''Except as provided in subsection (b) of this section, the Commission'' for ''The Commission'' in introductory provisions.

Subsecs. (b), (c). Pub. L. 109–58, § 630(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

SUBCHAPTER XI—CONTROL OF INFORMATION

§ 2161. Policy of Commission

It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

(Aug. 1, 1946, ch. 724, title I, § 141, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2162. Classification and declassification of Restricted Data

(a) Periodic determination

The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

(b) Continuous review

The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

(c) Joint determination on atomic weapons; Presidential determination on disagreement

In the case of Restricted Data which the Commission and the Department of Defense jointly

determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

(d) Removal from Restricted Data category

The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however*, That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection (b) or (d) of section 2164 of this title.

(e) Joint determination on atomic energy programs

The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended,[1] and can be adequately safeguarded as defense information.

(Aug. 1, 1946, ch. 724, title I, § 142, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941; amended Pub. L. 102–484, div. C, title XXXI, § 3152, Oct. 23, 1992, 106 Stat. 2644; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. A, title XXXI, § 3155(c)(2), (3), Oct. 5, 1994, 108 Stat. 3092.)

REFERENCES IN TEXT

Section 102(d) of the National Security Act of 1947, as amended, referred to in subsec. (e), was a reference to section 102(d) of act July 26, 1947, ch. 343, title I, 61 Stat. 497, as amended, which was classified to section 403(d) of Title 50, War and National Defense, prior to repeal by Pub. L. 104–293, title VIII, § 805(a), Oct. 11, 1996, 110 Stat. 3477.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–337, § 3155(c)(2), substituted ''subsection (b) or (d) of section 2164 of this title'' for ''section 2164(b) of this title''.

Subsec. (f). Pub. L. 103–337, § 3155(c)(3), struck out subsec. (f) which read as follows: ''Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.''

1992—Subsec. (f). Pub. L. 102–484 added subsec. (f).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE

Pub. L. 104–106, div. C, title XXXI, § 3155, Feb. 10, 1996, 110 Stat. 625, which was formerly set out as a note under this section, was renumbered section 4521 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(h)(11), Nov. 24, 2003, 117 Stat. 1774, and is classified to section 2671 of Title 50, War and National Defense.

EX. ORD. NO. 10899. COMMUNICATION OF RESTRICTED DATA BY CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER.

MODIFICATION OF EXECUTIVE ORDER NO. 10899

Ex. Ord. No. 10899, Dec. 9, 1960, 25 F.R. 12729, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

EX. ORD. NO. 11057. COMMUNICATION OF RESTRICTED DATA BY DEPARTMENT OF STATE

Ex. Ord. No. 11057, eff. Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and condi-

[1] See References in Text note below.

tions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY.

MODIFICATION OF EXECUTIVE ORDER NO. 11057

Ex. Ord. No. 11057, Oct. 18, 1962, 27 F.R. 10289, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

§ 2163. Access to Restricted Data

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however*, That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further*, That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title.

(Aug. 1, 1946, ch. 724, title I, § 143, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941; amended Aug. 6, 1956, ch. 1015, § 14, 70 Stat. 1071; Pub. L. 87–206, § 5, Sept. 6, 1961, 75 Stat. 476; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1961—Pub. L. 87–206 inserted reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted ''or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title''.

§ 2164. International cooperation

(a) By Commission

The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;

(2) civilian reactor development;

(3) production of special nuclear material;

(4) health and safety;

(5) industrial and other applications of atomic energy for peaceful purposes; and

(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

(b) By Department of Defense

The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors

In addition to the cooperation authorized in subsections (a) and (b) of this section, the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided*,

That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(d) By Department of Energy

(1) In addition to the cooperation authorized in subsections (a), (b), and (c) of this section, the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 2162 of this title, as is necessary for—

(A) the support of a program for the control of and accounting for fissile material and other weapons material;

(B) the support of the control of and accounting for atomic weapons;

(C) the verification of a treaty; and

(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

(A) will promote the common defense and security interests of the United States and the nation concerned; and

(B) will not constitute an unreasonable risk to such common defense and security interests.

(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(e) Communication of data by other Government agencies

The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), (c), or (d) of this section, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

(Aug. 1, 1946, ch. 724, title I, § 144, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942; amended Pub. L. 85–479, §§ 5–7, July 2, 1958, 72 Stat. 278; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. C, title XXXI, § 3155(a), (c)(4), Oct. 5, 1994, 108 Stat. 3091, 3092.)

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–337, § 3155(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103–337, § 3155(c)(4), substituted "(c), or (d)" for "or (c)".

Pub. L. 103–337, § 3155(a)(1), redesignated subsec. (d) as (e).

1958—Subsec. (a). Pub. L. 85–479, § 5, substituted "civilian reactor development" for "reactor development" in cl. (2).

Subsec. (b). Pub. L. 85–479, § 6, authorized communication of design information, of data concerning other military applications of atomic energy necessary for the training of personnel or for the evaluation of the capabilities of potential enemies, and of data necessary to the development of compatible delivery systems for atomic weapons, and struck out provisions which prohibited communication of data which would reveal important information concerning the design or fabrication of the nuclear components of atomic weapons.

Subsecs. (c), (d). Pub. L. 85–479, § 7, added subsecs. (c) and (d).

DELEGATION OF FUNCTIONS

Authority vested in President by subsecs. (b) and (c) of this section delegated to Secretary of Defense and Secretary of Energy, see section 2(a)(2) and (3) of Ex. Ord. No. 10841, as amended, set out as a note under section 2153 of this title.

PROHIBITION ON INSPECTIONS

Pub. L. 104–106, div. C, title XXXI, § 3154(a), Feb. 10, 1996, 110 Stat. 624, which was formerly set out as a note under this section, was renumbered section 4501(a) of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(h)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1771, and is classified to section 2651(a) of Title 50, War and National Defense.

§ 2165. Security restrictions

(a) On contractors and licensees

No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Director of the Office of Personnel Management shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(b) Employment of personnel; access to Restricted Data

Except as authorized by the Commission or the General Manager upon a determination by

the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Director of the Office of Personnel Management shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) Acceptance of investigation and clearance granted by other Government agencies

In lieu of the investigation and report to be made by the Director of the Office of Personnel Management pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

(d) Investigations by FBI

In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Director of the Office of Personnel Management shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Director of the Office of Personnel Management for his information and appropriate action.

(e) Presidential investigation

(1) If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

(2) In the case of an individual employed in a program known as a Special Access Program, any investigation required by subsections (a), (b), and (c) of this section shall be made by the Federal Bureau of Investigation.

(f) Performance of personnel security investigations by FBI

(1) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, but subject to subsection (e) of this section, a majority of the members of the Commission may direct that an investigation required by such provisions on an individual described in paragraph (2) be carried out by the Federal Bureau of Investigation rather than by the Civil Service Commission.

(2) An individual described in this paragraph is an individual who is employed—

(A) in a program certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity; or

(B) in any other specific position certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity.

(g) Investigation standards

The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance

Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §145, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 942; amended Pub. L. 85–681, §5, Aug. 19, 1958, 72 Stat. 633; Pub. L. 87–206, §6, Sept. 6, 1961, 75 Stat. 476; Pub. L. 87–615, §10, Aug. 29, 1962, 76 Stat. 411; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, §3144(a), Oct. 5, 1999, 113 Stat. 934; Pub. L. 108–136, div. C, title XXXI, §3131, Nov. 24, 2003, 117 Stat. 1749.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(5) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2003—Subsec. (e)(2). Pub. L. 108–136, §3131(b), struck out ''or a Personnel Security and Assurance Program'' after ''Special Access Program''.

Subsec. (f). Pub. L. 108–136, §3131(a), amended text of subsec. (f) generally. Prior to amendment, text read as follows: ''Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.''

1999—Subsec. (e). Pub. L. 106–65 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (f). Pub. L. 87–615 struck out the comma after ''investigation''.

1961—Subsecs. (c), (d). Pub. L. 87–206 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e). Pub. L. 87–206 redesignated former subsec. (d) as (e) and amended provisions by substituting ''determine that'' for ''cause investigations'', inserting reference to subsection (c) of this section and striking out

''instead of by the Civil Service Commission'' after ''Federal Bureau of Investigation''. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87–206 redesignated former subsec. (e) as (f) and amended provisions by inserting reference to subsection (c) of this section and striking out ''instead of by the Civil Service Commission'' after ''Federal Bureau of Investigation''. Former subsec. (f) redesignated (g).

Subsecs. (g), (h). Pub. L. 87–206 redesignated former subsec. (f) as (g) and amended provisions by substituting '', the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security'' for ''to be made by the Civil Service Commission pursuant to subsections (a) and (b) of this section.'' Former subsec. (g) redesignated (h).

1958—Subsec. (g). Pub. L. 85–681 added subsec. (g).

IMPLEMENTATION OF SUBSECTION (e)(2)

Pub. L. 106–65, div. C, title XXXI, § 3144(b), (c), Oct. 5, 1999, 113 Stat. 934, provided that:

''(b) COMPLIANCE.—The Director of the Federal Bureau of Investigation shall have 18 months from the date of the enactment of this Act [Oct. 5, 1999] to meet the responsibilities of the Bureau under subsection e.(2) of section 145 of the Atomic Energy Act of 1954 [42 U.S.C. 2165(e)(2)], as added by subsection (a).

''(c) REPORT.—(1) Not later than six months after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the committees specified in paragraph (2) a report on the implementation of the responsibilities of the Bureau under subsection e.(2) of that section. That report shall include the following:

''(A) An assessment of the capability of the Bureau to execute the additional clearance requirements, to include additional post-initial investigations.

''(B) An estimate of the additional resources required, to include funding, to support the expanded use of the Bureau to conduct the additional investigations.

''(C) The extent to which contractor personnel are and would be used in the clearance process.

''(2) The committees referred to in paragraph (1) are the following:

''(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' and ''his'' substituted for ''Civil Service Commission'' and ''its'', respectively, in subsecs. (a) to (d), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 2166. Applicability of other laws

(a) Sections 2161 to 2165 of this title shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

(b) The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

(Aug. 1, 1946, ch. 724, title I, § 146, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(6) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2167. Safeguards information

(a) Confidentiality of certain types of information; issuance of regulations and orders; considerations for exercise of Commission's authority; disclosure of routes and quantities of shipment; civil penalties; withholding of information from Congressional committees

In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2)[1]

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the

[1] So in original. Probably should be followed by a semicolon.

public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this chapter shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 2282 of this title. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

(b) Regulations or orders issued under this section and section 2201(b) of this title for purposes of section 2273 of this title

For the purposes of section 2273 of this title, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 2201(b) of this title.

(c) Judicial review

Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5.

(d) Reports to Congress; contents

Upon prescribing or issuing any regulation or order under subsection (a) of this section, the Commission shall submit to Congress a report that:

(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 147, as added Pub. L. 96–295, title II, § 207(a)(1), June 30, 1980, 94 Stat. 788; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

Subsection (e) of this section, which required the Commission to submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 7 on page 186 of House Document No. 103–7.

§ 2168. Dissemination of unclassified information

(a) Dissemination prohibited; rules and regulations; determinations of Secretary prerequisite to issuance of prohibiting regulations or orders; criteria

(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Energy (hereinafter in this section referred to as the ''Secretary''), with respect to atomic energy defense programs, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to—

(A) the design of production facilities or utilization facilities;

(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 2162 of this title.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

(b) Civil penalties

(1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed $100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

(2) The provisions of subsections (b) and (c) of section 2282 of this title, shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection (a) of such section.

(c) Criminal penalties

For the purposes of section 2273 of this title, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 2201(b) of this title.

(d) Judicial review

Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(e) Quarterly reports for interested persons; contents

The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

(1) identify any information protected from disclosure pursuant to such regulation or order;

(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection (a) of this section; and

(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 148, as added Pub. L. 97–90, title II, § 210(a)(1), Dec. 4, 1981, 95 Stat. 1169; amended Pub. L. 97–415, § 17, Jan. 4, 1983, 96 Stat. 2076; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97–415, § 17(a), inserted ", with respect to atomic energy defense programs," after "(hereinafter in this section referred to as the 'Secretary')".

Subsecs. (d), (e). Pub. L. 97–415, § 17(b), added subsecs. (d) and (e).

§ 2169. Fingerprinting for criminal history record checks

(a) In general

(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

(B) The Commission shall require to be fingerprinted any individual who—

(i) is permitted unescorted access to—

(I) a utilization facility; or

(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

(ii) is permitted access to safeguards information under section 2167 of this title.

(2) All fingerprints obtained by an individual or entity as required in paragraph (1) shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check.

(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(4) Notwithstanding any other provision of law—

(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(b) Waiver

The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

(c) Regulations

For purposes of administering this section, the Commission shall prescribe requirements—

(1) to implement procedures for the taking of fingerprints;

(2) to establish the conditions for use of information received from the Attorney General, in order—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B) of this section or shall be permitted access to safeguards information under section 2167 of this title;

(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

(d) Use of biometric methods

The Commission may require a person or individual to conduct fingerprinting under subsection (a)(1) of this section by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

(1) the Attorney General; and

(2) the Commission, by regulation.

(e) Processing fees; use of amounts collected

(1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

(2) Notwithstanding section 3302(b) of title 31, and to the extent approved in appropriation Acts—

(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

(3) Any amount made available for use under paragraph (2) shall remain available until expended.

(Aug. 1, 1946, ch. 724, title I, § 149, as added Pub. L. 99–399, title VI, § 606(a), Aug. 27, 1986, 100 Stat. 876; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, § 652, Aug. 8, 2005, 119 Stat. 810.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, § 652(1), revised and restructured provisions of subsec. (a). Prior to amendment, subsec. (a) read as follows: ''The Nuclear Regulatory Commission (in this section referred to as the 'Commission') shall require each licensee or applicant for a license to operate a utilization facility under section 2133 or 2134(b) of this title to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 2167 of this title. All fingerprints obtained by a licensee or applicant as required in the preceding sentence shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the licensee or applicant submitting such fingerprints.'' Amendment by Pub. L. 109–58, § 652(1)(D), which misquoted the sentence to be stricken by leaving out the word ''the'' before ''licensee'', was nevertheless executed to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109–58, § 652(2)(A), substituted ''requirements—'' for '', subject to public notice and comment, regulations—'' in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 109–58, § 652(2)(B), substituted ''unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B) of this section'' for ''unescorted access to the facility of a licensee or applicant''.

Subsecs. (d), (e). Pub. L. 109–58, § 652(3), (4), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE

Section 606(b) of Pub. L. 99–399 provided that: ''The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954 [subsec. (a) of this section], as added by this Act, shall take effect upon the promulgation of regulations by the Nuclear Regulatory Commission as set forth in subsection c. of such section [subsec. (c) of this section]. Such regulations shall be promulgated not later than 6 months after the date of the enactment of this Act [Aug. 27, 1986].''

SUBCHAPTER XII—PATENTS AND INVENTIONS

§ 2181. Inventions relating to atomic weapons, and filing of reports

(a) Denial of patent; revocation of prior patents

No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

(b) Denial of rights; revocation of prior rights

No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(c) Report of invention to Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

(d) Report to Commission by Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c) of this section, and shall provide the Commission access to all such applications.

(e) Confidential information; circumstances permitting disclosure

Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

(Aug. 1, 1946, ch. 724, title I, § 151, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943; amended Pub. L. 87–206, §§ 7–9, Sept. 6, 1961, 75 Stat. 477; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(b)(18)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106–113 substituted ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office'' for ''Commissioner of Patents''.

1961—Pub. L. 87–206, § 7, substituted provision concerning inventions relating to atomic weapons and filing of reports for provision relating to military utilization in section catchline.

Subsec. (c). Pub. L. 87–206, § 8, struck out designation as cl. (1) of provision relating to production or utilization of special nuclear material or atomic energy and cls. (2) and (3) relating to utilization of special nuclear material in an atomic weapon and utilization of atomic energy in an atomic weapon, respectively, and substituted ''the one hundred and eightieth day'' for ''whichever of the following is the later: either the ninetieth day after completion of such invention or discovery; or the ninetieth day''.

Subsec. (e). Pub. L. 87–206, § 9, added subsec. (e).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING ATOMIC ENERGY CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of Title 35, Patents.

§ 2182. Inventions conceived during Commission contracts; ownership; waiver; hearings

Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (unless the Commission advises the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission,

within 90 days after receipt of copies of the application and statement, directs the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before the Board of Patent Appeals and Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the United States Court of Appeals for the Federal Circuit in accordance with the procedures governing the appeals from the Board of Patent Appeals and Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

(Aug. 1, 1946, ch. 724, title I, § 152, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 944; amended Pub. L. 87–206, § 10, Sept. 6, 1961, 75 Stat. 477; Pub. L. 87–615, § 11, Aug. 29, 1962, 76 Stat. 411; Pub. L. 97–164, title I, § 162(2), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98–622, title II, § 205(b), Nov. 8, 1984, 98 Stat. 3388; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(b)(19)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585.)

AMENDMENTS

1999—Pub. L. 106–113 substituted ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office'' for ''Commissioner of Patents'' wherever appearing.

1984—Pub. L. 98–622, in third par., substituted ''the Board of Patent Appeals and Interferences'' for ''a Board of Patent Interferences'' and ''the Board of Patent Interferences''.

1982—Pub. L. 97–164 substituted ''United States Court of Appeals for the Federal Circuit'' for ''Court of Customs and Patent Appeals'' in third par.

1962—Pub. L. 87–615 substituted ''allowance'' for ''allowances'' before ''forward copies of the application'' in first par.

1961—Pub. L. 87–206 clarified language concerning Commission's patent rights on inventions made or conceived under contract, subcontract, or arrangement with Commission, striking out language extending Commission's patent rights to other relationships and activities in connection with Commission contracts, provided for waiver of patent rights consistent with the policy of this section and for finality of determinations of Commission, and dispensed with need for statement to Commissioner of Patents under certain circumstances.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–622, effective three months after Nov. 8, 1984, see section 207 of Pub. L. 98–622, set out as a note under section 41 of Title 35, Patents.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 2183. Nonmilitary utilization

(a) Declaration of public interest

The Commission may, after giving the patent owner an opportunity for a hearing, declare any patent to be affected with the public interest if (1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy; and (2) the licensing of such invention or discovery under this section is of primary importance to effectuate the policies and purposes of this chapter.

(b) Action by Commission

Whenever any patent has been declared affected with the public interest, pursuant to subsection (a) of this section—

(1) the Commission is licensed to use the invention or discovery covered by such patent in performing any of its powers under this chapter; and

(2) any person may apply to the Commission for a nonexclusive patent license to use the invention or discovery covered by such patent, and the Commission shall grant such patent license to the extent that it finds that the use of the invention or discovery is of primary importance to the conduct of an activity by such person authorized under this chapter.

(c) Application for patent

Any person—

(1) who has made application to the Commission for a license under sections 2073, 2092, 2093, 2111, 2133 or 2134 of this title, or a permit or lease under section 2097 of this title;

(2) to whom such license, permit, or lease has been issued by the Commission;

(3) who is authorized to conduct such activities as such applicant is conducting or proposes to conduct under a general license issued by the Commission under sections 2092 or 2111 of this title; or

(4) whose activities or proposed activities are authorized under section 2051 of this title,

may at any time make application to the Commission for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent. Each such application shall set forth the nature and purpose of the use which the applicant intends to make of the patent license, the steps taken by the applicant to obtain a patent license from the owner of the patent, and a statement of the effects, as estimated by the applicant, on the authorized activities which will result from failure to obtain such patent license and which will result from the granting of such patent license.

(d) Hearings

Whenever any person has made an application to the Commission for a patent license pursuant to subsection (c) of this section—

(1) the Commission, within 30 days after the filing of such application, shall make available to the owner of the patent all of the information contained in such application, and shall notify the owner of the patent of the time and place at which a hearing will be held by the Commission;

(2) the Commission shall hold a hearing within 60 days after the filing of such application at a time and place designated by the Commission; and

(3) in the event an applicant applies for two or more patent licenses, the Commission may, in its discretion, order the consolidation of such applications, and if the patents are owned by more than one owner, such owners may be made parties to one hearing.

(e) Commission's findings

If, after any hearing conducted pursuant to subsection (d) of this section, the Commission finds that—

(1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy;

(2) the licensing of such invention or discovery is of primary importance to the conduct of the activities of the applicant;

(3) the activities to which the patent license are proposed to be applied by such applicant are of primary importance to the furtherance of policies and purposes of this chapter; and

(4) such applicant cannot otherwise obtain a patent license from the owner of the patent on terms which the Commission deems to be reasonable for the intended use of the patent to be made by such applicant,

the Commission shall license the applicant to use the invention or discovery covered by the patent for the purposes stated in such application on terms deemed equitable by the Commission and generally not less fair than those granted by the patentee or by the Commission to similar licensees for comparable use.

(f) Limitations on issuance of patent

The Commission shall not grant any patent license pursuant to subsection (e) of this section for any other purpose than that stated in the application. Nor shall the Commission grant any patent license to any other applicant for a patent license on the same patent without an application being made by such applicant pursuant to subsection (c) of this section, and without separate notification and hearing as provided in subsection (d) of this section, and without a separate finding as provided in subsection (e) of this section.

(g) Royalty fees

The owner of the patent affected by a declaration or a finding made by the Commission pursuant to subsection (b) or (e) of this section shall be entitled to a reasonable royalty fee from the licensee for any use of an invention or discovery licensed by this section. Such royalty fee may be agreed upon by such owner and the patent licensee, or in the absence of such agreement shall be determined for each patent license by the Commission pursuant to section 2187(c) of this title.

(h) Effective period

The provisions of this section shall apply to any patent the application for which shall have been filed before September 1, 1979.

(Aug. 1, 1946, ch. 724, title I, § 153, as added Aug. 20, 1954, ch. 1073, § 1, 68 Stat. 945; amended Pub. L. 86–50, § 114, June 23, 1959, 73 Stat. 87; Pub. L. 88–394, § 1, Aug. 1, 1964, 78 Stat. 376; Pub. L. 91–161, § 1, Dec. 24, 1969, 83 Stat. 444; Pub. L. 93–377, § 6, Aug. 17, 1974, 88 Stat. 475; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(1), (2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1974—Subsec. (h). Pub. L. 93–377 substituted ''September 1, 1979'' for ''September 1, 1974''.

1969—Subsec. (h). Pub. L. 91–161 substituted ''September 1, 1974'' for ''September 1, 1969''.

1964—Subsec. (h). Pub. L. 88–394 substituted ''September 1, 1969'' for ''September 1, 1964''.

1959—Subsec. (h). Pub. L. 86–50 substituted ''September 1, 1964'' for ''September 1, 1959''.

§ 2184. Injunctions; measure of damages

No court shall have jurisdiction or power to stay, restrain, or otherwise enjoin the use of any invention or discovery by a patent licensee, to the extent that such use is licensed by section 2183(b) or 2183(e) of this title. If, in any action against such patent licensee, the court shall determine that the defendant is exercising such license, the measure of damages shall be the royalty fee determined pursuant to section 2187(c) of this title, together with such costs, interest,

and reasonable attorney's fees as may be fixed by the court. If no royalty fee has been determined, the court shall stay the proceeding until the royalty fee is determined pursuant to section 2187(c) of this title. If any such patent licensee shall fail to pay such royalty fee, the patentee may bring an action in any court of competent jurisdiction for such royalty fee, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court.

(Aug. 1, 1946, ch. 724, title I, § 154, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 946; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2185. Prior art

In connection with applications for patents covered by this subchapter, the fact that the invention or discovery was known or used before shall be a bar to the patenting of such invention or discovery even though such prior knowledge or use was under secrecy within the atomic energy program of the United States.

(Aug. 1, 1946, ch. 724, title I, § 155, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§ 2186. Commission patent licenses

The Commission shall establish standard specifications upon which it may grant a patent license to use any patent declared to be affected with the public interest pursuant to section 2183(a) of this title. Such a patent license shall not waive any of the other provisions of this chapter.

(Aug. 1, 1946, ch. 724, title I, § 156, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; amended Pub. L. 96–517, § 7(a), Dec. 12, 1980, 94 Stat. 3027; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1980—Pub. L. 96–517 substituted ''patent declared to be affected'' for ''patent held by the Commission or declared to be affected''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–517 effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96–517, set out as a note under section 41 of Title 35, Patents.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§ 2187. Compensation, awards, and royalties

(a) Patent Compensation Board

The Commission shall designate a Patent Compensation Board to consider applications under this section. The members of the Board shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Board. The members of the Board may serve as such without regard to the provisions of sections 281, 283, or 284[1] of title 18, except in so far as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(b) Eligibility

(1) Any owner of a patent licensed under section 2188 or 2183(b) or 2183(e) of this title, or any patent licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as the Commission by regulation may establish.

(2) Any person seeking to obtain the just compensation provided in section 2181 of this title shall make application therefor to the Commission in accordance with such procedures as the Commission may by regulation establish.

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181(c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, after consultation with the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

(c) Standards

(1) In determining a reasonable royalty fee as provided for in section 2183(b) or 2183(e) of this title, the Commission shall take into consideration (A) the advice of the Patent Compensation Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b)(3) of this section, the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

(d) Limitations

Every application under this section shall be barred unless filed within six years after the

[1] See References in Text note below.

date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed.

(Aug. 1, 1946, ch. 724, title I, § 157, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; amended Pub. L. 87–206, § 11, Sept. 6, 1961, 75 Stat. 478; Pub. L. 93–276, title II, § 201, May 10, 1974, 88 Stat. 119; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Sections 281, 283, and 284 of title 18, referred to in subsec. (a), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see ''Exemptions'' note set out under section 203 of Title 18.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(e)(1) to (3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93–276 substituted ''after consultation with the General Advisory Committee'' for ''upon the recommendation of the General Advisory Committee''.

1961—Subsec. (d). Pub. L. 87–206 added subsec. (d).

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. Patent Compensation Board established by this section transferred to Energy Research and Development Administration and functions of Atomic Energy Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See, also, notes set out under sections 5814 and 5841 of this title. Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11477. AWARDS BY COMMISSION WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 11477, eff. Aug. 7, 1969, 34 F.R. 12937, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Atomic Energy Commission is hereby designated and empowered, without approval, ratification, or other action by the President, to grant by the unanimous affirmative vote of all of its members not more than five awards in any calendar year, not exceeding the sum of $5,000 each, pursuant to the last sentence of section 157b(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)) which authorizes the Commission to grant awards for especially meritorious contributions to the development, use, or control of atomic energy.

RICHARD NIXON.

MODIFICATION OF EXECUTIVE ORDER NO. 11477

Ex. Ord. No. 11477, Aug. 7, 1969, 34 F.R. 12937, set out as a note above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

§ 2188. Monopolistic use of patents

Whenever the owner of any patent hereafter granted for any invention or discovery of primary use in the utilization or production of special nuclear material or atomic energy is found by a court of competent jurisdiction to have intentionally used such patent in a manner so as to violate any of the antitrust laws specified in section 2135(a) of this title, there may be included in the judgment of the court, in its discretion and in addition to any other lawful sanctions, a requirement that such owner license such patent to any other licensee of the Commission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title.

(Aug. 1, 1946, ch. 724, title I, § 158, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947; amended Pub. L. 87–206, § 12, Sept. 6, 1961, 75 Stat. 478; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1961—Pub. L. 87–206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

§ 2189. Federally financed research

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States.

(Aug. 1, 1946, ch. 724, title I, § 159, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2190. Saving clause for prior patent applications

Any patent application on which a patent was denied by the United States Patent and Trademark Office under sections 1811(a)(1), 1811(a)(2), or 1811(b)[1] of this title, and which is not prohibited by section 2181 or 2185 of this title may be reinstated upon application to the Commissioner of Patents and Trademarks within one year after August 30, 1954 and shall then be deemed to have been continuously pending since its original filing date: *Provided, however*, That no patent issued upon any patent application so reinstated shall in any way furnish a basis of claim against the Government of the United States.

(Aug. 1, 1946, ch. 724, title I, § 160, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948; amended Pub.

[1] See References in Text note below.

L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Sections 1811(a)(1), 1811(a)(2), and 1811(b) of this title, referred to in text, were omitted from the Code in the general amendment and renumbering of act Aug. 1, 1946 (which was classified to section 1801 et seq. of this title) by act Aug. 30, 1954, ch. 1073, 68 Stat. 919.

CHANGE OF NAME

Patent Office and Commissioner of Patents changed to Patent and Trademark Office and Commissioner of Patents and Trademarks, respectively, pursuant to Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

SUBCHAPTER XIII—GENERAL AUTHORITY OF COMMISSION

§ 2201. General duties of Commission

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards

establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

(b) Standards governing use and possession of material

establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;

(c) Studies and investigations

make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(d) Employment of personnel

appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: *Provided, however*, That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule) whose position would be subject to chapter 51 and subchapter III of chapter 53 of title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

(e) Acquisition of material, property, etc.; negotiation of commercial leases

acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: *Provided, however*, That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising[1] and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

(f) Utilization of other Federal agencies

with the consent of the agency concerned, utilize or employ the services or personnel of

[1] So in original.

any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(g) Acquisition of real and personal property

acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter;

(h) Consideration of license applications

consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

(i) Regulations governing Restricted Data

prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property, and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 2133 or 2134(b) of this title, including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this chapter that has control over any fund for the decommissioning of the facility;

(j) Disposition of surplus materials

without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended,[2] except section 207 of that Act,[2] or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: *Provided, however*, That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

(k) Carrying of firearms; authority to make arrests without warrant

authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable ground to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;

***(l)* Repealed. Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78**

(m) Agreements regarding production

enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or other-

[2] See References in Text note below.

wise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: *Provided, however*, That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: *And provided further*, That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission;

(n) Delegation of functions

delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section;

(*o*) Reports

require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and

(p) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way

The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: *Provided*, That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: *Provided further*, That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: *And provided further*, That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services

Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expansions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

(s) Succession of authority

establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: *Provided*, That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: *Provided further*, That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command;

(t) Contracts

enter into contracts for the processing, fabricating, separating, or refining in facilities

owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation while comparable services are available to persons licensed under section 2133 or 2134 of this title: *Provided*, That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m) of this section;

(u) Additional contracts; guiding principles; appropriations

(1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2)(A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii) the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term ''special facilities'' as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

(v) Support of United States Enrichment Corporation

provide services in support of the United States Enrichment Corporation, except that the Secretary of Energy shall annually collect payments and other charges from the Corporation sufficient to ensure recovery of the costs (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under section 2297c–2(d)[3] of this title) incurred by the Department of Energy after October 24, 1992, in performing such services;

(w) License fees for nuclear power reactors

prescribe and collect from any other Government agency, which applies to the Commission for, or is issued by the Commission, a license or certificate, any fee, charge, or price which it may require, in accordance with the provisions of section 9701 of title 31 or any other law.

(x) Standards and instructions for bonding, surety, or other financial arrangements, including performance bonds

Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 2231 of this title, such standards and instructions as the Commission may deem necessary or desirable to ensure—

(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 2014(e)(2) of this title, by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

(2) that—

(A) in the case of any such license issued or renewed after November 8, 1978, the need for long-term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

(B) in the case of each license for such material (whether in effect on November 8, 1978, or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 2014(e)(2) of this title, will make available such bonding, surety, or other financial arrangements as may be

[3] See References in Text note below.

necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.

(Aug. 1, 1946, ch. 724, title I, § 161, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948; amended July 14, 1956, ch. 608, 70 Stat. 553; Aug. 6, 1956, ch. 1015, § 4, 70 Stat. 1069; Pub. L. 85–162, title II, §§ 201, 204, Aug. 21, 1957, 71 Stat. 410; Pub. L. 85–287, § 4, Sept. 4, 1957, 71 Stat. 613; Pub. L. 85–507, § 21(b)(1), July 7, 1958, 72 Stat. 337; Pub. L. 85–681, §§ 6, 7, Aug. 19, 1958, 72 Stat. 633; Pub. L. 86–300, § 1, Sept. 21, 1959, 73 Stat. 574; Pub. L. 87–206, § 13, Sept. 6, 1961, 75 Stat. 478; Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78; Pub. L. 87–615, § 12, Aug. 29, 1962, 76 Stat. 411; Pub. L. 87–793, § 1001(g), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88–489, § 16, Aug. 26, 1964, 78 Stat. 606; Pub. L. 90–190, § 11, Dec. 14, 1967, 81 Stat. 578; Pub. L. 91–452, title II, § 237, Oct. 15, 1970, 84 Stat. 930; Pub. L. 91–560, §§ 7, 8, Dec. 19, 1970, 84 Stat. 1474; Pub. L. 92–314, title III, § 301, June 16, 1972, 86 Stat. 227; Pub. L. 93–377, § 7, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–604, title II, § 203, Nov. 8, 1978, 92 Stat. 3036; Pub. L. 97–90, title II, § 211, Dec. 4, 1981, 95 Stat. 1170; Pub. L. 99–661, div. C, title I, § 3134, Nov. 14, 1986, 100 Stat. 4064; Pub. L. 100–449, title III, § 305(b), Sept. 28, 1988, 102 Stat. 1876; Pub. L. 101–575, § 5(b), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(4), (5), (8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §§ 623, 626, Aug. 8, 2005, 119 Stat. 783, 784.)

References in Text

The civil service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (j), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works. Section 207 of the Act was repealed and reenacted by Pub. L. 107–217 as section 559 of Title 40.

Section 2297c–2 of this title, referred to in subsec. (v), was repealed by Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

Codification

In subsec. (d), ''chapter 51 and subchapter III of chapter 53 of title 5'' and ''such provisions'' substituted for ''the Classification Act of 1949, as amended'' and ''such Act'', respectively, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (x)(2)(B), ''November 8, 1978'' was in the original ''the date of the enactment of this section'', which has been translated as the date of the enactment of this subsection to reflect the probable intent of Congress.

Prior Provisions

Provisions similar to this section were contained in section 1812(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

Amendments

2005—Subsec. (i)(4). Pub. L. 109–58, § 626, added cl. (4).

Subsec. (w). Pub. L. 109–58, § 623, substituted ''to the Commission for, or is issued by the Commission, a license or certificate'' for ''for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 2133 or 2134(b) of this title, or which operates any facility regulated or certified under section 2297f or 2297f–1 of this title'' and ''section 9701'' for ''section 483a'' and struck out '', of applicants for, or holders of, such licenses or certificates'' before period at end.

1992—Subsec. (v). Pub. L. 102–486, § 902(a)(4), amended subsec. (v) generally, substituting provisions relating to duty to provide services in support of United States Energy Enrichment Corporation for provisions relating to duty to enter into contracts for production or enrichment of special nuclear material.

Subsec. (w). Pub. L. 102–486, § 902(a)(5), inserted ''or which operates any facility regulated or certified under section 2297f or 2297f–1 of this title,'' after ''2134(b) of this title,'' and ''or certificates'' after ''holders of, such licenses''.

1990—Subsec. (b). Pub. L. 101–575, which directed amendment of subsec. (b) by striking the period at the end and inserting ''; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;'', was executed by striking the semicolon at end of subsec. (b) and making insertion to reflect probable intent of Congress.

1988—Subsec. (v). Pub. L. 100–449 inserted in closing provisions ''For purposes of this subsection and of section 305 of Public Law 99–591 (100 Stat. 3341–209, 210), 'foreign origin' excludes source or special nuclear material originating in Canada.''

1986—Subsec. (k). Pub. L. 99–661 inserted ''and subcontractors (at any tier)'' after ''employees of its contractors'', substituted ''under the jurisdiction of the United States'' for ''owned by the United States and'', inserted ''or being transported to or from such facilities'' after ''contracted to the United States'', inserted after third sentence ''An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense.'', and inserted before the semicolon at end ''. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection''.

1981—Subsec. (k). Pub. L. 97–90 inserted provision that a person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that per-

son has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony, that a person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this chapter that may subject an offender to a fine, imprisonment, or both, and that the arrest authority conferred by this subsection is in addition to any arrest authority under other laws.

1978—Subsec. (x). Pub. L. 95–604 added subsec. (x).

1974—Subsec. (i). Pub. L. 93–377 inserted provision in cl. (2) relating to regulations or orders designating activities, involving quantities of special nuclear material important to the common defense and security, that may be conducted by persons whose character, etc., have been established so that if they are permitted to conduct such activities it would not be inimical to the common defense and security.

1972—Subsec. (w). Pub. L. 92–314 added subsec. (w).

1970—Subsec. (c). Pub. L. 91–452 struck out provisions that no person be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but that the immunity provisions of the Compulsory Testimony Act of Feb. 11, 1893, apply with respect to any individual who specifically claims such privilege.

Subsec. (n). Pub. L. 91–560, § 7, struck out references to section 2132 of this title and the finding of practical value.

Subsec. (v). Pub. L. 91–560, § 8, substituted provisions for the establishment of prices on a basis of recovery of the Government's costs over a reasonable period of time for provisions for the establishment of prices on a basis which will provide reasonable compensation to the Government.

1967—Subsec. (n). Pub. L. 90–190 substituted ''2077(b)'' for ''2077(a)(3)''.

1964—Subsec. (v). Pub. L. 88–489 added subsec. (v).

1962—Subsec. (d). Pub. L. 87–793 substituted ''up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended'' for ''up to a limit of $19,000''.

Subsec. (*l*). Pub. L. 87–456 repealed subsec. (*l*) which authorized the admittance free of duty into the United States of purchases made abroad of source materials.

Subsec. (n). Pub. L. 87–615 substituted ''2165(f) of this title'' for ''2165(e) of this title''.

1961—Subsecs. (s) to (v). Pub. L. 87–206 redesignated subsecs. (t) to (v) as (s) to (u), respectively.

1959—Subsec. (m). Pub. L. 86–300 inserted references to sections 2073(a)(4) and 2093(a)(4) of this title.

1958—Subsec. (d). Pub. L. 85–681, § 6, authorized the Commission to adopt compensation rates on a retroactive basis as may be authorized by the Classification Act for other Government employees.

Subsecs. (n) to (s). Pub. L. 85–507 redesignated subsecs. (*o*) to (s) as (n) to (r), respectively. Former subsec. (n), which authorized the Commission to assign employees for instruction, education, or training by public or private agencies, institutions of learning, laboratories, or industrial or commercial organizations, was repealed by Pub. L. 85–507, see section 4101 et seq. of Title 5, Government Organizations and Employees.

Subsecs. (t) to (v). Pub. L. 85–681, § 7, added subsecs. (t) to (v).

1957—Subsec. (d). Pub. L. 85–287 inserted ''up to a limit of $19,000'' after ''scientific and technical personnel''.

Subsec. (e). Pub. L. 85–162, § 201, inserted ''(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant)'' after ''adjusted terms which''.

Subsec. (s). Pub. L. 85–162, § 204, added subsec. (s).

1956—Subsec. (e). Act July 14, 1956, inserted proviso relating to negotiation of commercial leases without advertising by the Commission.

Subsec. (r). Act Aug. 6, 1956, added subsec. (r).

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87–793.

Repeal of subsec. (*l*) effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–507, see section 21(a) of Pub. L. 85–507.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

ORGANIZATIONAL CONFLICTS OF INTEREST

Pub. L. 95–209, § 7, Dec. 13, 1977, 91 Stat. 1483, provided that: ''The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage.''

APPLICABILITY TO FUNCTIONS TRANSFERRED BY DEPARTMENT OF ENERGY ORGANIZATION ACT

Pub. L. 95–91, title VII, § 709(c)(2), Aug. 4, 1977, 91 Stat. 608, provided that: ''Section 161(d) of the Atomic Energy Act of 1954 [subsec. (d) of this section] shall not apply to functions transferred by this Act [see Short Title note set out under section 7101 of this title].''

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its du-

ration is otherwise provided by law. Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Members of the Nuclear Regulatory Commission, see Parts 1, 2, and 21 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

PRINCIPAL OFFICE BUILDING FOR ATOMIC ENERGY COMMISSION

Act May 6, 1955, ch. 34, 69 Stat. 47, as amended by Pub. L. 85–107, July 17, 1957, 71 Stat. 307, authorized Atomic Energy Commission to acquire a suitable site in or near District of Columbia and, notwithstanding any other provision of law, to provide for construction on such site, in accordance with plans and specifications prepared by or under direction of Commission, of a modern office building to serve as principal office of Commission at a total cost of not to exceed $13,300,000 and authorized to be appropriated such sums as were necessary.

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Section 203 of Pub. L. 85–162 directed Atomic Energy Commission, Federal Housing Administration, and Housing and Home Finance Agency to report to Joint Committee by Jan. 31, 1958, with respect to renegotiations, reappraisals, and sales proceedings authorized under sections 201 and 202 of Pub. L. 85–162 [amending subsec. (e) of this section and enacting section 2325(c) of this title].

§ 2201a. Use of firearms by security personnel

(a) Definitions

In this section, the terms ''handgun'', ''rifle'', ''shotgun'', ''firearm'', ''ammunition'', ''machinegun'', ''short-barreled shotgun'', and ''short-barreled rifle'' have the meanings given the terms in section 921(a) of title 18.

(b) Authorization

Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (*o*) of section 922 of title 18, section 925(d)(3) of title 18, section 5844 of title 26, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

(2) the security personnel—

(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

(C) are engaged in the protection of—

(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

(c) Background checks

A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under subsection (b) of this section shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159; 18 U.S.C. 922 note) to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

(d) Effective date

This section takes effect on the date on which guidelines are issued by the Commission, with the approval of the Attorney General, to carry out this section.

(Aug. 1, 1946, ch. 724, title I, § 161A, as added Pub. L. 109–58, title VI, § 653, Aug. 8, 2005, 119 Stat. 811.)

§ 2202. Contracts

The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 162, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2203. Advisory committees

The members of the General Advisory Committee established pursuant to section 2036[1] of

[1] See References in Text note below.

this title and the members of advisory boards established pursuant to section 2201(a) of this title may serve as such without regard to the provisions of sections 281, 283, or 284[1] of title 18, except insofar as such sections may prohibit any such member from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(Aug. 1, 1946, ch. 724, title I, § 163, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951; amended Pub. L. 86–300, § 2, Sept. 21, 1959, 73 Stat. 574; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Section 2036 of this title, referred to in text, was repealed by Pub. L. 95–91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608.

Sections 281, 283, and 284 of title 18, referred to in text, were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see ''Exemptions'' note set out under section 203 of Title 18.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1959—Pub. L. 86–300 inserted ''from a source other than a nonprofit educational institution'' after ''compensation''.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. General Advisory Committee transferred to Energy Research and Development Administration and functions of Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See, also, notes set out under sections 5814 and 5841 of this title. General Advisory Committee abolished by Pub. L. 95–91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608. Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY BOARDS AND COMMITTEES

Advisory boards and committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board or committee established by the President or an officer of the federal government, such board or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided by law. Advisory boards and committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board or committee established by the President or an officer of the federal government, such board or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2204. Electric utility contracts; authority to enter into; cancellation; submission to Energy Committees

The Commission is authorized in connection with the construction or operation of the Oak Ridge, Paducah, and Portsmouth installations of the Commission, without regard to sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31, to enter into new contracts or modify or confirm existing contracts to provide for electric utility services for periods not exceeding twenty-five years, and such contracts shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contracts, and any appropriation presently or hereafter made available to the Commission shall be available for the payment of such cancellation costs. Any such cancellation payments shall be taken into consideration in determination of the rate to be charged in the event the Commission or any other agency of the Federal Government shall purchase electric utility services from the contractor subsequent to the cancellation and during the life of the original contract. The authority of the Commission under this section to enter into new contracts or modify or confirm existing contracts to provide for electric utility services includes, in case such electric utility services are to be furnished to the Commission by the Tennessee Valley Authority, authority to contract with any person to furnish electric utility services to the Tennessee Valley Authority in replacement thereof. Any contract hereafter entered into by the Commission pursuant to this section shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) before the contract of the Commission shall become effective: *Provided, however*, That the Energy Committees, after having received the proposed contract, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, § 164, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, § 15(f)(7), Nov. 2, 1994, 108 Stat. 4593.)

CODIFICATION

''Sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31'' substituted in text for ''section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Energy Committees'' for ''Joint Committee'' in two places.

§ 2204a. Fission product contracts

(a) Authority to enter into contracts

Without regard to sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title

31, the Commission is authorized to enter into contracts for such periods of time as the Commission may deem necessary or desirable, for the purpose of making available fission products from Commission reactors, with or without charge for commercial application.

(b) Cancellation

Any contract entered into by the Commission pursuant to this section shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contract, and any appropriation presently or hereafter made available to the Commission shall be available for payment of such costs which may arise from termination as the contract may provide.

(c) Submission to Energy Committees

Before the Commission enters into any arrangement or amendment thereto under the authority of this section, the basis for the proposed arrangement or amendment thereto which the Commission proposes to execute (with necessary background and explanatory data) shall be submitted to the Energy Committees (as defined by section 2014 of this title), and a period of forty-five days shall elapse while Congress is in session in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days: *Provided, however*, That the Energy Committees, after having received the basis for the proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Pub. L. 88–332, § 107, June 30, 1964, 78 Stat. 230; Pub. L. 103–437, § 15(h), Nov. 2, 1994, 108 Stat. 4593.)

REFERENCES IN TEXT

Commission, referred to in text, probably means the Atomic Energy Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Atomic Energy Commission.

CODIFICATION

In subsec. (a), ''sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31'' substituted for ''section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Energy Committees (as defined by section 2014 of this title)'' for ''Joint Committee'' after ''submitted to the'' and ''Energy Committees'' for ''Joint Committee'' after ''That the''.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§ 2205. Contract practices

(a) In carrying out the purposes of this chapter the Commission shall not use the cost-plus-percentage-of-cost system of contracting.

(b) No contract entered into under the authority of this chapter shall provide, and no contract entered into under the authority of the Atomic Energy Act of 1946, as amended, shall be modified or amended after August 30, 1954, to provide, for direct payment or direct reimbursement by the Commission of any Federal income taxes on behalf of any contractor performing such contract for profit.

(Aug. 1, 1946, ch. 724, title I, § 165, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Atomic Energy Act of 1946, as amended, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§ 1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, 68 Stat. 921. The act of Aug. 1, 1946, ch. 724, is now known as the Atomic Energy Act of 1954, and is classified principally to this chapter (§ 2011 et seq.). For complete classification of the Atomic Energy Act of 1954 to the Code, see Short Title note set out under section 2011 of this title and Tables.

§ 2205a. Repealed. Pub. L. 97–375, title I, § 115, Dec. 21, 1982, 96 Stat. 1821

Section, Pub. L. 95–601, § 11, Nov. 6, 1978, 92 Stat. 2953, directed Commission to report to Congress on Jan. 1, 1979, and annually thereafter on use of contractors, consultants, and National Laboratories by Commission, and that such report include, for each contract issued, in progress or completed during fiscal year 1978, information on bidding procedure, nature of work, amount and duration of contract, progress of work, relation to previous contracts, and relation between amount of contract and amount actually spent.

§ 2206. Comptroller General audit

No moneys appropriated for the purposes of this chapter shall be available for payments under any contract with the Commission, negotiated without advertising, except contracts with any foreign government or any agency thereof and contracts with foreign producers, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however*, That no moneys so appropriated shall be available for payment under such contract which includes any provision precluding an audit by the Government Accountability Office of any transaction under such contract: *And provided further*, That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the Commission and the Government Accountability Office.

(Aug. 1, 1946, ch. 724, title I, § 166, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951; amended Pub. L. 85–681, § 8, Aug. 19, 1958, 72 Stat. 634; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

1958—Pub. L. 85–681 inserted proviso relating to records disposal.

§ 2207. Claim settlements; reports to Congress

The Commission, acting on behalf of the United States, is authorized to consider, ascertain, adjust, determine, settle, and pay, any claim for money damage of $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from any detonation, explosion, or radiation produced in the conduct of any program undertaken by the Commission involving the detonation of an explosive device, where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises: *Provided, however*, That the damage to or loss of property, or bodily injury or death, shall not have been caused in whole or in part by any negligence or wrongful act on the part of the claimant, his agents, or employees. Any such settlement under the authority of this section shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary. If the Commission considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this section, the Commission may report the facts and circumstances thereof to the Congress for its consideration.

(Aug. 1, 1946, ch. 724, title I, § 167, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952; amended Pub. L. 87–206, § 14, Sept. 6, 1961, 75 Stat. 478; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1961—Pub. L. 87–206 substituted ''any program undertaken by the Commission involving the detonation of an explosive device'' for ''the Commission's program for testing atomic weapons'' and authorized the Commission to report meritorious claims in excess of $5,000 to the Congress.

§ 2208. Payments in lieu of taxes

In order to render financial assistance to those States and localities in which the activities of the Commission are carried on, and in which the Commission has acquired property previously subject to State and local taxation, the Commission is authorized to make payments to State and local governments in lieu of property taxes. Such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment.

(Aug. 1, 1946, ch. 724, title I, § 168, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1809(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2209. Subsidies

No funds of the Commission shall be employed in the construction or operation of facilities licensed under section 2133 or 2134 of this title except under contract or other arrangement entered into pursuant to section 2051 of this title.

(Aug. 1, 1946, ch. 724, title I, § 169, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2210. Indemnification and limitation of liability

(a) Requirement of financial protection for licensees

Each license issued under section 2133 or 2134 of this title and each construction permit issued under section 2235 of this title shall, and each license issued under section 2073, 2093, or 2111 of this title may, for the public purposes cited in section 2012(i) of this title, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Nuclear Regulatory Commission (in this section referred to as the ''Commission'') in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection (b) of this section to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection (c) of this section. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

(b) Amount and type of financial protection for licensees

(1) The amount of primary financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (A) the cost and terms of private insurance, (B) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (C) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of primary financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources (excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection).

Such primary financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such primary financial protection: *And provided further*, That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $95,800,000 (subject to adjustment for inflation under subsection (t) of this section), but not more than $15,000,000 in any 1 year (subject to adjustment for inflation under subsection (t) of this section), for each facility for which such licensee is required to maintain the maximum amount of primary financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs (excluding legal costs subject to subsection (*o*)(1)(D) of this section, payment of which has not been authorized under such subsection) arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this chapter shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission.

(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.

(3) The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.

(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market

yield on outstanding marketable obligations to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

(B) A combination of facilities referred to in subparagraph (A) is two or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.

(c) Indemnification of licensees by Nuclear Regulatory Commission

The Commission shall, with respect to licenses issued between August 30, 1954, and December 31, 2025, for which it requires financial protection of less than $560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 excluding costs of investigating and settling claims and defending suits for damage: *Provided, however*, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2025, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2025.

(d) Indemnification of contractors by Department of Energy

(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the ''Secretary'') may have, the Secretary shall, until December 31, 2025, enter into agreements of indemnification under this subsection with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to financial protection requirements under subsection (b) of this section or agreements of indemnification under subsection (c) or (k) of this section.

(B)(i)(I) Beginning 60 days after August 20, 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 85–804 [50 U.S.C. 1431 et seq.] entered into between August 1, 1987, and August 20, 1988.

(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection (n)(1) of this section to be incorporated in agreements of indemnification. Any such provisions incorporated under this subclause shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that are funded by the Nuclear Waste Fund established in section 10222 of this title shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection (b) of this section.

(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection (t) of this section), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.

(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on August 8, 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.

(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 5842 of this title.

(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed $500,000,000.

(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

(e) Limitation on aggregate public liability

(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection (*o*)(1)(D) of this section, shall not exceed—

(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection (b) of this section (plus any surcharge assessed under subsection (*o*)(1)(E) of this section);

(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection (d) of this section, the amount of indemnity and financial protection that may be required under paragraph (2) of subsection (d) of this section; and

(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

(i) $500,000,000, together with the amount of financial protection required of the licensee; or

(ii) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in subsection (i) of this section and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection (b) of this section, to fund any action undertaken pursuant to paragraph (2).

(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) of this section is applicable, such aggregate public liability shall not exceed the amount of $500,000,000, together with the amount of financial protection required of the contractor.

(f) Collection of fees by Nuclear Regulatory Commission

The Commission or the Secretary, as appropriate, is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 2133 of this title: *Provided*, That the Commission or the Secretary, as appropriate, is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 2134 of this title, and for construction permits under section 2235 of this title, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 2134 of this title, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.

(g) Use of services of private insurers

In administering the provisions of this section, the Commission or the Secretary, as appropriate, shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission or the Secretary, as appropriate, may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of title 41 upon a showing by the Commission or the Secretary, as appropriate, that advertising is not reasonably practicable and advance payments may be made.

(h) Conditions of agreements of indemnification

The agreement of indemnification may contain such terms as the Commission or the Secretary, as appropriate, deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission or the Secretary, as appropriate, makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission or the Secretary, as appropriate, shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission or the Secretary, as appropriate, shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this chapter. Such settlement shall not include expenses in connection with the claim incurred by the person indemnified.

(i) Compensation plans

(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1) of this section, the Secretary or the Commisison,[1] as appropriate, shall—

(A) make a survey of the causes and extent of damage; and

(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

(2) Not later than 90 days after any determination by a court, pursuant to subsection (*o*) of this section, that the public liability from a single nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1) of this section the President shall submit to the Congress—

(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection (e)(1) of this section;

(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1) of this section, which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

(D) any additional legislative authorities necessary to implement such compensation plan or plans.

(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

(4) No such compensation plan may be considered approved for purposes of subsection (e)(2) of this section unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6[2] of this subsection.

(5) For the purpose of paragraph (4) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(6)(A) This paragraph is enacted—

(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(B) For purposes of this paragraph, the term ''resolution'' means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: ''That the approves the compensation plan numbered submitted to the Congress on , 19 .'', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed,

[1] So in original. Probably should be ''Commission,''.

[2] So in original. Probably should be paragraph ''(6)''.

nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.

(j) Contracts in advance of appropriations

In administering the provisions of this section, the Commission or the Secretary, as appropriate, may make contracts in advance of appropriations and incur obligations without regard to sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31.

(k) Exemption from financial protection requirement for nonprofit educational institutions

With respect to any license issued pursuant to section 2073, 2093, 2111, 2134(a), or 2134(c) of this title, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection (a) of this section. With respect to licenses issued between August 30, 1954, and December 31, 2025, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including such legal costs of the licensee as are approved by the Commission;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2025, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2025.

***(l)* Presidential commission on catastrophic nuclear accidents**

(1) Not later than 90 days after August 20, 1988, the President shall establish a commission (in this subsection referred to as the ''study commission'') in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection (e)(1) of this section.

(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

(i) shall be appointed by the President; and

(ii) shall be representative of a broad range of views and interests.

(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection (e)(1) of this section, and shall submit to the Congress a final report setting forth—

(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5.

(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

(C) The Attorney General, the Secretary of Health and Human Services, and the Administrator of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

(E) Each member of the study commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act (5 U.S.C. App.) for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5.

(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on August 20, 1988.

(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.

(m) Coordinated procedures for prompt settlement of claims and emergency assistance

The Commission or the Secretary, as appropriate, is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission or the Secretary, as appropriate, and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission or the Secretary, as appropriate, shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgment.

(n) Waiver of defenses and judicial procedures

(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

(A) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility,

(B) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility,

(C) during the course of the contract activity arises out of or results from the possession, operation, or use by a Department of Energy contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed under section 2073, 2093, or 2111 of this title, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection (a) of this section,

(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 2073, 2093, or 2111 of this title, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection (a) of this section, or

(F) arises out of, results from, or occurs in the course of nuclear waste activities.[3]

the Commission or the Secretary, as appropriate, may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon

[3] So in original. The period probably should be a comma.

a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection (e) of this section.

(2) With respect to any public liability action arising out of or resulting from a nuclear incident, the United States district court in the district where the nuclear incident takes place, or in the case of a nuclear incident taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission or the Secretary, as appropriate, any such action pending in any State court (including any such action pending on August 20, 1988) or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States. In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28 or within the 30-day period beginning on August 20, 1988, whichever occurs later.

(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the ''management panel'') to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

(i) a court, acting pursuant to subsection (*o*) of this section, determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection (b) of this section (or an equivalent amount in the case of a contractor indemnified under subsection (d) of this section); or

(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

(C) It shall be the function of each management panel—

(i) to consolidate related or similar claims for hearing or trial;

(ii) to establish priorities for the handling of different classes of cases;

(iii) to assign cases to a particular judge or special master;

(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.

(*o*) Plan for distribution of funds

(1) Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under the applicable limit of liability under subparagraph (A), (B), or (C) of subsection (e)(1) of this section:

(A) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

(B) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to subparagraph (C); and

(C) The Commission or the Secretary, as appropriate, shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another

plan; and to determine the proportionate share of funds available for each claimant. The Commission or the Secretary as appropriate, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States.

(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection (b) of this section.

(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection (b) of this section, any licensee required to pay a standard deferred premium under subsection (b)(1) of this section shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

(A) submitted to the court the amount of such payment requested; and

(B) demonstrated to the court—

(i) that such costs are reasonable and equitable; and

(ii) that such person has—

(I) litigated in good faith;

(II) avoided unnecessary duplication of effort with that of other parties similarly situated;

(III) not made frivolous claims or defenses; and

(IV) not attempted to unreasonably delay the prompt settlement or adjudication of such claims.

(p) Reports to Congress

The Commission and the Secretary shall submit to the Congress by December 31, 2021, detailed reports concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.

(q) Limitation on awarding of precautionary evacuation costs

No court may award costs of a precautionary evacuation unless such costs constitute a public liability.

(r) Limitation on liability of lessors

No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.

(s) Limitation on punitive damages

No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.

(t) Inflation adjustment

(1) The Commission shall adjust the amount of the maximum total and annual standard deferred premium under subsection (b)(1) of this section not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) August 20, 2003, in the case of the first adjustment under this subsection; or

(B) the previous adjustment under this subsection.

(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection (d) of this section not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) that date, in the case of the first adjustment under this paragraph; or

(B) the previous adjustment under this paragraph.

(3) For purposes of this subsection, the term ''Consumer Price Index'' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

(Aug. 1, 1946, ch. 724, title I, § 170, as added Pub. L. 85–256, § 4, Sept. 2, 1957, 71 Stat. 576; amended Pub. L. 85–602, §§ 2, 2[3], Aug. 8, 1958, 72 Stat. 525; Pub. L. 85–744, Aug. 23, 1958, 72 Stat. 837; Pub. L. 87–206, § 15, Sept. 6, 1961, 75 Stat. 479; Pub. L. 87–615, §§ 6, 7, Aug. 29, 1962, 76 Stat. 410; Pub. L. 88–394, §§ 2, 3, Aug. 1, 1964, 78 Stat. 376; Pub. L. 89–210, §§ 1–5, Sept. 29, 1965, 79 Stat. 855–857; Pub. L. 89–645, §§ 2, 3, Oct. 13, 1966, 80 Stat. 891; Pub. L. 94–197, §§ 2–14, Dec. 31, 1975, 89 Stat. 1111–1115; Pub. L. 100–408, §§ 2–4(a), 5(c)–11(a), (c), (d)(1), 12–15, 16(a)(2), (b)(3)–(c), (d)(4)–(e), Aug. 20, 1988, 102 Stat. 1066–1068, 1070–1080; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–362, title XII, § 1201(b), Nov. 10, 1998, 112 Stat. 3292; Pub. L. 107–314, div. C, title XXXI, § 3171, Dec. 2, 2002, 116 Stat. 2743; Pub. L. 108–7, div. O, § 101, Feb. 20, 2003, 117 Stat. 551; Pub. L. 108–375, div. C, title XXXI, § 3141, Oct. 28, 2004, 118 Stat. 2171; Pub. L. 109–58, title VI, §§ 602–608, Aug. 8, 2005, 119 Stat. 779–781; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

Public Law 85–804, referred to in subsec. (d)(1)(B)(i)(I), is Pub. L. 85–804, Aug. 28, 1958, 72 Stat. 972, as amended,

which is classified generally to chapter 29 (§ 1431 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (*l*)(1), (4)(A), (E), (F), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Rules of Civil Procedure, referred to in subsec. (n)(3)(C)(v), (vi), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–58, § 603(1), substituted ''$95,800,000'' for ''$63,000,000'' and ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection (t) of this section)'' for ''$10,000,000 in any 1 year'' in second proviso of third sentence.

Subsec. (b)(5). Pub. L. 109–58, § 608, added par. (5).

Subsec. (c). Pub. L. 109–58, § 602(a), substituted ''licensees'' for ''licenses'' in heading and substituted ''December 31, 2025'' for ''December 31, 2003'' in text wherever appearing.

Subsec. (d)(1)(A). Pub. L. 109–58, § 602(b), substituted ''December 31, 2025'' for ''December 31, 2006''.

Subsec. (d)(2). Pub. L. 109–58, § 604(a), added par. (2) and struck out former par. (2) which read as follows: ''In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''

Subsec. (d)(3). Pub. L. 109–58, § 604(b), added par. (3) and struck out former par. (3) which read as follows:

''(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection (b) of this section is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection (b) of this section.

''(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

''(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on August 20, 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on August 20, 1988.''

Subsec. (d)(5). Pub. L. 109–58, § 605(a), substituted ''$500,000,000'' for ''$100,000,000''.

Subsec. (e)(1)(B). Pub. L. 109–58, § 604(c), struck out ''the maximum amount of financial protection required under subsection (b) of this section or'' before ''the amount of indemnity'' and substituted ''paragraph (2) of subsection (d) of this section'' for ''paragraph (3) of subsection (d) of this section, whichever amount is more''.

Subsec. (e)(4). Pub. L. 109–58, § 605(b), substituted ''$500,000,000'' for ''$100,000,000''.

Subsec. (k). Pub. L. 109–58, § 602(c), substituted ''December 31, 2025'' for ''August 1, 2002'' wherever appearing.

Subsec. (p). Pub. L. 109–58, § 606, substituted ''December 31, 2021'' for ''August 1, 1998''.

Subsec. (t)(1). Pub. L. 109–58, § 603(2), inserted ''total and annual'' before ''standard deferred premium'' in introductory provisions and substituted ''August 20, 2003'' for ''August 20, 1988'' in introductory provisions and subpar. (A).

Subsec. (t)(2), (3). Pub. L. 109–58, § 607, added par. (2) and redesignated former par. (2) as (3).

2004—Subsec. (d)(1)(A). Pub. L. 108–375 substituted ''until December 31, 2006'' for ''until December 31, 2004''.

2003—Subsec. (c). Pub. L. 108–7 substituted ''December 31, 2003'' for ''August 1, 2002'' wherever appearing.

2002—Subsec. (d)(1)(A). Pub. L. 107–314 substituted ''until December 31, 2004,'' for ''until August 1, 2002,''.

1998—Subsec. (p). Pub. L. 105–362 struck out par. (1) designation and struck out par. (2) which read as follows: ''Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.''

1988—Subsec. (a). Pub. L. 100–408, § 16(e)(1), inserted ''Requirement of financial protection for licensees'' as heading.

Pub. L. 100–408, § 16(d)(4), substituted ''section 2i.'' for ''subsection 2i. of the Atomic Energy Act of 1954, as amended'', ''subsection b.'' for ''subsection 170b.'', and ''subsection c.'' for ''subsection 170c.'', which for purposes of codification were translated as ''section 2012(i) of this title'', ''subsection (b) of this section'', and ''subsection (c) of this section'', respectively, thus requiring no change in text.

Pub. L. 100–408, § 16(a)(2), substituted ''the Nuclear Regulatory Commission (in this section referred to as the 'Commission') in the exercise'' for ''the Commission in the exercise''.

Subsec. (b). Pub. L. 100–408, § 16(e)(2), inserted ''Amount and type of financial protection for licensees'' as heading.

Subsec. (b)(1). Pub. L. 100–408, § 2(a)–(c)(3), inserted par. (1) designation, inserted ''primary'' after ''The amount of'', ''the amount of'', ''Such'', and ''of such'', redesignated cls. (1) to (3) as (A) to (C), inserted ''(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)'', substituted ''The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,'' for ''In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from December 31, 1975, include, in determining such maximum amount'', substituted ''That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection (t) of this section), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection'' for ''That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection'', inserted ''(excluding legal costs subject to subsection (*o*)(1)(D) of this section, payment of which has not been authorized under such subsection)'', and struck out ''The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard.''

Subsec. (b)(2). Pub. L. 100–408, § 2(c)(4), added par. (2).

Subsec. (b)(3). Pub. L. 100–408, § 2(d)(1), inserted par. (3) designation.

Subsec. (b)(4). Pub. L. 100–408, § 2(d)(2), added par. (4).

Subsec. (c). Pub. L. 100–408, § 16(e)(3), inserted ''Indemnification of licenses by Nuclear Regulatory Commission'' as heading.

Pub. L. 100–408, § 3, substituted ''August 1, 2002'' for ''August 1, 1987'' wherever appearing.

Subsec. (d). Pub. L. 100–408, § 4(a), inserted ''Indemnification of contractors by Department of Energy'' as heading and completely revised and expanded subsec. (d), changing its structure from a single unnumbered subsection to one consisting of seven numbered paragraphs.

Subsec. (e). Pub. L. 100–408, § 6, inserted ''Limitation on aggregate public liability'' as heading and completely revised and expanded subsec. (e), changing its structure from a single unnumbered subsection to one consisting of four numbered paragraphs.

Subsec. (f). Pub. L. 100–408, § 16(e)(4), inserted ''Collection of fees by Nuclear Regulatory Commission'' as heading.

Pub. L. 100–408, § 16(b)(3), inserted ''or the Secretary, as appropriate,'' in two places.

Subsec. (g). Pub. L. 100–408, § 16(e)(5), inserted ''Use of services of private insurers'' as heading.

Pub. L. 100–408, § 16(c)(1), substituted ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' for ''section 3709 of the Revised Statutes'', which for purposes of codification was translated as ''section 5 of title 41'', thus requiring no change in text.

Pub. L. 100–408, § 16(b)(4), inserted ''or the Secretary, as appropriate,'' after ''Commission'', wherever appearing.

Subsec. (h). Pub. L. 100–408, § 16(e)(6), inserted ''Conditions of agreements of indemnification'' as heading.

Pub. L. 100–408, § 16(b)(4), inserted ''or the Secretary, as appropriate,'' after ''Commission'', wherever appearing.

Subsec. (i). Pub. L. 100–408, § 7(a), inserted ''Compensation plans'' as heading and completely revised and expanded subsec. (i), changing its structure from a single unnumbered subsection to one consisting of six numbered paragraphs.

Subsec. (j). Pub. L. 100–408, § 16(e)(7), inserted ''Contracts in advance of appropriations'' as heading.

Pub. L. 100–408, § 16(c)(2), substituted ''sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31'' for ''section 3679 of the Revised Statutes, as amended''.

Pub. L. 100–408, § 16(b)(4), inserted ''or the Secretary, as appropriate,''.

Subsec. (k). Pub. L. 100–408, § 16(e)(8), inserted ''Exemption from financial protection requirement for nonprofit educational institutions'' as heading.

Pub. L. 100–408, § 16(d)(5), in introductory provisions substituted ''subsection a'' for ''subsection 170a'', which for purposes of codification was translated as ''subsection (a) of this section'', thus requiring no change in text.

Pub. L. 100–408, § 8(1), substituted ''August 1, 2002'' for ''August 1, 1987'', wherever appearing in introductory and closing provisions.

Subsec. (k)(1). Pub. L. 100–408, § 8(2), substituted ''including such legal costs of the licensee as are approved by the Commission'' for ''excluding cost of investigating and settling claims and defending suits for damage''.

Subsec. (*l*). Pub. L. 100–408, § 9, inserted ''Presidential commission on catastrophic nuclear accidents'' as heading and completely revised and expanded subsec. (*l*), changing its structure from a single unnumbered subsection to one consisting of six numbered paragraphs.

Subsec. (m). Pub. L. 100–408, § 16(e)(9), inserted ''Coordinated procedures for prompt settlement of claims and emergency assistance'' as heading.

Pub. L. 100–408, § 16(b)(4), inserted ''or the Secretary, as appropriate,'' after ''Commission'' wherever appearing.

Subsec. (n). Pub. L. 100–408, § 16(e)(10), inserted ''Waiver of defenses and judicial procedures'' as heading.

Subsec. (n)(1). Pub. L. 100–408, §§ 10, 16(b)(5)(A), (d)(6), redesignated existing subpars. (a), (b), and (c) as (A), (B), and (C), respectively, added subpars. (D), (E), and (F), substituted ''a Department of Energy contractor'' for ''a Commission contractor'' in subpar. (C), and, in closing provisions inserted '', or the Secretary, as appropriate,'' after ''the Commission'', struck out '', but in no event more than twenty years after the date of the nuclear incident'' after ''and the cause thereof'', and substituted ''subsection e'' for ''subsection 170e'', which for purposes of codification was translated as ''subsection (e) of this section'', requiring no change in text.

Subsec. (n)(2). Pub. L. 100–408, § 16(b)(5)(B), inserted ''or the Secretary, as appropriate'' after ''Commission''.

Pub. L. 100–408, § 11(a), substituted ''a nuclear incident'' for ''an extraordinary nuclear occurrence'' in two places and ''the nuclear incident'' for ''the extraordinary nuclear occurrence'', and inserted ''(including any such action pending on August 20, 1988)'', and ''In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28 or within the 30-day period beginning on August 20, 1988, whichever occurs later.''

Subsec. (n)(3). Pub. L. 100–408, § 11(c), added par. (3).

Subsec. (*o*). Pub. L. 100–408, § 11(d)(1), inserted ''Plan for distribution of funds'' as heading, designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added subpars. (D) and (E) and par. (2).

Subsec. (*o*)(1). Pub. L. 100–408, § 7(b)(1), substituted ''the applicable limit of liability under subparagraph (A), (B), or (C) of subsection (e)(1) of this section'' for ''subsection (e) of this section'' in introductory provisions.

Subsec. (*o*)(1)(B). Pub. L. 100–408, § 16(d)(7), substituted ''subparagraph (C)'' for ''subparagraph (3) of this subsection (*o*)''.

Subsec. (*o*)(1)(C). Pub. L. 100–408, § 16(b)(6), inserted ''or the Secretary, as appropriate,'' after first reference to ''Commission'' and ''or the Secretary as appropriate'' after second reference to ''Commission''.

Subsec. (*o*)(4). Pub. L. 100–408, § 7(b)(2), struck out par. (4) which read as follows: ''The Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection (i) of this section setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.''

Subsec. (p). Pub. L. 100–408, § 16(e)(11), inserted ''Reports to Congress'' as heading.

Pub. L. 100–408, § 12, designated existing provisions as par. (1), substituted ''and the Secretary shall submit to the Congress by August 1, 1998, detailed reports'' for ''shall submit to the Congress by August 1, 1983, a detailed report'', and added par. (2).

Subsec. (q). Pub. L. 100–408, § 5(c), added subsec. (q).

Subsec. (r). Pub. L. 100–408, § 13, added subsec. (r).

Subsec. (s). Pub. L. 100–408, § 14, added subsec. (s).

Subsec. (t). Pub. L. 100–408, § 15, added subsec. (t).

1975—Subsec. (a). Pub. L. 94–197, § 2, inserted provision relating to the public purposes cited in section 2012(i) of this title and ''in the exercise of its licensing and regulatory authority and responsibility'' after ''as the Commission'', and substituted ''required, it may'' for ''required, it shall''.

Subsec. (b). Pub. L. 94–197, § 3, inserted requirement that for facilities having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be at a reasonable cost and on reasonable terms, and requirement that financial protection be subject to such terms and conditions as the Commission, by rule, regulation or order prescribes, and established premium and funding standards and procedures for prescribing terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources. Notwithstanding the directory language that amendment be made to section 107 b. of the Atomic Energy Act of 1954, as

amended, the amendment was executed to section 170 b. of the Atomic Energy Act of 1954, as amended, (subsec. (b) of this section) as the probable intent of Congress.

Subsec. (c). Pub. L. 94–197, § 4, substituted ''and August 1, 1987, for which it requires financial protection of less than $560,000,000,'' for ''and August 1, 1977, for which it requires financial protection,'', ''excluding'' for ''including the reasonable'', and ''August 1, 1987'' for ''August 1, 1977'' in text relating to any production or utilization facility.

Subsec. (d). Pub. L. 94–197, § 5, substituted ''until August 1, 1987,'' for ''until August 1, 1977,'' and ''excluding'' for ''including the reasonable''.

Subsec. (e). Pub. L. 94–197, § 6, designated existing provisions as cl. (1), added cl. (2), substituted proviso relating to Congressional review and action for proviso relating to aggregate liability exceeding the sum of $560,000,000, and substituted ''*And provided further*'' for ''*Provided further*''.

Subsec. (f). Pub. L. 94–197, § 7, inserted proviso which authorized Commission to reduce the indemnity fee for persons with whom indemnification agreements have been executed in reasonable relation to increases in financial protection above a level of $60,000,000.

Subsec. (h). Pub. L. 94–197, § 8, substituted ''shall not include'' for ''may include reasonable''.

Subsec. (i). Pub. L. 94–197, § 9, inserted ''or which will probably result in public liability claims in excess of $560,000,000,'' after ''this section'', and requirement that Commission report extent of damage caused from a nuclear incident to the Congressmen of the affected districts and the Senators of the affected state and substituted provision relating to information concerning the national defense, for provisions relating to applicability of prohibition of sections 2161 to 2166 of this title, other laws or Executive order.

Subsec. (k). Pub. L. 94–197, § 10, substituted ''August 1, 1987'' for ''August 1, 1977'' wherever appearing and substituted ''excluding'' for ''including the reasonable'' in par. (1).

Subsec. (*l*). Pub. L. 94–197, § 11, substituted ''excluding'' for ''including the reasonable''.

Subsec. (n)(1)(iii). Pub. L. 94–197, § 12, substituted ''twenty years'' for ''ten years''.

Subsec. (*o*)(3), (4). Pub. L. 94–197, § 13, in par. (3) inserted provisions authorizing the establishment, in any plan for disposition of claims, of priorities between classes of claims and claimants to extent necessary to ensure the most equitable allocation of available funds, and added par. (4).

Subsec. (p). Pub. L. 94–197, § 14, added subsec. (p).

1966—Subsec. (e). Pub. L. 89–645, § 2, struck out last sentence which authorized application by the Commission or any indemnified person to district court of the United States having venue in bankruptcy over location of nuclear incident and to United States District Court for the District of Columbia in cases of nuclear incidents occurring outside the United States, and upon a showing that public liability from a single nuclear incident will probably exceed the limit of imposable liability, entitled the applicant to orders for enforcement of this section, including limitation of liability of indemnified persons, staying payment of claims and execution of court judgments, apportioning payments to claimants, permitting partial payments before final determination of total claims, and setting aside part of funds for possible injuries not discovered until later time, now incorporated in subsec. (*o*) of this section.

Subsecs. (m) to (*o*). Pub. L. 89–645, § 3, added subsecs. (m) to (*o*).

1965—Subsec. (c). Pub. L. 89–210, § 1, substituted ''August 1, 1977'' for ''August 1, 1967'' wherever appearing, and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (d). Pub. L. 89–210, § 2, substituted ''August 1, 1977'' for ''August 1, 1967,'' and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (e). Pub. L. 89–210, § 3, inserted proviso prohibiting the aggregate liability to exceed the sum of $560,000,000.

Subsec. (k). Pub. L. 89–210, § 4, substituted ''August 1, 1977'' for ''August 1, 1967'' wherever appearing.

Subsec. (*l*). Pub. L. 89–210, § 5, substituted ''August 1, 1977'' for ''August 1, 1967'' and ''in the amount of $500,000,000'' for ''in the maximum amount provided by subsection (e) of this section'', inserted ''in the aggregate for all persons indemnified in connection with each nuclear incident'', and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

1964—Subsec. (c). Pub. L. 88–394, § 2, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

Subsec. (k). Pub. L. 88–394, § 3, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

1962—Subsec. (d). Pub. L. 87–615, § 6, limited the amount of indemnity provided by the Commission for nuclear incidents occurring outside the United States to $100,000,000.

Subsec. (e). Pub. L. 87–615, § 7, inserted proviso limiting the aggregate liability in cases of nuclear incidents occurring outside the United States to which an indemnification agreement entered into under subsec. (d) of this section is applicable, to $100,000,000, and substituted ''occurring outside the United States, the Commission or any person indemnified may apply to the United States District Court for the District of Columbia'' for ''caused by ships of the United States outside of the United States, the Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship''.

1961—Subsec. (d). Pub. L. 87–206 inserted provision for liability of contractor to extent of indemnification under this section free of defense of sovereign immunity.

1958—Subsec. (e). Pub. L. 85–602, § 2[3], gave the district court that has venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship, jurisdiction in cases of nuclear incidents caused by ships of the United States outside of the United States.

Subsec. (k). Pub. L. 85–744 added subsec. (k).

Subsec. (*l*). Pub. L. 85–602, § 2, added subsec. (*l*).

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (*l*)(4)(C) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, § 609, Aug. 8, 2005, 119 Stat. 781, provided that: ''The amendments made by sections 603, 604, and 605 [amending this section] do not apply to a nuclear incident that occurs before the date of the enactment of this Act [Aug. 8, 2005].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–408 effective Aug. 20, 1988, and applicable with respect to nuclear incidents occur-

ring on or after Aug. 20, 1988, except that amendment by section 11 of Pub. L. 100–408 applicable to nuclear incidents occurring before, on, or after Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as a note under section 2014 of this title.

SHORT TITLE

This section is popularly known as the ''Price-Anderson Act'' and also as the ''Atomic Energy Damages Act''.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

FINDINGS

Pub. L. 106–245, § 2, July 10, 2000, 114 Stat. 501, provided that: ''Congress finds that—

''(1) the Radiation Exposure Compensation Act [Pub. L. 101–426] (42 U.S.C. 2210 note) recognized the responsibility of the Federal Government to compensate individuals who were harmed by the mining of radioactive materials or fallout from nuclear arms testing;

''(2) a congressional oversight hearing conducted by the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate demonstrated that since enactment of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), regulatory burdens have made it too difficult for some deserving individuals to be fairly and efficiently compensated;

''(3) reports of the Atomic Energy Commission and the National Institute for Occupational Safety and Health testify to the need to extend eligibility to States in which the Federal Government sponsored uranium mining and milling from 1941 through 1971;

''(4) scientific data resulting from the enactment of the Radiation[–]Exposed Veterans Compensation Act of 1988 (38 U.S.C. 101 note) [Pub. L. 100–321, see Tables for classification], and obtained from the Committee on the Biological Effects of Ionizing Radiations, and the President's Advisory Committee on Human Radiation Experiments provide medical validation for the extension of compensable radiogenic pathologies;

''(5) above-ground uranium miners, millers and individuals who transported ore should be fairly compensated, in a manner similar to that provided for underground uranium miners, in cases in which those individuals suffered disease or resultant death, associated with radiation exposure, due to the failure of the Federal Government to warn and otherwise help protect citizens from the health hazards addressed by the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note); and

''(6) it should be the responsibility of the Federal Government in partnership with State and local governments and appropriate healthcare organizations, to initiate and support programs designed for the early detection, prevention and education on radiogenic diseases in approved States to aid the thousands of individuals adversely affected by the mining of uranium and the testing of nuclear weapons for the Nation's weapons arsenal.''

AFFIDAVITS

Pub. L. 106–245, § 3(e)(2), July 10, 2000, 114 Stat. 507, provided that:

''(A) IN GENERAL.—The Attorney General shall take such action as may be necessary to ensure that the procedures established by the Attorney General under section 6 of the Radiation Exposure Compensation Act [Pub. L. 101–426] (42 U.S.C. 2210 note) provide that, in addition to any other material that may be used to substantiate employment history for purposes of determining working level months, an individual filing a claim under those procedures may make such a substantiation by means of an affidavit described in subparagraph (B).

''(B) AFFIDAVITS.—An affidavit referred to under subparagraph (A) is an affidavit—

''(i) that meets such requirements as the Attorney General may establish; and

''(ii) is made by a person other than the individual filing the claim that attests to the employment history of the claimant.''

GAO REPORTS

Pub. L. 106–245, § 3(i), July 10, 2000, 114 Stat. 508, which required General Accounting Office, not later than 18 months after July 10, 2000, and every 18 months thereafter, to submit a report to Congress containing a detailed accounting of the administration of the Radiation Exposure Compensation Act (Pub. L. 101–426, 42 U.S.C. 2210 note) by the Department of Justice, was repealed by Pub. L. 107–273, div. C, title I, § 11007(b), Nov. 2, 2002, 116 Stat. 1818. See section 14 of Pub. L. 101–426, set out below.

RADIATION EXPOSURE COMPENSATION

Pub. L. 101–426, Oct. 15, 1990, 104 Stat. 920, as amended by Pub. L. 101–510, div. C, title XXXI, §§ 3139, 3140, Nov. 5, 1990, 104 Stat. 1835, 1837; Pub. L. 102–486, title XXX, § 3018, Oct. 24, 1992, 106 Stat. 3131; Pub. L. 106–245, § 3(a)–(e)(1), (f)–(h), July 10, 2000, 114 Stat. 502–508; Pub. L. 107–107, div. A, title X, § 1063, Dec. 28, 2001, 115 Stat. 1232; Pub. L. 107–273, div. C, title I, § 11007(a), Nov. 2, 2002, 116 Stat. 1817; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–375, div. C, title XXXI, § 3165(b), Oct. 28, 2004, 118 Stat. 2187; Pub. L. 108–447, div. B, title I, § 122, Dec. 8, 2004, 118 Stat. 2870; Pub. L. 110–161, div. H, title I, § 1502(g), Dec. 26, 2007, 121 Stat. 2250, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Radiation Exposure Compensation Act'.

''SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

''(a) FINDINGS.—The Congress finds that—

''(1) fallout emitted during the Government's atmospheric nuclear tests exposed individuals to radiation that is presumed to have generated an excess of cancers among these individuals;

''(2) the health of the individuals who were exposed to radiation in these tests was put at risk to serve the national security interests of the United States;

''(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of

the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

''(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

''(5) the Congress recognizes that the lives and health of uranium miners and of individuals who were exposed to radiation were subjected to increased risk of injury and disease to serve the national security interests of the United States.

''(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

''(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

''SEC. 3. TRUST FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the 'Radiation Exposure Compensation Trust Fund' (hereinafter in this Act referred to as the 'Fund'), which shall be administered by the Secretary of the Treasury.

''(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

''(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

''(d) TERMINATION.—The Fund shall terminate 22 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000]. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

''(e) APPROPRIATION.—

''(1) IN GENERAL.—There are appropriated to the Fund, out of any money in the Treasury not otherwise appropriated, for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary, not to exceed the applicable maximum amount specified in paragraph (2), to carry out the purposes of the Fund.

''(2) LIMITATION.—Appropriation of amounts to the Fund pursuant to paragraph (1) is subject to the following maximum amounts:

''(A) For fiscal year 2002, $172,000,000.

''(B) For fiscal year 2003, $143,000,000.

''(C) For fiscal year 2004, $107,000,000.

''(D) For fiscal year 2005, $65,000,000.

''SEC. 4. CLAIMS RELATING TO ATMOSPHERIC NUCLEAR TESTING.

''(a) CLAIMS.—

''(1) CLAIMS RELATING TO LEUKEMIA.—

''(A) IN GENERAL.—An individual described in this subparagraph shall receive an amount specified in subparagraph (B) if the conditions described in subparagraph (C) are met. An individual referred to in the preceding sentence is an individual who—

''(i)(I) was physically present in an affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958;

''(II) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962; or

''(III) participated onsite in a test involving the atmospheric detonation of a nuclear device; and

''(ii) submits written documentation that such individual developed leukemia—

''(I) after the applicable period of physical presence described in subclause (I) or (II) of clause (i) or onsite participation described in clause (i)(III) (as the case may be); and

''(II) more that [sic] 2 years after first exposure to fallout.

''(B) AMOUNTS.—If the conditions described in subparagraph (C) are met, an individual—

''(i) who is described in subclause (I) or (II) of subparagraph (A)(i) shall receive $50,000; or

''(ii) who is described in subclause (III) of subparagraph (A)(i) shall receive $75,000.

''(C) CONDITIONS.—The conditions described in this subparagraph are as follows:

''(i) Initial exposure occurred prior to age 21.

''(ii) The claim for a payment under subparagraph (B) is filed with the Attorney General by or on behalf of the individual.

''(iii) The Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

''(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who—

''(A) was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958,

''(B) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, or

''(C) participated onsite in a test involving the atmospheric detonation of a nuclear device,

and who submits written medical documentation that he or she, after such period of physical presence or such participation (as the case may be), contracted a specified disease, shall receive $50,000 (in the case of an individual described in subparagraph (A) or (B)) or $75,000 (in the case of an individual described in subparagraph (C)), if—

''(i) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

''(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

''(3) CONFORMITY WITH SECTION 6.—Payments under this section may be made only in accordance with section 6.

''(4) EXCLUSION.—No payment may be made under this section on any claim of the Government of the Marshall Islands, or of any citizen or national of the Marshall Islands, that is referred to in Article X, Section 1 of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact of Free Association (as approved by the Compact of Free Association Act of 1985 (Public Law 99–239) [48 U.S.C. 1901 et seq., 2001 et seq.]).

''(b) DEFINITIONS.—For purposes of this section, the term—

''(1) 'affected area' means—

''(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, Wayne, San Juan, and Piute;

''(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

''(C) in the State of Arizona, the counties of Coconino, Yavapai, Navajo, Apache, and Gila, and that part of Arizona that is north of the Grand Canyon; and

''(2) 'specified disease' means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was at least 2 years after first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the: thyroid, male or female breast,

esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, liver (except if cirrhosis or hepatitis B is indicated), or lung.

''SEC. 5. CLAIMS RELATING TO URANIUM MINING.

''(a) ELIGIBILITY OF INDIVIDUALS.—

''(1) IN GENERAL.—An individual shall receive $100,000 for a claim made under this Act if—

''(A) that individual—

''(i) was employed in a uranium mine or uranium mill (including any individual who was employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill) located in Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, and Texas at any time during the period beginning on January 1, 1942, and ending on December 31, 1971; and

''(ii)(I) was a miner exposed to 40 or more working level months of radiation or worked for at least 1 year during the period described under clause (i) and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease; or

''(II) was a miller or ore transporter who worked for at least 1 year during the period described under clause (i) and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease or renal cancers and other chronic renal disease including nephritis and kidney tubal tissue injury;

''(B) the claim for that payment is filed with the Attorney General by or on behalf of that individual; and

''(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

''(2) INCLUSION OF ADDITIONAL STATES.—Paragraph (1)(A)(i) shall apply to a State, in addition to the States named under such clause, if—

''(A) a uranium mine was operated in such State at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

''(B) the State submits an application to the Department of Justice to include such State; and

''(C) the Attorney General makes a determination to include such State.

''(3) PAYMENT REQUIREMENT.—Each payment under this section may be made only in accordance with section 6.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'working level month of radiation' means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

''(2) the term 'working level' means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

''(3) the term 'nonmalignant respiratory disease' means fibrosis of the lung, pulmonary fibrosis, corpulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis;

''(4) the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians;

''(5) the term 'written medical documentation' for purposes of proving a nonmalignant respiratory disease means, in any case in which the claimant is living—

''(A)(i) an arterial blood gas study; or

''(ii) a written diagnosis by a physician meeting the requirements of subsection (c)(1); and

''(B)(i) a chest x-ray administered in accordance with standard techniques and the interpretive reports of a maximum of two National Institute of Occupational Health and Safety certified 'B' readers classifying the existence of the nonmalignant respiratory disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the 'ILO'), or subsequent revisions;

''(ii) high resolution computed tomography scans (commonly known as 'HRCT scans') (including computer assisted tomography scans (commonly known as 'CAT scans'), magnetic resonance imaging scans (commonly known as 'MRI scans'), and positron emission tomography scans (commonly known as 'PET scans')) and interpretive reports of such scans;

''(iii) pathology reports of tissue biopsies; or

''(iv) pulmonary function tests indicating restrictive lung function, as defined by the American Thoracic Society;

''(6) the term 'lung cancer'—

''(A) means any physiological condition of the lung, trachea, or bronchus that is recognized as lung cancer by the National Cancer Institute; and

''(B) includes in situ lung cancers;

''(7) the term 'uranium mine' means any underground excavation, including 'dog holes', as well as open pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted; and

''(8) the term 'uranium mill' includes milling operations involving the processing of uranium ore or vanadium-uranium ore, including both carbonate and acid leach plants.

''(c) WRITTEN DOCUMENTATION.—

''(1) DIAGNOSIS ALTERNATIVE TO ARTERIAL BLOOD GAS STUDY.—

''(A) IN GENERAL.—For purposes of this Act, the written diagnosis and the accompanying interpretive reports described in subsection (b)(5)(A) shall—

''(i) be considered to be conclusive; and

''(ii) be subject to a fair and random audit procedure established by the Attorney General.

''(B) CERTAIN WRITTEN DIAGNOSES.—

''(i) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described under clause (ii) of a nonmalignant pulmonary disease of a claimant that is accompanied by written documentation shall be considered to be conclusive evidence of that disease.

''(ii) DESCRIPTION OF PHYSICIANS.—A physician referred to under clause (i) is a physician who—

''(I) is employed by the Indian Health Service or the Department of Veterans Affairs; or

''(II) is a board certified physician; and

''(III) has a documented ongoing physician patient relationship with the claimant.

''(2) CHEST X-RAYS.—

''(A) IN GENERAL.—For purposes of this Act, a chest x-ray and the accompanying interpretive reports described in subsection (b)(5)(B) shall—

''(i) be considered to be conclusive; and

''(ii) be subject to a fair and random audit procedure established by the Attorney General.

''(B) CERTAIN WRITTEN DIAGNOSES.—

''(i) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described in clause (ii) of a nonmalignant pulmonary disease of a claimant that is accompanied by written documentation that meets the definition of that term under subsection (b)(5) shall be considered to be conclusive evidence of that disease.

''(ii) DESCRIPTION OF PHYSICIANS.—A physician referred to under clause (i) is a physician who—

''(I) is employed by—

''(aa) the Indian Health Service; or

''(bb) the Department of Veterans Affairs; and

''(II) has a documented ongoing physician patient relationship with the claimant.

''SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

''(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby indi-

viduals may submit claims for payments under this Act. In establishing procedures under this subsection, the Attorney General shall take into account and make allowances for the law, tradition, and customs of Indian tribes (as that term is defined in section 5(b)) and members of Indian tribes, to the maximum extent practicable.

''(b) DETERMINATION OF CLAIMS.—

''(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act. All reasonable doubt with regard to whether a claim meets the requirements of this Act shall be resolved in favor of the claimant.

''(2) CONSULTATION.—The Attorney General shall—

''(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted leukemia under section 4(a)(1), a specified disease under section 4(a)(2), or other disease specified in section 5;

''(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5; and

''(C) in consultation with the Secretary of Defense and the Secretary of Energy, establish guidelines for determining what constitutes documentation that an individual participated onsite in a test involving the atmospheric detonation of a nuclear device under section 4(a)(2)(C).

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B), and with the Secretary of Defense and the Secretary of Energy with respect to making determinations pursuant to the guidelines issued under subparagraph (C)..[sic]

''(c) PAYMENT OF CLAIMS.—

''(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund (or, in the case of a payment under section 5, from the Energy Employees Occupational Illness Compensation Fund, pursuant to section 3630(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 [42 U.S.C. 7384u(d)]), claims filed under this Act which the Attorney General determines meet the requirements of this Act.

''(2) OFFSET FOR CERTAIN PAYMENTS.—(A) A payment to an individual, or to a survivor of that individual, under this section on a claim under subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4 or a claim under section 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

''(i) exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, or

''(ii) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

''(B) A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4(a)(2)(C) shall be offset by the amount of—

''(i) any payment made pursuant to a final award or settlement on a claim (other than a claim for workers' compensation), against any person, or

''(ii) any payment made by the Department of Veterans Affairs,

that is based on injuries incurred by that individual on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.

''(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

''(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

''(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

''(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

''(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

''(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

''(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

''(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

''(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

''(ii) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

''(iii) a 'parent' includes fathers and mothers through adoption;

''(iv) a 'grandchild' of an individual is a child of a child of that individual; and

''(v) a 'grandparent' of an individual is a parent of a parent of that individual.

''(D) APPLICATION OF NATIVE AMERICAN LAW.—In determining those individuals eligible to receive compensation by virtue of marriage, relationship, or survivorship, such determination shall take into consideration and give effect to established law, tradition, and custom of the particular affected Indian tribe.

''(d) ACTION ON CLAIMS.—

''(1) IN GENERAL.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed. For purposes of determining when the 12-month period ends, a claim under this Act shall be deemed filed as of the date of its receipt by the Attorney General. In the event of the denial of a claim, the claimant shall be permitted a reasonable period in which to seek administrative review of the

denial by the Attorney General. The Attorney General shall make a final determination with respect to any administrative review within 90 days after the receipt of the claimant's request for such review. In the event the Attorney General fails to render a determination within 12 months after the date of the receipt of such request, the claim shall be deemed awarded as a matter of law and paid.

''(2) ADDITIONAL INFORMATION.—The Attorney General may request from any claimant under this Act, or from any individual or entity on behalf of any such claimant, any reasonable additional information or documentation necessary to complete the determination on the claim in accordance with the procedures established under subsection (a).

''(3) TREATMENT OF PERIOD ASSOCIATED WITH REQUEST.—

''(A) IN GENERAL.—The period described in subparagraph (B) shall not apply to the 12-month limitation under paragraph (1).

''(B) PERIOD.—The period described in this subparagraph is the period—

''(i) beginning on the date on which the Attorney General makes a request for additional information or documentation under paragraph (2); and

''(ii) ending on the date on which the claimant or individual or entity acting on behalf of that claimant submits that information or documentation or informs the Attorney General that it is not possible to provide that information or that the claimant or individual or entity will not provide that information.

''(4) PAYMENT WITHIN 6 WEEKS.—The Attorney General shall ensure that an approved claim is paid not later than 6 weeks after the date on which such claim is approved.

''(5) NATIVE AMERICAN CONSIDERATIONS.—Any procedures under this subsection shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom with respect to the submission and processing of claims by Native Americans.

''(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Except as otherwise authorized by law, the acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, exposure to radiation in a uranium mine, mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill at any time during the period described in section 5(a), or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device.

''(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

''(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

''(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

''(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

''(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

''(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

''(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

''(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act [Oct. 15, 1990]. Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000], the Attorney General shall issue revised regulations to carry out this Act.

''(*l*) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

''(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

''(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act.

''SEC. 8. LIMITATIONS ON CLAIMS.

''(a) IN GENERAL.—A claim to which this Act applies shall be barred unless the claim is filed within 22 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000].

''(b) RESUBMITTAL OF CLAIMS.—After the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000], any claimant who has been denied compensation under this Act may resubmit a claim for consideration by the Attorney General in accordance with this Act not more than three times. Any resubmittal made before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 shall not be applied to the limitation under the preceding sentence.

''SEC. 9. ATTORNEY FEES.

''(a) GENERAL RULE.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than that percentage specified in subsection (b) of a payment made under this Act on such claim.

''(b) APPLICABLE PERCENTAGE LIMITATIONS.—The percentage referred to in subsection (a) is—

''(1) 2 percent for the filing of an initial claim; and

''(2) 10 percent with respect to—

''(A) any claim with respect to which a representative has made a contract for services before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000]; or

''(B) a resubmission of a denied claim.

''(c) PENALTY.—Any such representative who violates this section shall be fined not more than $5,000.

''SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

''A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

''SEC. 11. BUDGET ACT.

''No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal

year except to such extent or in such amounts as are provided in advance in appropriations Acts.

''SEC. 12. REPORT.

''(a) REPORT.—The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

''(b) COMPLETION.—Such report shall be completed not later than September 30, 1992.

''SEC. 13. REPEAL.

''Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed.''

NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES

Section 19 of Pub. L. 100–408 provided that:

''(a) RULEMAKING PROCEEDING.—

''(1) PURPOSE.—The Nuclear Regulatory Commission (hereafter in this section referred to as the 'Commission') shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as 'radiopharmaceutical licensees').

''(2) FINAL DETERMINATION.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered by the Commission within 18 months of the date of the enactment of this Act [Aug. 20, 1988].

''(b) NEGOTIATED RULEMAKING.—

''(1) ADMINISTRATIVE CONFERENCE GUIDELINES.—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act [see Short Title of 1988 Amendment note set out under section 2011 of this title], conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82–4, 'Procedures for Negotiating Proposed Regulations' (42 Fed. Reg. 30708, July 15, 1982).

''(2) DESIGNATION OF CONVENER.—Within 30 days of the date of the enactment of this Act [Aug. 20, 1988], the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

''(3) SUBMISSION OF RECOMMENDATIONS OF THE CONVENER.—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

''(4) PUBLICATION OF RECOMMENDATIONS AND PROPOSED RULE.—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

''(5) ADMINISTRATIVE PROCEDURES.—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code.''

EXECUTIVE ORDER NO. 12658

Ex. Ord. No. 12658, Nov. 18, 1988, 53 F.R. 47517, as amended by Ex. Ord. No. 12665, Jan. 12, 1989, 54 F.R. 1919, which established President's Commission on Catastrophic Nuclear Accidents, was revoked by Ex. Ord. No. 12774, § 3(c), Sept. 27, 1991, 56 F.R. 49836, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12891

Ex. Ord. No. 12891, Jan. 15, 1994, 59 F.R. 2935, which established the Advisory Committee on Human Radiation Experiments, was revoked by Ex. Ord. No. 13062, § 3(a), Sept. 29, 1997, 62 F.R. 51756, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 2210a. Conflicts of interest relating to contracts and other arrangements

(a) Disclosure requirements

The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this chapter or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

(b) Evaluation

(1) In general

Except as provided in paragraph (2), the Nuclear Regulatory Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection (a) of this section and any other information otherwise available to the Commission that—

(A) it is unlikely that a conflict of interest would exist, or

(B) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines

that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(2) Nuclear Regulatory Commission

Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy facility, if the Nuclear Regulatory Commission determines that—

(A) the conflict of interest cannot be mitigated; and

(B) adequate justification exists to proceed without mitigation of the conflict of interest.

(c) Promulgation and publication of rules

The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5 (without regard to subsection (a)(2) thereof) as soon as practicable after November 6, 1978, but in no event later than 120 days after such date.

(Aug. 1, 1946, ch. 724, title I, § 170A, as added Pub. L. 95–601, § 8(a), Nov. 6, 1978, 92 Stat. 2950; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109–58, title VI, § 639, Aug. 8, 2005, 119 Stat. 794.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, in introductory provisions substituted ''Except as provided in paragraph (2), the Nuclear Regulatory Commission'' for ''The Commission'', redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), respectively, and added par. (2).

§ 2210b. Uranium supply

(a) Assessment of domestic uranium industry viability; monitoring and reporting requirements; criteria; implementation by rules and regulations

The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 2231 of this title, within 9 months of January 4, 1983, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

(b) Disclosure of information

Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18.

(c) Criteria for monitoring and reporting requirements

The criteria referred to in subsection (a) of this section shall also include, but not be limited to—

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

(3) present and probable future use of the domestic market by foreign imports;

(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

(5) present and projected domestic uranium exploration expenditures and plans;

(6) present and projected employment and capital investment in the uranium industry;

(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

(d) Excessive imports; investigation by United States International Trade Commission

The Secretary or[1] Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 2251[2] of title 19.

(e) Excessive imports for contracts or options as threatening national security; investigation by Secretary of Commerce; recommendation for further investigation

(1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material

[1] So in original. Probably should be ''of''.

[2] See References in Text note below.

from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 1862 of title 19 an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

(Aug. 1, 1946, ch. 724, title I, § 170B, as added Pub. L. 97–415, § 23(b)(1), Jan. 4, 1983, 96 Stat. 2081; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Section 2251 of title 19, referred to in subsec. (d), was amended generally by Pub. L. 100–418, title I, § 1401(a), Aug. 23, 1988, 102 Stat. 1225, and as so amended does not relate to investigations. See section 2252 of Title 19, Customs Duties.

REVIEW OF STATUS OF DOMESTIC URANIUM MINING AND MILLING INDUSTRY; AVAILABILITY TO CONGRESSIONAL COMMITTEES; SCOPE OF REVIEW

Section 23(a) of Pub. L. 97–415 provided that:

''(a)(1) Not later than 12 months after the date of enactment of this section [Jan. 4, 1983], the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

''(2) The Comprehensive review prepared for submission under paragraph (1) shall include—

''(A) projections of uranium requirements and inventories of domestic utilities;

''(B) present and future projected uranium production by the domestic mining and milling industry;

''(C) the present and future probable penetration of the domestic market by foreign imports;

''(D) the size of domestic and foreign ore reserves;

''(E) present and projected domestic uranium exploration expenditures and plans;

''(F) present and projected employment and capital investment in the uranium industry;

''(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

''(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

''(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

''(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

''(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.''

§ 2210c. Elimination of pension offset for certain rehired Federal retirees

(a) In general

The Commission may waive the application of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant—

(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(2) when a temporary emergency hiring need exists.

(b) Procedures

The Commission shall prescribe procedures for the exercise of authority under this section, including—

(1) criteria for any exercise of authority; and

(2) procedures for a delegation of authority.

(c) Effect of waiver

An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5.

(Aug. 1, 1946, ch. 724, title I, § 170C, as added Pub. L. 109–58, title VI, § 624(a), Aug. 8, 2005, 119 Stat. 783.)

§ 2210d. Security evaluations

(a) Security response evaluations

Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

(b) Force-on-force exercises

(1) The security evaluations shall include force-on-force exercises.

(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

(c) Action by licensees

The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

(d) Facilities under heightened threat levels

The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

(e) Report

Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

(Aug. 1, 1946, ch. 724, title I, § 170D, as added Pub. L. 109–58, title VI, § 651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

§ 2210e. Design basis threat rulemaking

(a) Rulemaking

The Commission shall—

(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

(b) Factors

When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(Aug. 1, 1946, ch. 724, title I, § 170E, as added Pub. L. 109–58, title VI, § 651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 109–58, which was approved August 8, 2005.

§ 2210f. Recruitment tools

The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.

(Aug. 1, 1946, ch. 724, title I, § 170F, as added Pub. L. 109–58, title VI, § 651(c)(2), Aug. 8, 2005, 119 Stat. 801.)

§ 2210g. Expenses authorized to be paid by the Commission

The Commission may—

(1) pay transportation, lodging, and subsistence expenses of employees who—

(A) assist scientific, professional, administrative, or technical employees of the Commission; and

(B) are students in good standing at an institution of higher education (as defined in section 1002 of title 20) pursuing courses related to the field in which the students are employed by the Commission; and

(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.

(Aug. 1, 1946, ch. 724, title I, § 170G, as added Pub. L. 109–58, title VI, § 651(c)(3), Aug. 8, 2005, 119 Stat. 801.)

§ 2210h. Radiation source protection

(a) Definitions

In this section:

(1) Code of conduct

The term ''Code of Conduct'' means the code entitled the ''Code of Conduct on the Safety and Security of Radioactive Sources'', approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

(2) Radiation source

The term ''radiation source'' means—

(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

(b) Commission approval

Not later than 180 days after August 8, 2005, the Commission shall issue regulations prohibiting a person from—

(1) exporting a radiation source, unless the Commission has specifically determined under section 2077 or 2112 of this title, consistent with the Code of Conduct, with respect to the exportation, that—

(A) the recipient of the radiation source may receive and possess the radiation source

under the laws and regulations of the country of the recipient;

(B) the recipient country has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

(C) before the date on which the radiation source is shipped—

(i) a notification has been provided to the recipient country; and

(ii) a notification has been received from the recipient country;

as the Commission determines to be appropriate;

(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that—

(A) the proposed recipient is authorized by law to receive the radiation source; and

(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and

(3) selling or otherwise transferring ownership of a radiation source, unless the Commission—

(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and

(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation.

(c) Tracking system

(1)(A) Not later than 1 year after August 8, 2005, the Commission shall issue regulations establishing a mandatory tracking system for radiation sources in the United States.

(B) In establishing the tracking system under subparagraph (A), the Commission shall coordinate with the Secretary of Transportation to ensure compatibility, to the maximum extent practicable, between the tracking system and any system established by the Secretary of Transportation to track the shipment of radiation sources.

(2) The tracking system under paragraph (1) shall—

(A) enable the identification of each radiation source by serial number or other unique identifier;

(B) require reporting within 7 days of any change of possession of a radiation source;

(C) require reporting within 24 hours of any loss of control of, or accountability for, a radiation source; and

(D) provide for reporting under subparagraphs (B) and (C) through a secure Internet connection.

(d) Penalty

A violation of a regulation issued under subsection (a) or (b) of this section shall be punishable by a civil penalty not to exceed $1,000,000.

(e) National Academy of Sciences study

(1) Not later than 60 days after August 8, 2005, the Commission shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of industrial, research, and commercial uses for radiation sources.

(2) The study under paragraph (1) shall include a review of uses of radiation sources in existence on the date on which the study is conducted, including an identification of any industrial or other process that—

(A) uses a radiation source that could be replaced with an economically and technically equivalent (or improved) process that does not require the use of a radiation source; or

(B) may be used with a radiation source that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source.

(3) Not later than 2 years after August 8, 2005, the Commission shall submit to Congress the results of the study under paragraph (1).

(f) Task force on radiation source protection and security

(1) There is established a task force on radiation source protection and security (referred to in this section as the ''task force'').

(2)(A) The chairperson of the task force shall be the Chairperson of the Commission (or a designee).

(B) The membership of the task force shall consist of the following:

(i) The Secretary of Homeland Security (or a designee).

(ii) The Secretary of Defense (or a designee).

(iii) The Secretary of Energy (or a designee).

(iv) The Secretary of Transportation (or a designee).

(v) The Attorney General (or a designee).

(vi) The Secretary of State (or a designee).

(vii) The Director of National Intelligence (or a designee).

(viii) The Director of the Central Intelligence Agency (or a designee).

(ix) The Administrator of the Federal Emergency Management Agency (or a designee).

(x) The Director of the Federal Bureau of Investigation (or a designee).

(xi) The Administrator of the Environmental Protection Agency (or a designee).

(3)(A) The task force, in consultation with Federal, State, and local agencies, the Conference of Radiation Control Program Directors, and the Organization of Agreement States, and after public notice and an opportunity for comment, shall evaluate, and provide recommendations relating to, the security of radiation sources in the United States from potential terrorist threats, including acts of sabotage, theft, or use of a radiation source in a radiological dispersal device.

(B) Not later than 1 year after August 8, 2005, and not less than once every 4 years thereafter, the task force shall submit to Congress and the President a report, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

(i) a list of additional radiation sources that should be required to be secured under this chapter, based on the potential attractiveness of the sources to terrorists and the extent of

the threat to public health and safety of the sources, taking into consideration—

(I) radiation source radioactivity levels;

(II) radioactive half-life of a radiation source;

(III) dispersability;

(IV) chemical and material form;

(V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and

(VI) any other factor that the Chairperson of the Commission determines to be appropriate;

(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;

(iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;

(iv) modifications to the national tracking system for radiation sources;

(v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this chapter;

(vi) modifications to export controls on radiation sources to ensure that foreign recipients of radiation sources are able and willing to adequately control radiation sources from the United States;

(vii)(I) any alternative technologies available as of the date on which the report is submitted that may perform some or all of the functions performed by devices or processes that employ radiation sources; and

(II) the establishment of appropriate regulations and incentives for the replacement of the devices and processes described in subclause (I)—

(aa) with alternative technologies in order to reduce the number of radiation sources in the United States; or

(bb) with radiation sources that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source; and

(viii) the creation of, or modifications to, procedures for improving the security of use, transportation, and storage of radiation sources, including—

(I) periodic audits or inspections by the Commission to ensure that radiation sources are properly secured and can be fully accounted for;

(II) evaluation of the security measures by the Commission;

(III) increased fines for violations of Commission regulations relating to security and safety measures applicable to licensees that possess radiation sources;

(IV) criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources);

(V) requirements for effective and timely exchanges of information relating to the results of criminal and security background checks between the Commission and any State with which the Commission has entered into an agreement under section 2021(b) of this title;

(VI) assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported); and

(VII) the screening of shipments to facilities that the Commission determines to be particularly at risk for sabotage of radiation sources to ensure that the shipments do not contain explosives.

(g) Action by Commission

Not later than 60 days after the date of receipt by Congress and the President of a report under subsection (f)(3)(B) of this section, the Commission, in accordance with the recommendations of the task force, shall—

(1) take any action the Commission determines to be appropriate, including revising the system of the Commission for licensing radiation sources; and

(2) ensure that States that have entered into agreements with the Commission under section 2021(b) of this title take similar action in a timely manner.

(Aug. 1, 1946, ch. 724, title I, § 170H, as added Pub. L. 109–58, title VI, § 651(d)(1), Aug. 8, 2005, 119 Stat. 802; amended Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (f)(2)(B)(ix) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

§ 2210i. Secure transfer of nuclear materials

(a) The Commission shall establish a system to ensure that materials described in subsection (b) of this section, when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this chapter, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

(b) Except as otherwise provided by the Commission by regulation, the materials referred to in subsection (a) of this section are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 10101(16) of this title).

(Aug. 1, 1946, ch. 724, title I, § 170I, as added Pub. L. 109–58, title VI, § 656(a), Aug. 8, 2005, 119 Stat. 813.)

EFFECTIVE DATE

Pub. L. 109–58, title VI, § 656(c), Aug. 8, 2005, 119 Stat. 814, provided that: ''The amendment made by sub-

section (a) [enacting this section] shall take effect upon the issuance of regulations under subsection (b) [set out below], except that the background check requirement shall become effective on a date established by the Commission.'' [For issuance of regulations effective Feb. 23, 2007, see 72 F.R. 3025.]

REGULATIONS

Pub. L. 109–58, title VI, § 656(b), Aug. 8, 2005, 119 Stat. 814, provided that: ''Not later than 1 year after the date of the enactment of this Act [Aug. 8, 2005], and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170D [probably means 170I] of the Atomic Energy Act of 1954 [42 U.S.C. 2210i], as added by subsection (a) of this section.''

EFFECT ON OTHER LAW

Pub. L. 109–58, title VI, § 656(d), Aug. 8, 2005, 119 Stat. 814, provided that: ''Nothing in this section [enacting this section and provisions set out as notes under this section] or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.''

§ 2211. Payment of claims or judgments for damage resulting from nuclear incident involving nuclear reactor of United States warship; exception; terms and conditions

It is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided*, That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds.

(Pub. L. 93–513, Dec. 6, 1974, 88 Stat. 1611.)

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

EX. ORD. NO. 11918. COMPENSATION FOR DAMAGES INVOLVING NUCLEAR REACTORS OF UNITED STATES WARSHIPS

Ex. Ord. No. 11918, eff. June 1, 1976, 41 F.R. 22329, provided:

By virtue of the authority vested in me by the joint resolution approved December 6, 1974 (Public Law 93–513, 88 Stat. 1610, 42 U.S.C. 2211), and by section 301 of title 3 of the United States Code, and as President of the United States of America, in order that prompt, adequate and effective compensation will be provided in the unlikely event of injury or damage resulting from a nuclear incident involving the nuclear reactor of a United States warship, it is hereby ordered as follows:

SECTION 1. (a) With respect to the administrative settlement of claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship, the Secretary of Defense is designated and empowered to authorize, in accord with Public Law 93–513 [this section], the payment, under such terms and conditions as he may direct, of such claims and judgments from contingency funds available to the Department of Defense.

(b) The Secretary of Defense shall, when he considers such action appropriate, certify claims or judgments described in subsection (a) and transmit to the Director of the Office of Management and Budget his recommendation with respect to appropriation by the Congress of such additional sums as may be necessary.

SEC. 2. The provisions of section 1 shall not be deemed to replace, alter, or diminish, the statutory and other functions vested in the Attorney General, or the head of any other agency, with respect to litigation against the United States and judgments and compromise settlements arising therefrom.

SEC. 3. The functions herein delegated shall be exercised in consultation with the Secretary of State in the case of any incident giving rise to a claim of a foreign country or national thereof, and international negotiations relating to Public Law 93–513 [this section], shall be performed by or under the authority of the Secretary of State.

GERALD R. FORD.

§ 2212. Transferred

CODIFICATION

Section, Pub. L. 101–510, div. C, title XXXI, § 3141, Nov. 5, 1990, 104 Stat. 1837, which related to contractor liability for injury or loss of property arising out of atomic weapons testing programs, was renumbered section 4803 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(k)(4)(A)–(C), Nov. 24, 2003, 117 Stat. 1783, and transferred to section 2783 of Title 50, War and National Defense.

PRIOR PROVISIONS

A prior section 2212, Pub. L. 98–525, title XVI, § 1631, Oct. 19, 1984, 98 Stat. 2646, related to contractor liability for injury or loss of property arising out of atomic weapons testing programs, prior to repeal by Pub. L. 101–426, § 13, as added Pub. L. 101–510, div. C, title XXXI, § 3140, Nov. 5, 1990, 104 Stat. 1837.

§ 2213. Repealed. Pub. L. 109–58, title VI, § 637(b), Aug. 8, 2005, 119 Stat. 791

Section, Pub. L. 99–272, title VII, § 7601, Apr. 7, 1986, 100 Stat. 146; Pub. L. 100–203, title V, § 5601, Dec. 22, 1987, 101 Stat. 1330–275; Pub. L. 101–239, title III, § 3201, Dec. 19, 1989, 103 Stat. 2132; Pub. L. 101–508, title VI, § 6101(e), Nov. 5, 1990, 104 Stat. 1388–299, related to assessment and collection of annual charges from Nuclear Regulatory Commission licensees.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2006, see section 637(c) of Pub. L. 109–58, set out as an Effective Date of 2005 Amendment note under section 2214 of this title.

§ 2214. NRC user fees and annual charges

(a) Annual assessment

(1) In general

The Nuclear Regulatory Commission (in this section referred to as the ''Commission'') shall annually assess and collect such fees and charges as are described in subsections (b) and (c) of this section.

(2) First assessment

The first assessment of fees under subsection (b) of this section and annual charges under subsection (c) of this section shall be made not later than September 30, 1991.

(b) Fees for service or thing of value

Pursuant to section 9701 of title 31, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

(c) Annual charges

(1) Persons subject to charge

Except as provided in paragraph (4), any licensee or certificate holder of the Commission may be required to pay, in addition to the fees set forth in subsection (b) of this section, an annual charge.

(2) Aggregate amount of charges

(A) In general

The aggregate amount of the annual charges collected from all licensees and certificate holders in a fiscal year shall equal an amount that approximates the percentages of the budget authority of the Commission for the fiscal year stated in subparagraph (B), less—

(i) amounts collected under subsection (b) of this section during the fiscal year;

(ii) amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year;

(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 2169 of this title and the costs of conducting security inspections.

(B) Percentages

The percentages referred to in subparagraph (A) are—

(i) 98 percent for fiscal year 2001;

(ii) 96 percent for fiscal year 2002;

(iii) 94 percent for fiscal year 2003;

(iv) 92 percent for fiscal year 2004; and

(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.

(3) Amount per licensee

The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among licensees. To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees.

(4) Exemption

(A) In general

Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

(B) Research reactor

For purposes of subparagraph (A), the term ''research reactor'' means a nuclear reactor that—

(i) is licensed by the Nuclear Regulatory Commission under section 2134(c) of this title for operation at a thermal power level of 10 megawatts or less; and

(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

(I) a circulating loop through the core in which the licensee conducts fuel experiments;

(II) a liquid fuel loading; or

(III) an experimental facility in the core in excess of 16 square inches in cross-section.

(d) "Nuclear Waste Fund" defined

As used in this section, the term ''Nuclear Waste Fund'' means the fund established pursuant to section 10222(c) of this title.

(Pub. L. 101–508, title VI, § 6101, Nov. 5, 1990, 104 Stat. 1388–298; Pub. L. 102–486, title XXIX, § 2903(a), Oct. 24, 1992, 106 Stat. 3125; Pub. L. 103–66, title VII, § 7001, Aug. 10, 1993, 107 Stat. 401; Pub. L. 105–245, title V, § 505, Oct. 7, 1998, 112 Stat. 1856; Pub. L. 106–60, title VI, § 604, Sept. 29, 1999, 113 Stat. 501; Pub. L. 106–377, § 1(a)(2) [title VIII], Oct. 27, 2000, 114 Stat. 1441, 1441A–86; Pub. L. 109–58, title VI, § 637(a), Aug. 8, 2005, 119 Stat. 791; Pub. L. 109–103, title IV, Nov. 19, 2005, 119 Stat. 2283.)

REFERENCES IN TEXT

Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, referred to in subsec. (c)(2)(A)(iii), is section 3116 of Pub. L. 108–375, which is set out as a note under section 2601 of Title 50, War and National Defense.

CODIFICATION

Section is comprised of section 6101 of Pub. L. 101–508. Subsec. (e) of section 6101 of Pub. L. 101–508 amended former section 2213 of this title.

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–58, § 637(a)(1)(A), substituted ''The'' for ''Except as provided in paragraph (3), the''.

Subsec. (a)(3). Pub. L. 109–58, § 637(a)(1)(B), struck out heading and text of par. (3). Text read as follows: ''The last assessment of annual charges under subsection (c) of this section shall be made not later than September 20, 2005.''

Subsec. (c)(2)(A)(iii), (iv). Pub. L. 109–58, § 637(a)(2)(A)–(C), added cls. (iii) and (iv).

Subsec. (c)(2)(B)(v). Pub. L. 109–58, § 637(a)(2)(D), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''90 percent for fiscal year 2005 and fiscal year 2006.''

Pub. L. 109–103 inserted ''and fiscal year 2006'' before period at end.

2000—Subsec. (a)(3). Pub. L. 106–377, § 1(a)(2) [title VIII], which directed substitution of ''September 20, 2005'' for ''September 30, 1999'', was executed by making the substitution for ''September 30, 2000'' to reflect the probable intent of Congress and the amendment by Pub. L. 106–60, § 604. See 1999 Amendment note below.

Subsec. (c)(1). Pub. L. 106–377, § 1(a)(2) [title VIII], inserted ''or certificate holder'' after ''licensee''.

Subsec. (c)(2). Pub. L. 106–377, § 1(a)(2) [title VIII], added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''The aggregate amount of the annual charge collected from all li-

censees shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) of this section in such fiscal year.''

1999—Subsec. (a)(3). Pub. L. 106–60 substituted ''September 30, 2000'' for ''September 30, 1999''.

1998—Subsec. (a)(3). Pub. L. 105–245 substituted ''September 30, 1999'' for ''September 30, 1998''.

1993—Subsec. (a)(3). Pub. L. 103–66 substituted ''September 30, 1998'' for ''September 30, 1995''.

1992—Subsec. (c)(1). Pub. L. 102–486, § 2903(a)(1), substituted ''Except as provided in paragraph (4), any licensee'' for ''Any licensee''.

Subsec. (c)(4). Pub. L. 102–486, § 2903(a)(2), added par. (4).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, § 637(c), Aug. 8, 2005, 119 Stat. 791, provided that: ''The amendments made by this section [amending this section and repealing section 2213 of this title] take effect on October 1, 2006.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2903(b) of Pub. L. 102–486 provided that: ''The amendments made [by] subsection (a) [amending this section] shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [42 U.S.C. 2214(c)] for fiscal year 1992 or any succeeding fiscal year.''

POLICY REVIEW

Section 2903(c) of Pub. L. 102–486 provided that: ''The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [42 U.S.C. 2214(c)], solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.''

SUBCHAPTER XIV—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

§ 2221. Just compensation for requisitioned property

The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 2063, 2075, 2096, and 2138 of this title. Except in case of real property or any interest therein, the Commission shall determine and pay such just compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the United States Court of Federal Claims or in any district court of the United States for the district in which such claimant is a resident in the manner provided by section 1346 of title 28 to recover such further sum as added to said 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, title I, § 171, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952; amended Pub. L. 88–489, § 17, Aug. 26, 1964, 78 Stat. 606; Pub. L. 97–164, title I, § 160(a)(16), Apr. 2, 1982, 96 Stat. 48; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims''.

1964—Pub. L. 88–489 substituted ''2075'' for ''2072 (with respect to the material for which the United States is required to pay just compensation),''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

RETROCESSION OF LAND TO NEW MEXICO

Section 3 of act Aug. 30, 1954, provided that:

''There is hereby retroceded to the State of New Mexico the exclusive jurisdiction heretofore acquired from the State of New Mexico by the United States of America over the following land of the United States Atomic Energy Commission in Bernalillo County and within the boundaries of the Sandia base, Albuquerque, New Mexico.

''Beginning at the center quarter corner of section 30, township 10 north, range 4 east, New Mexico principal meridian, Bernalillo County, New Mexico, thence south no degrees twenty-three minutes thirty seconds west one thousand nine hundred forty-seven and twenty one-hundredths feet, thence north eighty-nine degrees thirty-six minutes forty-five seconds east two thousand sixty-eight and forty one-hundredths feet, thence north eighty-nine degrees three minutes fifteen seconds east five hundred forty-six feet, thence north no degrees thirty-nine minutes no seconds east two hundred thirty-two and seventy one-hundredths feet, thence north eighty-nine degrees twenty-one minutes no seconds west eight hundred fifty-two and twenty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east five hundred and sixty one-hundredths feet, thence along the back of the south curb of West Sandia Drive, Sandia Base, Bernalillo County, New Mexico, eight hundred sixty-five and sixty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east one thousand three hundred thirty-five and three-tenths feet to a point south eighty-nine degrees twenty-seven minutes forty-five seconds west a distance of thirty feet from the quarter corner common to sections 30 and 29, township 10 north, range 4 east, thence south eighty-nine degrees, twenty-seven minutes forty-five seconds west two thousand six hundred twenty-three and forty one-hundredths feet to the point of beginning.

''This retrocession of jurisdiction shall take effect upon acceptance by the State of New Mexico.''

§ 2222. Condemnation of real property

Proceedings for condemnation shall be instituted pursuant to the provisions of section 3113 of title 40, and section 1403 of title 28. Sections 3114 to 3116 and 3118 of title 40 shall be applicable to any such proceedings.

(Aug. 1, 1946, ch. 724, title I, § 172, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953; renumbered

title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

In text, ''section 3113 of title 40'' substituted for ''the Act approved August 1, 1888, as amended,'' and ''Sections 3114 to 3116 and 3118 of title 40'' substituted for ''The Act approved February 26, 1931, as amended,'', on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2223. Patent application disclosures

In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid by the United States to the owner of the patent application. The Commission shall determine such compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the United States Court of Federal Claims or in any district court of the United States for the district in which such claimant is a resident in a manner provided by section 1346 of title 28 to recover such further sum as added to such 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, title I, § 173, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953; amended Pub. L. 97–164, title I, § 160(a)(16), Apr. 2, 1982, 96 Stat. 48; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 2224. Attorney General approval of title

All real property acquired under this chapter shall be subject to the provisions of sections 3111 and 3112 of title 40: *Provided, however*, That real property acquired by purchase or donation, or other means of transfer may also be occupied, used, and improved for the purposes of this chapter prior to approval of title by the Attorney General in those cases where the President determines that such action is required in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 174, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

In text, ''sections 3111 and 3112 of title 40'' substituted for ''section 355 of the Revised Statutes, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SUBCHAPTER XV—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

§ 2231. Applicability of administrative procedure provisions; definitions

The provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to all agency action taken under this chapter, and the terms ''agency'' and ''agency action'' shall have the meaning specified in section 551 of title 5: *Provided, however*, That in the case of agency proceedings or actions which involve Restricted Data, defense information, safeguards information protected from disclosure under the authority of section 2167 of this title or information protected from dissemination under the authority of section 2168 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title were not involved.

(Aug. 1, 1946, ch. 724, title I, § 181, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953; amended Pub. L. 96–295, title II, § 207(b), June 30, 1980, 94 Stat. 789; Pub. L. 97–90, title II, § 210(b), Dec. 4, 1981, 95 Stat. 1170; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

''Subchapter II of chapter 5, and chapter 7, of title 5'' substituted in text for the first reference to the Administrative Procedure Act on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. ''Section 551 of title 5'' substituted for the second reference to the Administrative Procedure Act to reflect the codification of the definitions of ''agency'' and ''agency action'' in that section. Prior to the enactment of Title 5, the Administrative Procedure Act was classified to sections 1001 to 1011 of Title 5.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1814(a), (c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1981—Pub. L. 97–90, in proviso, substituted ''involve Restricted Data, defense information, safeguards information protected from disclosure under the authority of section 2167 of this title or information protected from dissemination under the authority of section 2168 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title were not involved'' for ''involve Restricted Data, defense information, or safeguards information protected from disclosure under the authority of section 2167 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, or such safeguards information, to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, or such safeguards information, were not involved''.

1980—Pub. L. 96–295 inserted references and made provisions applicable to safeguards information.

§ 2232. License applications

(a) Contents and form

Each application for a license hereunder shall be in writing and shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant, the character of the applicant, the citizenship of the applicant, or any other qualifications of the applicant as the Commission may deem appropriate for the license. In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount, kind, and source of special nuclear material required, the place of the use, the specific characteristics of the facility, and such other information as the Commission may, by rule or regulation, deem necessary in order to enable it to find that the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. Such technical specifications shall be a part of any license issued. The Commission may at any time after the filing of the original application, and before the expiration of the license, require further written statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee. Applications for, and statements made in connection with, licenses under sections 2133 and 2134 of this title shall be made under oath or affirmation. The Commission may require any other applications or statements to be made under oath or affirmation.

(b) Review of applications by Advisory Committee on Reactor Safeguards; report

The Advisory Committee on Reactor Safeguards shall review each application under section 2133 or section 2134(b) of this title for a construction permit or an operating license for a facility, any application under section 2134(c) of this title for a construction permit or an operating license for a testing facility, any application under subsection (a) or (c) of section 2134 of this title specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

(c) Commercial power; publication

The Commission shall not issue any license under section 2133 of this title for a utilization or production facility for the generation of commercial power until it has given notice in writing to such regulatory agency as may have jurisdiction over the rates and services incident to the proposed activity; until it has published notice of the application in such trade or news publications as the Commission deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility; and until it has published notice of such application once each week for four consecutive weeks in the Federal Register, and until four weeks after the last notice.

(d) Preferred consideration

The Commission, in issuing any license for a utilization or production facility for the generation of commercial power under section 2133 of this title, shall give preferred consideration to applications for such facilities which will be located in high cost power areas in the United States if there are conflicting applications for a limited opportunity for such license. Where such conflicting applications resulting from limited opportunity for such license include those submitted by public or cooperative bodies such applications shall be given preferred consideration.

(Aug. 1, 1946, ch. 724, title I, § 182, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953; amended Aug. 6, 1956, ch. 1015, § 5, 70 Stat. 1069; Pub. L. 85–256, § 6, Sept. 2, 1957, 71 Stat. 579; Pub. L. 87–615, § 3, Aug. 29, 1962, 76 Stat. 409; Pub. L. 91–560, § 9, Dec. 19, 1970, 84 Stat. 1474; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–560 substituted provisions requiring notification by publication giving reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility, for provisions requiring notice in writing to municipalities, private utilities, public bodies and cooperatives within transmission distance authorized to engage in the distribution of electric energy.

1962—Subsec. (b). Pub. L. 87–615 substituted provisions requiring review of applications under section 2133 or 2134(b) of this title for a construction permit or an operating license for a facility, or under section 2134(c) of this title for a testing facility, for provisions which required review of license applications for such facilities, and inserted provisions requiring review of any application for an amendment to a construction permit or operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission.

1957—Subsecs. (b) to (d). Pub. L. 85–256 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1956—Subsec. (a). Act Aug. 6, 1956, struck out ''under oath or affirmation'' from last sentence, and inserted two sentences at end requiring applications and statements in connection with sections 2133 and 2134 to be made under oath or affirmation and authorizing Commission to require any other applications or statements to be made under oath or affirmation.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2233. Terms of licenses

Each license shall be in such form and contain such terms and conditions as the Commission may, by rule or regulation, prescribe to effectuate the provisions of this chapter, including the following provisions:

(a) Repealed. Pub. L. 88–489, § 18, Aug. 26, 1964, 78 Stat. 607.

(b) No right to the special nuclear material shall be conferred by the license except as defined by the license.

(c) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter.

(d) Every license issued under this chapter shall be subject to the right of recapture or control reserved by section 2138 of this title, and to all of the other provisions of this chapter, now or hereafter in effect and to all valid rules and regulations of the Commission.

(Aug. 1, 1946, ch. 724, title I, § 183, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954; amended Pub. L. 88–489, § 18, Aug. 26, 1964, 78 Stat. 607; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1964—Par. (a). Pub. L. 88–489 struck out par. (a) which placed title to all special nuclear material utilized or produced by facilities pursuant to license in the United States at all times.

§ 2234. Inalienability of licenses

No license granted hereunder and no right to utilize or produce special nuclear material granted hereby shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this chapter, and shall give its consent in writing. The Commission may give such consent to the creation of a mortgage, pledge, or other lien upon any facility or special nuclear material, owned or thereafter acquired by a licensee, or upon any leasehold or other interest to such facility, and the rights of the creditors so secured may thereafter be enforced by any court subject to rules and regulations established by the Commission to protect public health and safety and promote the common defense and security.

(Aug. 1, 1946, ch. 724, title I, § 184, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954; amended Pub. L. 88–489, § 19, Aug. 26, 1964, 78 Stat. 607; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1964—Pub. L. 88–489 inserted ''or special nuclear material,'' after ''lien upon any facility'' and substituted ''interest in such facility'' for ''interest in such property''.

§ 2235. Construction permits and operating licenses

(a) All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. The construction permit shall state the earliest and latest dates for the completion of the construction or modification. Unless the construction or modification of the facility is completed by the completion date, the construction permit shall expire, and all rights thereunder be forfeited, unless upon good cause shown, the Commission extends the completion date. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this chapter and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this chapter, the Commission shall thereupon issue a license to the applicant. For all other purposes of this chapter, a construction permit is deemed to be a ''license''.

(b) After holding a public hearing under section 2239(a)(1)(A) of this title, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this chapter, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee

shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this chapter, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 2239(a)(1)(B) of this title.

(Aug. 1, 1946, ch. 724, title I, § 185, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(8), title XXVIII, § 2801, Oct. 24, 1992, 106 Stat. 2944, 3120.)

AMENDMENTS

1992—Pub. L. 102–486 inserted ''and operating licenses'' after ''permits'' in section catchline, designated existing text as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2806 of Pub. L. 102–486 provided that: ''Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954 [subsec. (b) of this section and section 2239(a)(1)(B) of this title], as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.''

EXECUTIVE ORDER NO. 12129

Ex. Ord. No. 12129, Apr. 5, 1979, 44 F.R. 21001, which established a Critical Energy Facility Program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 2236. Revocation of licenses

(a) False applications; failure of performance

Any license may be revoked for any material false statement in the application or any statement of fact required under section 2232 of this title, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this chapter or of any regulation of the Commission.

(b) Procedure

The Commission shall follow the provisions of section 558(c) of title 5 in revoking any license.

(c) Repossession of material

Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under subchapter II of chapter 5 and chapter 7 of title 5. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, § 186, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

In subsecs. (b) and (c), ''section 558(c) of title 5'' and ''subchapter II of chapter 5 and chapter 7 of title 5'' substituted for ''section 9(b) of the Administrative Procedure Act [5 U.S.C. 1008(b)]'' and ''the Administration Procedure Act [5 U.S.C. 1001–1011]'', respectively, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 2237. Modification of license

The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this chapter or by reason of rules and regulations issued in accordance with the terms of this chapter.

(Aug. 1, 1946, ch. 724, title I, § 187, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2238. Continued operation of facilities

Whenever the Commission finds that the public convenience and necessity or the production program of the Commission requires continued operation of a production facility or utilization facility the license for which has been revoked pursuant to section 2236 of this title, the Commission may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility be operated for such period of time as the public convenience and necessity or the production program of the Commission may, in the judgment of the Commission, require, or until a license for the operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, § 188, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2239. Hearings and judicial review

(a)(1)(A) In any proceeding under this chapter, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections[1] 2183, 2187, 2236(c) or 2238 of this title, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 2133

[1] So in original. Probably should be ''section''.

or 2134(b) of this title for a construction permit for a facility, and on any application under section 2134(c) of this title for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.

(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 2235(b) of this title, the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).

(2)(A) The Commission may issue and make immediately effective any amendment to an operating license or any amendment to a combined construction and operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this chapter.

(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license or any amendment to a combined construction and operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.

(b) The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28 and chapter 7 of title 5:

(1) Any final order entered in any proceeding of the kind specified in subsection (a) of this section.

(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.].

(4) Any final determination under section 2297f(c) of this title relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.], are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.

(Aug. 1, 1946, ch. 724, title I, § 189, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955; amended Pub. L. 85–256, § 7, Sept. 2, 1957, 71 Stat. 579; Pub. L. 87–615, § 2, Aug. 29, 1962, 76 Stat. 409; Pub. L. 97–415, § 12(a), Jan. 4, 1983, 96 Stat. 2073; renum-

bered title I and amended Pub. L. 102–486, title IX, § 902(a)(8), title XXVIII, §§ 2802, 2804, 2805, Oct. 24, 1992, 106 Stat. 2944, 3120, 3121; Pub. L. 104–134, title III, § 3116(c), Apr. 26, 1996, 110 Stat. 1321–349.)

REFERENCES IN TEXT

The effective date of this paragraph, referred to in subsec. (a)(2)(C), probably means the date of enactment of Pub. L. 97–415, which was approved Jan. 4, 1983.

The USEC Privatization Act, referred to in subsec. (b)(3), (4), is subchapter A (§§ 3101–3117) of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, which is classified principally to subchapter VIII (§ 2297h et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–134 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Any final order entered in any proceeding of the kind specified in subsection (a) of this section or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended.''

1992—Subsec. (a)(1). Pub. L. 102–486, § 2802, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(2)(A), (C). Pub. L. 102–486, § 2804, inserted ''or any amendment to a combined construction and operating license'' after ''any amendment to an operating license''.

Subsec. (b). Pub. L. 102–486, § 2805, inserted ''or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license'' before ''shall be subject to judicial review''.

1983—Subsec. (a). Pub. L. 97–415 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (a). Pub. L. 87–615 substituted ''construction permit for a facility'' and ''construction permit for a testing facility'' for ''license for a facility'' and ''license for a testing facility'' respectively, and authorized the commission in cases where a permit has been issued following a hearing, and in the absence of a request therefor by anyone whose interest may be affected, to issue an operating license or an amendment to a construction permit or an operating license without a hearing upon thirty days' notice and publication once in the Federal Register of its intent to do so, and to dispense with such notice and publication with respect to any application for an amendment to a construction permit or to an operating license upon its determination that the amendment involves no significant hazards consideration.

1957—Subsec. (a). Pub. L. 85–256 required the Commission to hold a hearing after 30 days notice and publication once in the Federal Register on an application for a license for a facility or a testing facility.

EFFECTIVE DATE OF 1992 AMENDMENT

Subsec. (a)(1)(B) of this section, as added by section 2802 of Pub. L. 102–486, applicable to all proceedings involving combined license for which application was filed after May 8, 1991, see section 2806 of Pub. L. 102–486, set out as a note under section 2235 of this title.

AUTHORITY TO EFFECTUATE AMENDMENTS TO OPERATING LICENSES

Section 12(b) of Pub. L. 97–415 provided that: ''The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a) [amending this section], to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.''

REVIEW OF NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS

No court or regulatory body to have jurisdiction to compel performance of or to review adequacy of performance of any Nuclear Proliferation Assessment Statement called for by the Atomic Energy Act of 1954 [this chapter] or by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, see section 2160a of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Atomic Energy Commission, now the Nuclear Regulatory Commission and the Secretary of Energy, made reviewable by this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

§ 2240. Licensee incident reports as evidence

No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

(Aug. 1, 1946, ch. 724, title I, § 190, as added Pub. L. 87–206, § 16, Sept. 6, 1961, 75 Stat. 479; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2241. Atomic safety and licensing boards; establishment; membership; functions; compensation

(a) Notwithstanding the provisions of sections 556(b) and 557(b) of title 5, the Commission is authorized to establish one or more atomic safety and licensing boards, each comprised of three members, one of whom shall be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission deems appropriate to the issues to be decided, to conduct such hearings as the Commission may direct and make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of this chapter, any other provision of law, or any regulation of the Commission issued thereunder. The Commission may delegate to a board such other regulatory functions as the Commission deems appropriate. The Commission may appoint a panel of qualified persons from which board members may be selected.

(b) Board members may be appointed by the Commission from private life, or designated from the staff of the Commission or other Federal agency. Board members appointed from private life shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of a board. The provisions of section 2203 of this title shall be applicable to board members appointed from private life.

(Aug. 1, 1946, ch. 724, title I, § 191, as added Pub. L. 87–615, § 1, Aug. 29, 1962, 76 Stat. 409; amended Pub. L. 91–560, § 10, Dec. 19, 1970, 84 Stat. 1474; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

In subsec. (a), ''sections 556(b) and 557(b) of title 5'' substituted for ''sections 7(a) and 8(a) of the Administrative Procedure Act [5 U.S.C. 1006(a), 1007(a)]'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–560 required that two members of the board should have such technical or other qualifications the Commission deems appropriate to the issues to be decided.

§ 2242. Temporary operating license

(a) Fuel loading, testing, and operation at specific power level; petition, affidavit, etc.

In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 2133 or 2134(b) of this title, in which a hearing is otherwise required pursuant to section 2239(a) of this title, the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 2232(b) of this title; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 4332(2)(C) of this title; and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

(b) Operation at greater power level; criteria, effect, terms and conditions, etc.; procedures applicable

With respect to any petition filed pursuant to subsection (a) of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this chapter.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Natural Resources and on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28. The requirements of section 2239(a) of this title with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

(c) Hearing for final operating license; suspension, issuance, compliance, etc., with temporary operating license

Any hearing on the application for the final operating license for a facility required pursuant to section 2239(a) of this title shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a tem-

porary operating license under subsection (b) of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 2239(a) of this title; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 2239(a) of this title on the final operating license for a facility for which a temporary operating license has been issued under subsection (b) of this section, and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection (b) of this section.

(d) Administrative remedies for minimization of need for license

The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

(e) Expiration of issuing authority

The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.

(Aug. 1, 1946, ch. 724, title I, § 192, as added Pub. L. 92–307, June 2, 1972, 86 Stat. 191; amended Pub. L. 97–415, § 11, Jan. 4, 1983, 96 Stat. 2071; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, § 15(f)(8), Nov. 2, 1994, 108 Stat. 4593.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources and on'' for ''Interior and Insular Affairs and''.

1983—Subsec. (a). Pub. L. 97–415 substituted provisions setting forth procedures for petitioning for a temporary operating license in any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 2133 or 2134(b) of this title in which a hearing is otherwise required pursuant to section 2239(a) of this title, for provisions setting forth procedures for petitioning for a temporary operating license in any proceeding upon an application for an operating license for a nuclear power reactor in which a hearing is otherwise required pursuant to section 2239(a) of this title.

Subsec. (b). Pub. L. 97–415 substituted provisions relating to requisite findings, effectiveness, terms and conditions, etc., with respect to petition for a temporary operating license for a utilization facility or amendment of the license to authorize temporary operation at greater power levels than authorized in the initial temporary operating license, for provisions relating to requisite findings, terms and conditions, etc., with respect to petition for a temporary operating license for a nuclear power reactor.

Subsec. (c). Pub. L. 97–415 inserted provisions relating to notification requirements on any party to the hearing and any Board member, and substituted provisions relating to suspension of the temporary operating license, for provisions relating to vacation of the temporary operating license.

Subsec. (d). Pub. L. 97–415 substituted provisions relating to administrative remedies for minimization of need for temporary operating licenses for provisions setting forth expiration of authority under this section on Oct. 30, 1973.

Subsec. (e). Pub. L. 97–415 added subsec. (e).

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 2243. Licensing of uranium enrichment facilities

(a) Environmental impact statement

(1) Major Federal action

The issuance of a license under sections 2073 and 2093 of this title for the construction and operation of any uranium enrichment facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Timing

An environmental impact statement prepared under paragraph (1) shall be prepared before the hearing on the issuance of a license for the construction and operation of a uranium enrichment facility is completed.

(b) Adjudicatory hearing

(1) In general

The Commission shall conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility under sections 2073 and 2093 of this title.

(2) Timing

Such hearing shall be completed and a decision issued before the issuance of a license for such construction and operation.

(3) Single proceeding

No further Commission licensing action shall be required to authorize operation.

(c) Inspection and operation

Prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation. The Commission shall publish notice of the inspection results in the Federal Register.

(d) Insurance and decommissioning

(1) The Commission shall require, as a condition of the issuance of a license under sections 2073 and 2093 of this title for a uranium enrichment facility, that the licensee have and maintain liability insurance of such type and in such amounts as the Commission judges appropriate

to cover liability claims arising out of any occurrence within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source or special nuclear material.

(2) The Commission shall require, as a condition for the issuance of a license under sections 2073 and 2093 of this title for a uranium enrichment facility, that the licensee provide adequate assurance of the availability of funds for the decommissioning (including decontamination) of such facility using funding mechanisms that may include, but are not necessarily limited to, the following:

(A) Prepayment (in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities).

(B) Surety (in the form of a surety or performance bond, letter of credit, or line of credit), insurance, or other guarantee (including parent company guarantee) method.

(C) External sinking fund in which deposits are made at least annually.

(e) No Price-Anderson coverage

Section 2210 of this title shall not apply to any license under section 2073 or 2093 of this title for a uranium enrichment facility constructed after November 15, 1990.

(f) Limitation

No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections[1] 2073, 2093, or 2297f of this title, if the Commission determines that—

(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(2) the issuance of such a license or certificate of compliance would be inimical to—

(A) the common defense and security of the United States; or

(B) the maintenance of a reliable and economical domestic source of enrichment services.

(Aug. 1, 1946, ch. 724, title I, § 193, as added Pub. L. 101–575, § 5(e), Nov. 15, 1990, 104 Stat. 2835; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 104–134, title III, § 3116(b)(2), Apr. 26, 1996, 110 Stat. 1321–349.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–134 added subsec. (f).

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

[1] So in original. Probably should be "section".

SUBCHAPTER XVI—JOINT COMMITTEE ON ATOMIC ENERGY

§§ 2251 to 2257. Repealed. Aug. 1, 1946, ch. 724, title I, § 302(a), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95–110, § 1, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944

Section 2251, act Aug. 1, 1946, ch. 724, § 201, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, provided for establishment of Joint Committee on Atomic Energy.

Provisions similar to section 2251 were contained in section 1815(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2252, act Aug. 1, 1946, ch. 724, § 202, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956; amended Sept. 6, 1961, Pub. L. 87–206, § 17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88–294, 78 Stat. 172; Dec. 6, 1974, Pub. L. 93–514, 88 Stat. 1611, set out authority and duties of Joint Committee.

Provisions similar to section 2252 were contained in section 1815(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2253, act Aug. 1, 1946, ch. 724, § 203, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, provided for a Chairman and a Vice Chairman of Committee.

Provisions similar to section 2253 were contained in section 1815(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2254, act Aug. 1, 1946, ch. 724, § 204, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957; amended Dec. 27, 1974, Pub. L. 93–554, title I, § 101(2), 88 Stat. 1776, related to the powers of Committee.

Provisions similar to section 2254 were contained in section 1815(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2255, act Aug. 1, 1946, ch. 724, § 205, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, related to staff and assistance for Committee.

Provisions similar to section 2255 were contained in section 1815(e) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

Section 2256, act Aug. 1, 1946, ch. 724, § 206, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, related to classification of information originating in Committee.

Section 2257, act Aug. 1, 1946, ch. 724, § 207, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, required that Committee keep records of all Committee actions.

EFFECTIVE DATE OF REPEAL

Section 302(a) of act Aug. 1, 1946, ch. 724, title I, as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95–110, § 1, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944, provided that the repeal of sections 2251 to 2257 is effective Sept. 20, 1977.

§ 2258. Joint Committee on Atomic Energy abolished

(a) Abolition

The Joint Committee on Atomic Energy is abolished.

(b) References in rules, etc., on and after September 20, 1977

Any reference in any rule, resolution, or order of the Senate or the House of Representatives or

in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after September 20, 1977, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

(c) Transfer of records, data, etc.; copies

All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

(Aug. 1, 1946, ch. 724, title I, § 301, as added Aug. 30, 1954, ch. 1073, § 1, as added Pub. L. 95–110, § 1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2259. Information and assistance to Congressional committees

(a) Secretary of Energy and Nuclear Regulatory Commission

The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

(b) Department of Defense and Department of State

The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

(c) Government agencies

Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

(d) Utilization of services, facilities, and personnel of Government agencies; reimbursement; prior written consent

The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however*, That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Oversight.

(Aug. 1, 1946, ch. 724, title I, § 303, as added Aug. 30, 1954, ch. 1073, § 1, as added Pub. L. 95–110, § 1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 104–186, title II, § 222(1), Aug. 20, 1996, 110 Stat. 1751.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–186 substituted ''House Oversight'' for ''House Administration''.

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

TRANSFER OF FUNCTIONS

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

SUBCHAPTER XVII—ENFORCEMENT OF CHAPTER

§ 2271. General provisions

(a) Authority of President to utilize Government agencies

To protect against the unlawful dissemination of Restricted Data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.

(b) Criminal violations

The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this chapter.

(c) Violations of this chapter

No action shall be brought against any individual or person for any violation under this chapter unless and until the Attorney General of the United States has advised the Commission with respect to such action and no such action shall be commenced except by the Attorney General of the United States: *Provided, however*, That nothing in this subsection shall be construed as applying to administrative action taken by the Commission.

(Aug. 1, 1946, ch. 724, title I, § 221, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958; amended Pub. L. 91–161, § 5, Dec. 24, 1969, 83 Stat. 445; Pub. L. 101–647, title XII, § 1211, Nov. 29, 1990, 104 Stat. 4833; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–647 struck out ''That no action shall be brought under section 2272, 2273, 2274, 2275, or 2276 of this title except by the express direction of the Attorney General: *And provided further*,'' after ''*Provided however*,''.

1969—Subsec. (c). Pub. L. 91–161 provided that nothing in this subsection should be construed to apply to administrative action taken by the Commission.

§ 2272. Violation of specific sections

(a) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections[1] 2077 or 2131 of this title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under section 2138 of this title, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(b) Any person who violates, or attempts or conspires to violate, section 2122 of this title shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 25 years or to imprisonment for life. Any person who, in the course of a violation of section 2122 of this title, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life. If the death of another results from a person's violation of section 2122 of this title, the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(Aug. 1, 1946, ch. 724, title I, § 222, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958; amended Pub. L. 91–161, §§ 2, 3(a), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–458, title VI, § 6904(b), Dec. 17, 2004, 118 Stat. 3771.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(a), (b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Pub. L. 108–458 designated existing provisions as subsec. (a), struck out '', 2122,'' after ''2077'', and added subsec. (b).

1969—Pub. L. 91–161 increased maximum term of imprisonment from five years to ten years for willful violation, or attempted violation of enumerated sections, and struck out applicability of death penalty for violation of same offenses committed with intent to injure the United States, or secure an advantage to any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 7 of Pub. L. 91–161 provided that: ''The amendments contained in sections 2 and 3 of this Act [amending this section and sections 2274 and 2276 of this title] shall apply only to offenses under sections 222, 224, 225, and 226 [this section and sections 2274, 2275, and 2276 of this title] which are committed on or after the date of enactment of this Act [Dec. 24, 1969]. Nothing in section 2 or 3 of this Act shall affect penalties authorized under existing law for offenses under section 222, 224, 225, or 226 of the Atomic Energy Act of 1954, as amended, committed prior to the date of enactment of this Act.''

[1] So in original. Probably should be ''section''.

§ 2273. Violation of sections

(a) Generally

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 2095 or 2201(b), (i), or (*o*) of this title shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(b) Construction or supply of components for utilization facilities; impairment of basic components; "basic component" defined; posting at construction sites of utilization facilities and on premises of component fabrication plants

Any individual director, officer, or employee of a firm constructing, or supplying the components of any utilization facility required to be licensed under section 2133 or 2134(b) of this title who by act or omission, in connection with such construction or supply, knowingly and willfully violates or causes to be violated, any section of this chapter, any rule, regulation, or order issued thereunder, or any license condition, which violation results, or if undetected could have resulted, in a significant impairment of a basic component of such a facility shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after a first conviction under this subsection, punishment shall be a fine of not more than $50,000 per day of violation, or imprisonment for not more than two years, or both. For the purposes of this subsection, the term ''basic component'' means a facility structure, system, component or part thereof necessary to assure—

(1) the integrity of the reactor coolant pressure boundary,

(2) the capability to shut-down the facility and maintain it in a safe shut-down condition, or

(3) the capability to prevent or mitigate the consequences of accidents which could result in an unplanned offsite release of quantities of fission products in excess of the limits established by the Commission.

The provisions of this subsection shall be prominently posted at each site where a utilization facility required to be licensed under section 2133

or 2134(b) of this title is under construction and on the premises of each plant where components for such a facility are fabricated.

(c) Criminal penalties

Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 2210(d) of this title (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this chapter or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in section 2014(q) of this title shall, upon conviction, notwithstanding section 3571 of title 18, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.

(Aug. 1, 1946, ch. 724, title I, § 223, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958; amended Pub. L. 90–190, § 12, Dec. 14, 1967, 81 Stat. 578; Pub. L. 91–161, § 6, Dec. 24, 1969, 83 Stat. 445; Pub. L. 96–295, title II, § 203, June 30, 1980, 94 Stat. 786; Pub. L. 100–408, § 18, Aug. 20, 1988, 102 Stat. 1083; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–408 added subsec. (c).

1980—Pub. L. 96–295 designated existing provisions as subsec. (a) and added subsec. (b).

1969—Pub. L. 91–161 limited application of section to instances where no criminal penalties have been provided.

1967—Pub. L. 90–190 substituted ''(*o*)'' for ''(p)''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–408 effective Aug. 20, 1988, but inapplicable to any violation occurring before Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as a note under section 2014 of this title.

§ 2274. Communication of Restricted Data

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $100,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $50,000 or imprisonment for not more than ten years, or both.

(Aug. 1, 1946, ch. 724, title I, § 224, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958; amended Pub. L. 91–161, § 3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, § 3148(a), Oct. 5, 1999, 113 Stat. 938; Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294.)

AMENDMENTS

2000—Cl. (b). Pub. L. 106–398 substituted ''$50,000'' for ''$500,000''.

1999—Cl. (a). Pub. L. 106–65, § 3148(a)(1), substituted ''$100,000'' for ''$20,000''.

Cl. (b). Pub. L. 106–65, § 3148(a)(2), substituted ''$500,000'' for ''$10,000''.

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294, provided that the amendment made by that section is effective as of Oct. 5, 1999.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§ 2275. Receipt of Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data, shall upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $100,000 or both.

(Aug. 1, 1946, ch. 724, title I, § 225, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; amended Pub. L. 91–161, § 3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, § 3148(b), Oct. 5, 1999, 113 Stat. 938.)

AMENDMENTS

1999—Pub. L. 106–65 substituted ''$100,000'' for ''$20,000''.

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§ 2276. Tampering with Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to

any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating Restricted Data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(Aug. 1, 1946, ch. 724, title I, § 226, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; amended Pub. L. 91–161, § 3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§ 2277. Disclosure of Restricted Data

Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this chapter or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than $12,500.

(Aug. 1, 1946, ch. 724, title I, § 227, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 106–65, div. C, title XXXI, § 3148(c), Oct. 5, 1999, 113 Stat. 938.)

AMENDMENTS

1999—Pub. L. 106–65 substituted ''$12,500'' for ''$2,500''.

§ 2278. Statute of limitations

Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in sections 2274 to 2276 of this title unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.

(Aug. 1, 1946, ch. 724, title I, § 228, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2278a. Trespass on Commission installations

(a) Issuance and posting of regulations

(1) The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, in the custody of the Commission, or subject to the licensing authority of the Commission or certification by the Commission under this chapter or any other Act.

(2) Every such regulation of the Commission shall be posted conspicuously at the location involved.

(b) Penalty for violation of regulations

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section shall, upon conviction thereof, be punishable by a fine of not more than $1,000.

(c) Penalty for violation of regulations regarding enclosed property

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both.

(Aug. 1, 1946, ch. 724, title I, § 229, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109–58, title VI, § 654, Aug. 8, 2005, 119 Stat. 812.)

AMENDMENTS

2005—Pub. L. 109–58, § 654(1), (2), substituted ''on'' for ''upon'' in section catchline and realigned margins.

Subsec. (a). Pub. L. 109–58, § 654(3), designated first sentence as par. (1), substituted ''in the custody of the Commission, or subject to the licensing authority of the Commission or certification by the Commission under this chapter or any other Act'' for ''or in the custody of the Commission'', and designated second sentence as par. (2).

§ 2278b. Photographing, etc., of Commission installations; penalty

It shall be an offense, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both—

(1) to make any photograph, sketch, picture, drawing, map or graphical representation, while present on property subject to the jurisdiction, administration or in the custody of the Commission, of any installations or equip-

ment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the Commission, and promptly submitting the product obtained to the Commission for inspection or such other action as may be deemed necessary; or

(2) to use or permit the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of any installation or equipment designated by the President as provided in the preceding paragraph, unless authorized by the Commission.

(Aug. 1, 1946, ch. 724, title I, § 230, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2279. Applicability of other laws

Sections 2274 to 2278b of this title shall not exclude the applicable provisions of any other laws.

(Aug. 1, 1946, ch. 724, title I, § 231, formerly § 229, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; renumbered § 231 and amended Aug. 6, 1956, ch. 1015, §§ 6, 7, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1956—Act Aug. 6, 1956, § 7, substituted ''2274 to 2278b'' for ''2274 to 2278''.

§ 2280. Injunction proceedings

Whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any regulation or order issued thereunder, the Attorney General on behalf of the United States may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the Commission that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(Aug. 1, 1946, ch. 724, title I, § 232, formerly § 230, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959; renumbered § 232, Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2281. Contempt proceedings

In case of failure or refusal to obey a subpena served upon any person pursuant to section 2201(c) of this title, the district court for any district in which such person is found or resides or transacts business, upon application by the Attorney General on behalf of the United States, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both, in accordance with the subpena; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Aug. 1, 1946, ch. 724, title I, § 233, formerly § 231, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; renumbered § 233, Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2282. Civil penalties

(a) Violations of licensing requirements

Any person who (1) violates any licensing or certification provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, 2139, or 2297f of this title or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license or certification issued thereunder, or (2) commits any violation for which a license may be revoked under section 2236 of this title, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $100,000 for each such violation. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Commission shall have the power to compromise, mitigate, or remit such penalties.

(b) Notice

Whenever the Commission has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, it shall notify such person in writing (1) setting forth the date, facts, and nature of each act or omission with which the person is charged, (2) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation, and (3) advising of each penalty which the Commission proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the Commission to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the Commission, if any, the penalty may be collected by civil action.

(c) Collection of penalties

On the request of the Commission, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The Attorney General shall have the exclusive power to compromise, mitigate, or

remit such civil penalties as are referred to him for collection.

(Aug. 1, 1946, ch. 724, title I, § 234, as added Pub. L. 91–161, § 4, Dec. 24, 1969, 83 Stat. 444; amended Pub. L. 96–295, title II, § 206, June 30, 1980, 94 Stat. 787; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 104–134, title III, § 3116(d), Apr. 26, 1996, 110 Stat. 1321–350.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, in first sentence, substituted ''any licensing or certification provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, 2139, or 2297f of this title'' for ''any licensing provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, or 2139 of this title'' and ''any license or certification issued thereunder'' for ''any license issued thereunder''.

1980—Subsec. (a). Pub. L. 96–295 substituted $100,000 penalty limitation per violation for $5,000 limit per violation and $25,000 limit for all violations taking place within any thirty consecutive day period.

§ 2282a. Civil monetary penalties for violation of Department of Energy safety regulations

(a) Persons subject to penalty

Any person who has entered into an agreement of indemnification under section 2210(d) of this title (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this chapter (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

(b) Determination of amount

(1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(c) Assessment and payment

(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5 before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(d) Limitation for not-for-profit institutions

(1) Notwithstanding subsection (a) of this section, in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection (a) of this section may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

(2) For purposes of this section, the term ''not-for-profit'' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

(Aug. 1, 1946, ch. 724, title I, § 234A, as added Pub. L. 100–408, § 17, Aug. 20, 1988, 102 Stat. 1081; re-

numbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 106–65, div. C, title XXXI, § 3147(c), Oct. 5, 1999, 113 Stat. 938; Pub. L. 109–58, title VI, § 610(a), (b), Aug. 8, 2005, 119 Stat. 781.)

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–58, § 610(a), struck out at end ''In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.''

Subsec. (d). Pub. L. 109–58, § 610(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) provided that the provisions of this section would not apply to the University of Chicago for activities associated with Argonne National Laboratory; the University of California for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory; American Telephone and Telegraph Company and its subsidiaries for activities associated with Sandia National Laboratories; Universities Research Association, Inc. for activities associated with FERMI National Laboratory; Princeton University for activities associated with Princeton Plasma Physics Laboratory; the Associated Universities, Inc. for activities associated with the Brookhaven National Laboratory; and Battelle Memorial Institute for activities associated with Pacific Northwest Laboratory.

1999—Pub. L. 106–65 inserted ''safety'' before ''regulations'' in section catchline.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, § 610(c), Aug. 8, 2005, 119 Stat. 782, provided that: ''The amendments made by this section [amending this section] shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section [Aug. 8, 2005].''

EFFECTIVE DATE

Section effective Aug. 20, 1988, but inapplicable to any violation occurring before Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as an Effective Date of 1988 Amendment note under section 2014 of this title.

§ 2282b. Civil monetary penalties for violations of Department of Energy regulations regarding security of classified or sensitive information or data

(a) Persons subject to penalty

Any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this chapter relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $100,000 for each such violation.

(b) Fee or payment reductions for violations

The Secretary shall include in each contract with a contractor of the Department provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

(c) Powers and limitations

The powers and limitations applicable to the assessment of civil penalties under section 2282a of this title, except for subsection (d) of that section, shall apply to the assessment of civil penalties under this section.

(d) Application to certain entities

In the case of an entity specified in subsection (d) of section 2282a of this title—

(1) the assessment of any civil penalty under subsection (a) of this section against that entity may not be made until the entity enters into a new contract with the Department of Energy or an extension of a current contract with the Department; and

(2) the total amount of civil penalties under subsection (a) of this section in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

(Aug. 1, 1946, ch. 724, title I, § 234B, as added Pub. L. 106–65, div. C, title XXXI, § 3147(a), Oct. 5, 1999, 113 Stat. 937.)

EFFECTIVE DATE

Pub. L. 106–65, div. C, title XXXI, § 3147(b), Oct. 5, 1999, 113 Stat. 938, provided that: ''Subsection a. of section 234B of the Atomic Energy Act of 1954 [42 U.S.C. 2282b(a)], as added by subsection (a), applies to any violation after the date of the enactment of this Act [Oct. 5, 1999].''

§ 2282c. Worker health and safety rules for Department of Energy nuclear facilities

(a) Regulations required

(1) In general

The Secretary shall promulgate regulations for industrial and construction health and safety at Department of Energy facilities that are operated by contractors covered by agreements of indemnification under section 2210(d) of this title, after public notice and opportunity for comment under section 553 of title 5 (commonly known as the ''Administrative Procedure Act''). Such regulations shall, subject to paragraph (3), provide a level of protection for workers at such facilities that is substantially equivalent to the level of protection currently provided to such workers at such facilities.

(2) Applicability

The regulations promulgated under paragraph (1) shall not apply to any facility that is a component of, or any activity conducted under, the Naval Nuclear Propulsion Program provided for under Executive Order No. 12344, dated February 1, 1982 (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525)).

(3) Flexibility

In promulgating the regulations under paragraph (1), the Secretary shall include flexibility—

(A) to tailor implementation of such regulations to reflect activities and hazards associated with a particular work environment;

(B) to take into account special circumstances at a facility that is, or is expected to be, permanently closed and that is expected to be demolished, or title to which is expected to be transferred to another entity for reuse; and

(C) to achieve national security missions of the Department of Energy in an efficient and timely manner.

(4) No effect on health and safety enforcement

This subsection does not diminish or otherwise affect the enforcement or the application of any other law, regulation, order, or contractual obligation relating to worker health and safety.

(b) Civil penalties

(1) In general

A person (or any subcontractor or supplier of the person) who has entered into an agreement of indemnification under section 2210(d) of this title (or any subcontractor or supplier of the person) that violates (or is the employer of a person that violates) any regulation promulgated under subsection (a) of this section shall be subject to a civil penalty of not more than $70,000 for each such violation.

(2) Continuing violations

If any violation under this subsection is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the civil penalty under paragraph (1).

(c) Contract penalties

(1) In general

The Secretary shall include in each contract with a contractor of the Department who has entered into an agreement of indemnification under section 2210(d) of this title provisions that provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any regulation promulgated under subsection (a) of this section.

(2) Contents

The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

(d) Coordination of penalties

(1) Choice of penalties

For any violation by a person of a regulation promulgated under subsection (a) of this section, the Secretary shall pursue either civil penalties under subsection (b) of this section or contract penalties under subsection (c) of this section, but not both.

(2) Maximum amount

In the case of an entity described in subsection (d) of section 2282a of this title, the total amount of civil penalties under subsection (b) of this section and contract penalties under subsection (c) of this section in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

(3) Coordination with section 2282a of this title

The Secretary shall ensure that a contractor of the Department is not penalized both under this section and under section 2282a of this title for the same violation.

(Aug. 1, 1946, ch. 724, title I, § 234C, as added Pub. L. 107–314, div. C, title XXXI, § 3173(a), Dec. 2, 2002, 116 Stat. 2743.)

REFERENCES IN TEXT

Executive Order No. 12344, referred to in subsec. (a)(2), is set out as a note under section 2511 of Title 50, War and National Defense.

Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525), referred to in subsec. (a)(2), is set out as a note under section 2511 of Title 50, War and National Defense.

PROMULGATION OF INITIAL REGULATIONS

Pub. L. 107–314, div. C, title XXXI, § 3173(b), Dec. 2, 2002, 116 Stat. 2745, provided that:

''(1) DEADLINE FOR PROMULGATING REGULATIONS.—The Secretary of Energy shall promulgate the regulations required by subsection a. of section 234C of the Atomic Energy Act of 1954 [42 U.S.C. 2282c(a)] (as added by subsection (a)) not later than one year after the date of the enactment of this Act [Dec. 2, 2002].

''(2) EFFECTIVE DATE.—The regulations promulgated under paragraph (1) shall take effect on the date that is one year after the promulgation date of the regulations.''

PROHIBITION

Pub. L. 107–314, div. C, title XXXI, § 3173(c), Dec. 2, 2002, 116 Stat. 2745, provided that: ''The Secretary of Energy shall not participate in or otherwise support any study or other project relating to a modification in the scope of the regulations enforceable by civil penalties under section 234A or 234C of the Atomic Energy Act of 1954 [42 U.S.C. 2282a, 2282c], or the responsibility of the Secretary to implement and enforce such regulations, until after the date on which the regulations for such purposes under such section 234C take effect in accordance with subsection (b) [set out as a note above].''

§ 2283. Protection of nuclear inspectors

(a) Homicide

Whoever kills any person who performs any inspections which—

(1) are related to any activity or facility licensed by the Commission, and

(2) are carried out to satisfy requirements under this chapter or under any other Federal law governing the safety of utilization facilities required to be licensed under section 2133 or 2134(b) of this title, or the safety of radioactive materials,

shall be punished as provided under sections 1111 and 1112 of title 18. The preceding sentence shall be applicable only if such person is killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

(b) Assault

Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection (a) of this section, while such person is engaged in such inspection duties or on account of the performance of such duties, shall be punished as provided under section 111 of title 18.

(Aug. 1, 1946, ch. 724, title I, § 235, as added Pub. L. 96–295, title II, § 202(a), June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2284. Sabotage of nuclear facilities or fuel

(a) Physical damage to facilities, etc.

Any person who knowingly destroys or causes physical damage to—

(1) any production facility or utilization facility licensed under this chapter;

(2) any nuclear waste treatment, storage, or disposal facility licensed under this chapter;

(3) any nuclear fuel for a utilization facility licensed under this chapter, or any spent nuclear fuel from such a facility;

(4) any uranium enrichment, uranium conversion, or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission;

(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this chapter during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

(7) any radioactive material or other property subject to regulation by the Commission that, before the date of the offense, the Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;[1]

or attempts or conspires to do such an act, shall be fined not more than $10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(b) Unauthorized use or tampering with facilities, etc.

Any person who knowingly causes an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, or attempts or conspires to do such an act, shall be fined not more than $10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(Aug. 1, 1946, ch. 724, title I, § 236, as added Pub. L. 96–295, title II, § 204(a), June 30, 1980, 94 Stat. 787; amended Pub. L. 97–415, § 16, Jan. 4, 1983, 96 Stat. 2076; Pub. L. 101–575, § 5(d), Nov. 15, 1990, 104 Stat. 2835; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 107–56, title VIII, §§ 810(f), 811(h), Oct. 26, 2001, 115 Stat. 380, 381; Pub. L. 109–58, title VI, § 655, Aug. 8, 2005, 119 Stat. 813.)

[1] So in original. The semicolon probably should be a comma.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, § 655(b), substituted ''knowingly'' for ''intentionally and willfully'' in introductory provisions.

Pub. L. 109–58, § 655(a), substituted ''treatment, storage, or disposal facility'' for ''storage facility'' in par. (2), ''a utilization facility licensed under this chapter'' for ''such a utilization facility'' in par. (3), and '', uranium conversion, or nuclear fuel fabrication facility licensed or certified'' for ''facility licensed'' in par. (4) and added pars. (5) to (7).

Subsec. (b). Pub. L. 109–58, § 655(b), substituted ''knowingly'' for ''intentionally and willfully''.

2001—Subsec. (a). Pub. L. 107–56, §§ 810(f)(1), (2), 811(h)(1)(A), (C), in introductory provisions, struck out '', or who intentionally and willfully attempts to destroy or cause physical damage to'' before ''—'', and in concluding provisions, inserted ''or attempts or conspires to do such an act,'' before ''shall be fined'' and substituted ''20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.'' for ''ten years, or both.''

Subsec. (a)(4). Pub. L. 107–56, § 811(h)(1)(B), substituted comma for period at end.

Subsec. (b). Pub. L. 107–56, §§ 810(f)(1), (3), 811(h)(2), struck out ''or attempts to cause'' before ''an interruption of normal operation'', inserted ''or attempts or conspires to do such an act,'' before ''shall be fined'', and substituted ''20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.'' for ''ten years, or both.''

1990—Subsec. (a)(4). Pub. L. 101–575, which directed amendment of this section by adding par. (4) after par. (3), was executed by adding par. (4) after par. (3) of subsec. (a) of this section to reflect the probable intent of Congress.

1983—Pub. L. 97–415 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER XVII–A—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

§ 2286. Establishment

(a) Establishment

There is hereby established an independent establishment in the executive branch, to be known as the ''Defense Nuclear Facilities Safety Board'' (hereafter in this subchapter referred to as the ''Board'').

(b) Membership

(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party.

(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(3) No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy.

(4) Not later than 180 days after September 29, 1988, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the

Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations within that 90-day period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted.

(c) Chairman and Vice Chairman

(1) The President shall designate a Chairman and Vice Chairman of the Board from among members of the Board.

(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

(A) the appointment and supervision of employees of the Board;

(B) the organization of any administrative units established by the Board; and

(C) the use and expenditure of funds.

(3) The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

(4) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

(d) Terms

(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

(2) Of the members first appointed—

(A) one shall be appointed for a term of one year;

(B) one shall be appointed for a term of two years;

(C) one shall be appointed for a term of three years;

(D) one shall be appointed for a term of four years; and

(E) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of that member's term until a successor has taken office.

(e) Quorum

Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(Aug. 1, 1946, ch. 724, title I, § 311, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2076; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REPORT ON EXTERNAL REGULATION OF DEFENSE NUCLEAR FACILITIES

Pub. L. 105–85, div. C, title XXXII, § 3202, Nov. 18, 1997, 111 Stat. 2054, provided that:

''(a) REPORTING REQUIREMENT.—The Defense Nuclear Facilities Safety Board (in this section referred to as the 'Board') shall prepare a report and make recommendations on its role in the Department of Energy's decision to establish external regulation of defense nuclear facilities. The report shall include the following:

''(1) An assessment of the value of and the need for the Board to continue to perform the functions specified under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

''(2) An assessment of the relationship between the functions of the Board and a proposal by the Department of Energy to place Department of Energy defense nuclear facilities under the jurisdiction of external regulatory agencies.

''(3) An assessment of the functions of the Board and whether there is a need to modify or amend such functions.

''(4) An assessment of the relative advantages and disadvantages to the Department and the public of continuing the functions of the Board with respect to Department of Energy defense nuclear facilities and replacing the activities of the Board with external regulation of such facilities.

''(5) A list of all existing or planned Department of Energy defense nuclear facilities that are similar to facilities under the regulatory jurisdiction of the Nuclear Regulatory Commission.

''(6) A list of all Department of Energy defense nuclear facilities that are in compliance with all applicable Department of Energy orders, regulations, and requirements relating to the design, construction, operation, and decommissioning of defense nuclear facilities.

''(7) A list of all Department of Energy defense nuclear facilities that have implemented, pursuant to an implementation plan, recommendations made by the Board and accepted by the Secretary of Energy.

''(8) A list of Department of Energy defense nuclear facilities that have a function related to Department weapons activities.

''(9)(A) A list of each existing defense nuclear facility that the Board determines—

''(i) should continue to stay within the jurisdiction of the Board for a period of time or indefinitely; and

''(ii) should come under the jurisdiction of an outside regulatory authority.

''(B) An explanation of the determinations made under subparagraph (A).

''(10) For any existing facilities that should, in the opinion of the Board, come under the jurisdiction of an outside regulatory authority, the date when this move would occur and the period of time necessary for the transition.

''(11) A list of any proposed Department of Energy defense nuclear facilities that should come under the Board's jurisdiction.

''(12) An assessment of regulatory and other issues associated with the design, construction, operation, and decommissioning of facilities that are not owned by the Department of Energy but which would provide services to the Department of Energy.

''(13) An assessment of the role of the Board, if any, in privatization projects undertaken by the Department.

''(14) An assessment of the role of the Board, if any, in any tritium production facilities.

''(15) An assessment of the comparative advantages and disadvantages to the Department of Energy in the event some or all Department of Energy defense nuclear facilities were no longer included in the functions of the Board and were regulated by the Nuclear Regulatory Commission.

''(16) A comparison of the cost, as identified by the Nuclear Regulatory Commission, that would be incurred at a gaseous diffusion plant to comply with regulations issued by the Nuclear Regulatory Commission, with the cost that would be incurred by a gaseous diffusion plant if such a plant was considered

to be a Department of Energy defense nuclear facility as defined by chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

''(b) COMMENTS ON REPORT.—Before submission of the report to Congress under subsection (c), the Board shall transmit the report to the Secretary of Energy and the Nuclear Regulatory Commission. The Secretary and the Commission shall provide their comments on the report to both the Board and to Congress.

''(c) SUBMISSION TO CONGRESS.—Not later than six months after the date of the enactment of this Act [Nov. 18, 1997], the Board shall provide to Congress an interim report on the status of the implementation of this section. Not later than one year after the date of the enactment of this Act, and not earlier than 30 days after receipt of comments from the Secretary of Energy and the Nuclear Regulatory Commission under subsection (b), the Board shall submit to Congress the report required under subsection (a).

''(d) DEFINITION.—In this section, the term 'Department of Energy defense nuclear facility' has the meaning provided by section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).''

§ 2286a. Functions of Board

(a) In general

The Board shall perform the following functions:

(1) Review and evaluation of standards

The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

(2) Investigations

(A) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

(B) The purpose of any Board investigation under subparagraph (A) shall be—

(i) to determine whether the Secretary of Energy is adequately implementing the standards described in paragraph (1) of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at the facility;

(ii) to ascertain information concerning the circumstances of such event or practice and its implications for such standards;

(iii) to determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

(iv) to provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

(3) Analysis of design and operational data

The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility.

(4) Review of facility design and construction

The Board shall review the design of a new Department of Energy defense nuclear facility before construction of such facility begins and shall recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Board shall periodically review and monitor the construction and shall submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety. An action of the Board, or a failure to act, under this paragraph may not delay or prevent the Secretary of Energy from carrying out the construction of such a facility.

(5) Recommendations

The Board shall make such recommendations to the Secretary of Energy with respect to Department of Energy defense nuclear facilities, including operations of such facilities, standards, and research needs, as the Board determines are necessary to ensure adequate protection of public health and safety. In making its recommendations the Board shall consider the technical and economic feasibility of implementing the recommended measures.

(b) Excluded functions

The functions of the Board under this subchapter do not include functions relating to the safety of atomic weapons. However, the Board shall have access to any information on atomic weapons that is within the Department of Energy and is necessary to carry out the functions of the Board.

(Aug. 1, 1946, ch. 724, title I, § 312, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2077; amended Pub. L. 102–190, div. C, title XXXII, § 3202(b)(2), Dec. 5, 1991, 105 Stat. 1582; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1991—Pub. L. 102–190 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 2286b. Powers of Board

(a) Hearings

(1) The Board or a member authorized by the Board may, for the purpose of carrying out this subchapter, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of

such evidence as the Board or an authorized member may find advisable.

(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman, any member, or any person as otherwise provided by law. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(C) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt of the court.

(D) The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(E) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(b) Staff

(1) The Board may, for the purpose of performing its responsibilities under this subchapter—

(A) hire such staff as it considers necessary to perform the functions of the Board, including such scientific and technical personnel as the Board may determine necessary, but not more than the equivalent of 150 full-time employees; and

(B) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5 at rates the Board determines to be reasonable.

(2) The authority and requirements provided in section 2201(d) of this title with respect to officers and employees of the Commission shall apply with respect to scientific and technical personnel hired under paragraph (1)(A).

(c) Regulations

The Board may prescribe regulations to carry out the responsibilities of the Board under this subchapter.

(d) Reporting requirements

The Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary. The information which the Board may require the Secretary of Energy to report under this subsection may include any information designated as classified information, or any information designated as safeguards information and protected from disclosure under section 2167 or 2168 of this title.

(e) Use of Government facilities, etc.

The Board may, for the purpose of carrying out its responsibilities under this subchapter, use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

(f) Assistance from certain agencies of Federal Government

With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

(g) Assistance from organizations outside Federal Government

Notwithstanding any other provision of law relating to the use of competitive procedures, the Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to assist the Board in carrying out its responsibilities under this subchapter.

(h) Resident inspectors

The Board may assign staff to be stationed at any Department of Energy defense nuclear facility to carry out the functions of the Board.

(i) Special studies

The Board may conduct special studies pertaining to adequate protection of public health and safety at any Department of Energy defense nuclear facility.

(j) Evaluation of information

The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

(1) events or practices at any Department of Energy defense nuclear facility; or

(2) suggestions for specific measures to improve the content of standards described in section 2286a(1) of this title, the implementation of such standards, or research relating to such standards at Department of Energy defense nuclear facilities.

(Aug. 1, 1946, ch. 724, title I, § 313, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2079; amended Pub. L. 101–510, div. C, title XXXII, § 3202, Nov. 5, 1990, 104 Stat. 1844; Pub. L. 102–190, div. C, title XXXII, § 3202(a), Dec. 5, 1991, 105 Stat. 1582; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(2)(D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1991—Subsec. (b)(1)(A). Pub. L. 102–190, § 3202(a)(1), substituted ''150'' for ''100''.

Subsec. (g). Pub. L. 102–190, § 3202(a)(2), substituted ''Notwithstanding any other provision of law relating to the use of competitive procedures, the Board may'' for ''The Board may''.

1990—Subsec. (b). Pub. L. 101–510 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, inserted ''including such scientific and technical personnel as the Board may determine necessary,'' after ''Board,'' in subpar. (A), and added par. (2).

§ 2286c. Responsibilities of Secretary of Energy

(a) Cooperation

The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this subchapter.

(b) Access to information

The Secretary of Energy may deny access to information provided to the Board to any person who—

(1) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

(2) does not need such access in connection with the duties of such person.

(Aug. 1, 1946, ch. 724, title I, § 314, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2080; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2286d. Board recommendations

(a) Public availability and comment

Subject to subsections (g) and (h) of this section and after receipt by the Secretary of Energy of any recommendations from the Board under section 2286a of this title, the Board promptly shall make such recommendations available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission to the Board of public comments on such recommendations. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

(b) Response by Secretary

(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 2286a of this title, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a) of this section, of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h) of this section, shall publish such response, together with a request for public comment on his response, in the Federal Register.

(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the Secretary's response.

(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

(c) Provision of information to Secretary

The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b) of this section.

(d) Final decision

If the Secretary of Energy, in a response under subsection (b)(1) of this section, rejects (in whole or part) any recommendation made by the Board under section 2286a of this title, the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision on whether to implement all or part of the Board's recommendations. Subject to subsection (h) of this section, the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a written report containing that decision and reasoning.

(e) Implementation plan

The Secretary of Energy shall prepare a plan for the implementation of each Board recommendation, or part of a recommendation, that is accepted by the Secretary in his final decision. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Secretary may have an additional 45 days to transmit the plan if the Secretary submits to the Board and to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a notification setting forth the reasons for the delay and describing the actions the Secretary is taking to prepare an implementation plan under this subsection. The Secretary may implement any such recommendation (or part of any such recommendation) before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

(f) Implementation

(1) Subject to paragraph (2), not later than one year after the date on which the Secretary of Energy transmits an implementation plan with respect to a recommendation (or part thereof) under subsection (e) of this section, the Secretary shall carry out and complete the implementation plan. If complete implementation of the plan takes more than 1 year, the Secretary of Energy shall submit a report to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives setting forth the reasons for the delay and when implementation will be completed.

(2) If the Secretary of Energy determines that the implementation of a Board recommendation (or part thereof) is impracticable because of budgetary considerations, or that the implementation would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 2121 of this title, the Secretary shall submit to the President, to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives a report containing the recommendation and the Secretary's determination.

(g) Imminent or severe threat

(1) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 2286a of this title relates to an imminent or severe threat to public health and safety, the Board and the Secretary of Energy shall proceed under this subsection in lieu of subsections (a) through (d) of this section.

(2) At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President and for information purposes to the Secretary of Defense. The Secretary of Energy shall submit his recommendation to the President. The President shall review the Secretary of Energy's recommendation and shall make the decision concerning acceptance or rejection of the Board's recommendation.

(3) After receipt by the President of the recommendation from the Board under this subsection, the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives. The President shall promptly notify such committees and the Speaker of his decision and the reasons for that decision.

(h) Limitation

Notwithstanding any other provision of this section, the requirements to make information available to the public under this section—

(1) shall not apply in the case of information that is classified; and

(2) shall be subject to the orders and regulations issued by the Secretary of Energy under sections 2167 and 2168 of this title to prohibit dissemination of certain information.

(Aug. 1, 1946, ch. 724, title I, § 315, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2080; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2286e. Reports

(a) Board report

(1) The Board shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, a written report concerning its activities under this subchapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

(2) The annual report under paragraph (1) shall include an assessment of—

(A) the improvements in the safety of Department of Energy defense nuclear facilities during the period covered by the report;

(B) the improvements in the safety of Department of Energy defense nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

(C) the outstanding safety problems, if any, of Department of Energy defense nuclear facilities.

(b) DOE report

The Secretary of Energy shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, a written report concerning the activities of the Department of Energy under this subchapter during the year preceding the year in which the report is submitted.

(Aug. 1, 1946, ch. 724, title I, § 316, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2082; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REPORTING REQUIREMENTS

Section 1441(c), (d) of Pub. L. 100–456 provided that:

''(c) REQUIREMENTS FOR FIRST ANNUAL REPORT.—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of 'Department of Energy defense nuclear facility' in section 318(1)(C) of such Act [section 2286g(1)(C) of this title] (hereafter in this subsection referred to as 'non-defense nuclear facilities') should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

''(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alter-

native mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board's responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

''(d) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)) shall include—

''(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

''(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

''(3) recommendations for appropriate transition requirements in the event that modifications are recommended.''

§ 2286f. Judicial review

Chapter 7 of title 5 shall apply to the activities of the Board under this subchapter.

(Aug. 1, 1946, ch. 724, title I, § 317, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2286g. "Department of Energy defense nuclear facility" defined

As used in this subchapter, the term ''Department of Energy defense nuclear facility'' means any of the following:

(1) A production facility or utilization facility (as defined in section 2014 of this title) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

(B) any facility or activity involved with the transportation of nuclear explosives or nuclear material;

(C) any facility that does not conduct atomic energy defense activities; or

(D) any facility owned by the United States Enrichment Corporation.

(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

(Aug. 1, 1946, ch. 724, title I, § 318, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; amended Pub. L. 102–190, div. C, title XXXII, § 3202(b)(1), Dec. 5, 1991, 105 Stat. 1582; renumbered title I and amended Pub. L. 102–486, title IX, § 902(a)(7), (8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

Executive Order No. 12344, referred to in par. (1)(A), is set out as a note under section 2511 of Title 50, War and National Defense.

The Nuclear Waste Policy Act of 1982, referred to in par. (2), is Pub. L. 97–425, Jan. 7, 1983, 96 Stat. 2201, as amended, which is classified generally to chapter 108 (§ 10101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10101 of this title and Tables.

AMENDMENTS

1992—Par. (1)(D). Pub. L. 102–486, § 902(a)(7), added subpar. (D).

1991—Par. (1)(B). Pub. L. 102–190 struck out ''with the assembly or testing of nuclear explosives or'' after ''involved''.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§ 2286h. Contract authority subject to appropriations

The authority of the Board to enter into contracts under this subchapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such purpose.

(Aug. 1, 1946, ch. 724, title I, § 319, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2286h–1. Transmittal of certain information to Congress

Whenever the Board submits or transmits to the President or the Director of the Office of Management and Budget any legislative recommendation, or any statement or information in preparation of a report to be submitted to the Congress pursuant to section 2286e(a) of this title, the Board shall submit at the same time a copy thereof to the Congress.

(Aug. 1, 1946, ch. 724, title I, § 320, as added Pub. L. 103–160, div. C, title XXXII, § 3202(a)(2), Nov. 30, 1993, 107 Stat. 1959.)

PRIOR PROVISIONS

A prior section 320 of act Aug. 1, 1946, was renumbered section 321 and is classified to section 2286i of this title.

§ 2286i. Annual authorization of appropriations

Authorizations of appropriations for the Board for fiscal years beginning after fiscal year 1989 shall be provided annually in authorization Acts.

(Aug. 1, 1946, ch. 724, title I, § 321, formerly § 320, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29, 1988, 102 Stat. 2084; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; renumbered § 321, Pub. L. 103–160, div. C, title XXXII, § 3202(a)(1), Nov. 30, 1993, 107 Stat. 1959.)

SUBCHAPTER XVIII—EURATOM COOPERATION

§ 2291. Definitions

As used in this subchapter—

(a) ''The Community'' means the European Atomic Energy Community (EURATOM).

(b) The ''Commission'' means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) ''Joint program'' means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this subchapter shall have the same meaning as terms described in section 2014 of this title.

(Pub. L. 85–846, § 2, Aug. 28, 1958, 72 Stat. 1084.)

REFERENCES IN TEXT

Atomic Energy Act of 1954, as amended, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to this chapter (§ 2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2292. Authorization of appropriations for research and development program; authority to enter into contracts; period of contracts; equivalent amounts for research and development program

There is authorized to be appropriated to the Commission, in accordance with the provisions of section 2017(a)(2) of this title, the sum of $3,000,000 as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

(Pub. L. 85–846, § 3, Aug. 28, 1958, 72 Stat. 1084.)

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2293. Omitted

CODIFICATION

Section, Pub. L. 85–846, § 4, Aug. 28, 1958, 72 Stat. 1084; Pub. L. 87–206, § 18, Sept. 6, 1961, 75 Stat. 479, related to guarantee contracts between the Atomic Energy Commission and operators of reactors under the cooperation program which were to extend no later than Dec. 31, 1975.

§ 2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services

Pursuant to the provisions of section 2074 of this title, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 2153 of this title: *Provided*, That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of section 2201(v)(B) of this title in lieu of sale or lease thereof.

(Pub. L. 85–846, § 5, Aug. 28, 1958, 72 Stat. 1085; Pub. L. 87–206, § 19, Sept. 6, 1961, 75 Stat. 479; Pub. L. 88–394, § 5, Aug. 1, 1964, 78 Stat. 376; Pub. L. 90–190, § 13, Dec. 14, 1967, 81 Stat. 578; Pub. L. 93–88, Aug. 14, 1973, 87 Stat. 296.)

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–88 substituted ''an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium for other purposes'' for ''two hundred fifteen thousand kilograms of contained uranium 235''.

1967—Pub. L. 90–190 increased from seventy thousand to two hundred fifteen thousand kilograms of contained

uranium 235 and from five hundred to one thousand five hundred kilograms of plutonium respectively the amount of material authorized to be sold or leased to the Community, and inserted provision authorizing the Commission, after Dec. 31, 1968, to perform uranium enrichment services for the Community, pursuant to the provisions of section 2201(v)(B) of this title, in lieu of the sale or lease of such material.

1964—Pub. L. 88–394 increased the amount of contained uranium 235 from thirty thousand kilograms to seventy thousand kilograms, and plutonium, from nine kilograms to five hundred kilograms.

1961—Pub. L. 87–206 substituted ''Nine kilograms'' for ''One kilogram'' of plutonium and inserted item reading ''Thirty kilograms of uranium 233'' and ''or agreements''.

§ 2295. Acquisition of nuclear materials

(a) Authorization; restriction of amounts of plutonium or uranium; amount and use of plutonium authorized to be acquired

The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title: *Provided*, That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Terms and periods of contracts to acquire plutonium

Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided*, That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2291(c) of this title, whichever is earlier: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Terms and periods of contracts to acquire uranium

Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided*, That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U–235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Contracts for purchase of special nuclear materials

Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31.

(e) Certification by Commission

Any contract made under this section may be made without regard to section 5 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

(Pub. L. 85–846, § 6, Aug. 28, 1958, 72 Stat. 1085.)

CODIFICATION

In subsec. (d), ''sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31'' substituted for ''section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296. Nonliability of United States; indemnification

The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however*, That nothing in this section shall deprive any person of any rights under section 2210 of this title: *And provided further*, That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 2292 of this title. The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.

(Pub. L. 85–846, § 7, Aug. 28, 1958, 72 Stat. 1086; Pub. L. 87–206, § 20, Sept. 6, 1961, 75 Stat. 479.)

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1961—Pub. L. 87–206 inserted proviso making provisions of section inapplicable to arrangements made by the Commission under a research and development program authorized by section 2292 of this title.

SUBCHAPTER XIX—REMEDIAL ACTION AND URANIUM REVITALIZATION

PART A—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

§ 2296a. Remedial action program

(a) In general

Except as provided in subsection (b) of this section, the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 2092 or 2111 of this title for any activity at such site which results or has resulted in the production of byproduct material.

(b) Reimbursement

(1) In general

The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) of this section for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2007; or

(ii) incurred by a licensee after December 31, 2007, in accordance with a plan for subsequent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) Amount

(A) To individual active site uranium licensees

The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 2296a–1 of this title and, for uranium mill tailings only, shall not exceed an amount equal to $6.25 multiplied by the dry short tons of byproduct material located on October 24, 1992, at the site of the activities of such licensee described in subsection (a) of this section, and generated as an incident of sales to the United States.

(B) To all active site uranium licensees

Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $350,000,000.

(C) To thorium licensees

Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $365,000,000, and may only be made for off-site disposal. Such payments shall not exceed the following amounts:

(i) $90,000,000 in fiscal year 2002.
(ii) $55,000,000 in fiscal year 2003.
(iii) $20,000,000 in fiscal year 2004.
(iv) $20,000,000 in fiscal year 2005.
(v) $20,000,000 in fiscal year 2006.
(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.

(D) Inflation escalation index

The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) Additional reimbursement

(i) Determination of excess

The Secretary shall determine as of December 31, 2008, whether the amount authorized to be appropriated pursuant to section 2296a–2 of this title, when considered with the $6.25 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2) of this section.

(ii) In the event of excess

If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $6.25 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) of this section exceed the $6.25 per dry short ton limitation described in paragraph (2) of such subsection.

(3) Byproduct location

Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on October 24, 1992, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

(Pub. L. 102–486, title X, § 1001, Oct. 24, 1992, 106 Stat. 2946; Pub. L. 104–259, § 3(a), Oct. 9, 1996, 110 Stat. 3173; Pub. L. 105–388, § 11(a), Nov. 13, 1998, 112 Stat. 3484; Pub. L. 106–317, § 1, Oct. 19, 2000, 114 Stat. 1277; Pub. L. 107–222, § 1(a), Aug. 21, 2002, 116 Stat. 1336.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2002—Subsec. (b)(2)(C). Pub. L. 107–222 substituted ''$365,000,000'' for ''$140,000,000'' and inserted at end ''Such payments shall not exceed the following amounts:

''(i) $90,000,000 in fiscal year 2002.
''(ii) $55,000,000 in fiscal year 2003.
''(iii) $20,000,000 in fiscal year 2004.
''(iv) $20,000,000 in fiscal year 2005.
''(v) $20,000,000 in fiscal year 2006.
''(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.''

2000—Subsec. (b)(1)(B)(i). Pub. L. 106–317, § 1(1), substituted ''2007'' for ''2002''.

Subsec. (b)(1)(B)(ii). Pub. L. 106–317, § 1(2), substituted ''incurred by a licensee after December 31, 2007,'' for ''placed in escrow not later than December 31, 2002,''.

Subsec. (b)(2)(E)(i). Pub. L. 106–317, § 1(3), substituted ''December 31, 2008'' for ''July 31, 2005''.

1998—Subsec. (b)(2)(C). Pub. L. 105–388 substituted ''$140,000,000'' for ''$65,000,000''.

1996—Subsec. (b)(2)(A). Pub. L. 104–259, § 3(a)(1), substituted ''$6.25'' for ''$5.50''.

Subsec. (b)(2)(B). Pub. L. 104–259, § 3(a)(2), substituted ''$350,000,000'' for ''$270,000,000''.

Subsec. (b)(2)(C). Pub. L. 104–259, § 3(a)(3), substituted ''$65,000,000'' for ''$40,000,000''.

Subsec. (b)(2)(E). Pub. L. 104–259, § 3(a)(4), (5), substituted ''$6.25'' for ''$5.50'' wherever appearing.

§ 2296a–1. Regulations

Within 180 days of October 24, 1992, the Secretary shall issue regulations governing reimbursement under section 2296a of this title. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 2296a of this title.

(Pub. L. 102–486, title X, § 1002, Oct. 24, 1992, 106 Stat. 2947.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296a–2. Authorization of appropriations

(a) In general

There is authorized to be appropriated $715,000,000 to carry out this part. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 2296a of this title, based upon an inflation index to be determined by the Secretary.

(b) Source

Funds described in subsection (a) of this section shall be provided from the Fund established under section 2297g of this title.

(Pub. L. 102–486, title X, § 1003, Oct. 24, 1992, 106 Stat. 2947; Pub. L. 104–259, § 3(b), Oct. 9, 1996, 110 Stat. 3174; Pub. L. 105–388, § 11(b), Nov. 13, 1998, 112 Stat. 3485; Pub. L. 107–222, § 1(b), Aug. 21, 2002, 116 Stat. 1336.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–222 substituted ''$715,000,000'' for ''$490,000,000''.

1998—Subsec. (a). Pub. L. 105–388 substituted ''$490,000,000'' for ''$415,000,000''.

1996—Subsec. (a). Pub. L. 104–259 substituted ''$415,000,000'' for ''$310,000,000''.

§ 2296a–3. Definitions

For purposes of this part:

(1) The term ''active uranium or thorium processing site'' means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Secretary or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) The term ''byproduct material'' has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954,[1] (42 U.S.C. 2014(e)(2)); and

(3) The term ''decontamination, decommissioning, reclamation, and other remedial action'' means work performed prior to or subsequent to October 24, 1992, which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

(Pub. L. 102–486, title X, § 1004, Oct. 24, 1992, 106 Stat. 2947.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in par. (1)(A), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to this chapter (§ 2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Uranium Mill Tailings Radiation Control Act of 1978, referred to in par. (3), is Pub. L. 95–604, Nov. 8, 1978, 92 Stat. 3021, as amended, which is classified principally to chapter 88 (§ 7901 et seq.) of this title. For complete classification of this act to the Code, see Short Title note set out under section 7901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PART B—URANIUM REVITALIZATION

§ 2296b. Overfeed program

(a) Uranium purchases

To the maximum extent permitted by sound business practice, the Corporation shall purchase uranium in accordance with subsection (b) of this section and overfeed it into the enrichment process to reduce the amount of power re-

[1] So in original. The comma probably should not appear.

quired to produce the enriched uranium ordered by enrichment services customers, taking into account costs associated with depleted tailings.

(b) Use of domestic uranium

Uranium purchased by the Corporation for purposes of this section shall be of domestic origin and purchased from domestic uranium producers to the extent permitted under the multilateral trade agreements (as defined in section 3501(4) of title 19) and the North American Free Trade Agreement.

(Pub. L. 102–486, title X, § 1011, Oct. 24, 1992, 106 Stat. 2948; Pub. L. 106–36, title I, § 1002(g)(1), June 25, 1999, 113 Stat. 133.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–36 substituted ''multilateral trade agreements (as defined in section 3501(4) of title 19) and the ''North American Free Trade Agreement'' for ''General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement''.

§ 2296b–1. National Strategic Uranium Reserve

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of natural uranium and uranium equivalents contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on October 24, 1992, and for 6 years thereafter, use of the Reserve shall be restricted to military purposes and government research. Use of the Department of Energy's stockpile of enrichment tails existing on October 24, 1992, shall be restricted to military purposes for 6 years thereafter.

(Pub. L. 102–486, title X, § 1012, Oct. 24, 1992, 106 Stat. 2948.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296b–2. Sale of remaining DOE inventories

The Secretary, after making the transfer required under section 2297c–6[1] of this title, may sell, from time to time, portions of the remaining inventories of raw or low-enriched uranium of the Department that are not necessary to national security needs, to the Corporation, at a fair market price. Sales under this section may be made only if such sales will not have a substantial adverse impact on the domestic uranium mining industry. Proceeds from sales under this subsection shall be deposited into the general fund of the United States Treasury.

(Pub. L. 102–486, title X, § 1013, Oct. 24, 1992, 106 Stat. 2949.)

REFERENCES IN TEXT

Section 2297c–6 of this title, referred to in text, was repealed by Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

[1] See References in Text note below.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296b–3. Responsibility for the industry

(a) Continuing Secretarial responsibility

The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium. The Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b) of this section.

(b) Encourage export

The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within 180 days after October 24, 1992, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

(Pub. L. 102–486, title X, § 1014, Oct. 24, 1992, 106 Stat. 2949.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296b–4. Annual uranium purchase reports

(a) In general

By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) Congressional access

The information provided to the Secretary pursuant to this section shall be made available to the Congress by March 1 of each year.

(Pub. L. 102–486, title X, § 1015, Oct. 24, 1992, 106 Stat. 2949.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296b–5. Uranium inventory study

Within 1 year after October 24, 1992, the Secretary shall submit to the Congress a study and report that includes—

(1) a comprehensive inventory of all Government owned uranium or uranium equivalents, including natural uranium, depleted tailings, low-enriched uranium, and highly enriched uranium available for conversion to commercial use;

(2) a plan for the conversion of inventories of foreign and domestic highly enriched uranium to low-enriched uranium for commercial use;

(3) an estimation of the potential need of the United States for inventories of highly enriched uranium;

(4) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to low-enriched uranium, including the construction of facilities if necessary;

(5) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium;

(6) recommendations for implementing a plan to convert highly enriched uranium to low-enriched uranium; and

(7) recommendations for the future use and disposition of such inventories.

(Pub. L. 102–486, title X, § 1016, Oct. 24, 1992, 106 Stat. 2949.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2296b–6. Regulatory treatment of uranium purchases

(a) Encouragement

The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Report

Within 1 year after October 24, 1992, and annually thereafter, the Secretary shall report to the Congress on the progress of the Secretary in encouraging actions by State regulatory authorities pursuant to subsection (a) of this section. Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) Savings provision

This section may not be construed to authorize the Secretary to take any action in violation of the multilateral trade agreements (as defined in section 3501(4) of title 19) or the North American Free Trade Agreement.

(Pub. L. 102–486, title X, § 1017, Oct. 24, 1992, 106 Stat. 2950; Pub. L. 106–36, title I, § 1002(g)(2), June 25, 1999, 113 Stat. 133.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–36 substituted ''multilateral trade agreements (as defined in section 3501(4) of title 19) or the North American Free Trade Agreement'' for ''General Agreement on Tariffs and Trade or the United States-Canada Free Trade Agreement''.

§ 2296b–7. Definitions

For purposes of this part:

(1) The term ''Corporation'' means the United States Enrichment Corporation established under section 2297b[1] of this title or its successor.

(2) The term ''country of origin'' means—

(A) with respect to uranium, that country where the uranium was mined;

(B) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(C) with respect to enrichment services, that country where the enrichment services were performed.

(3) The term ''domestic origin'' refers to any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States.

(4) The term ''domestic uranium producer'' means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

(5) The term ''non-affiliated'' refers to a seller who does not control, and is not controlled by or under common control with, the buyer.

(6) The term ''overfeed'' means to use uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(7) The term ''utility regulatory authority'' means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer. For purposes of this paragraph, the terms ''electric utility'', ''State agency'', ''Federal agency'', and ''ratemaking authority'' have the respective meanings given such terms in section 2602 of title 16.

(Pub. L. 102–486, title X, § 1018, Oct. 24, 1992, 106 Stat. 2950; Pub. L. 104–134, title III, § 3117(b), Apr. 26, 1996, 110 Stat. 1321–350.)

REFERENCES IN TEXT

Section 2297b of this title, referred to in par. (1), was repealed by Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

[1] See References in Text note below.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1996—Par. (1). Pub. L. 104–134 inserted ''or its successor'' before period at end.

Division B—United States Enrichment Corporation

SUBCHAPTER I—GENERAL PROVISIONS

§§ 2297, 2297a. Repealed. Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297, act Aug. 1, 1946, ch. 724, title II, § 1201, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2923, defined terms for purposes of this division.

Section 2297a, act Aug. 1, 1946, ch. 724, title II, § 1202, as added Oct. 24, 1992, Pub. L. 102–486, title IX, § 901, 106 Stat. 2924, related to purposes of United States Enrichment Corporation.

EFFECTIVE DATE OF REPEAL

Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349, provided that: ''Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date [July 28, 1998, see 42 U.S.C. 2297h(9) for definition of privatization date as date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors].''

SEVERABILITY

Section 904 of title IX of Pub. L. 102–486 provided that: ''If any provision of this title [see Tables for classification], or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.''

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

Pub. L. 104–134, title III, § 3116(e), Apr. 26, 1996, 110 Stat. 1321–350, provided that: ''Following the privatization date [July 28, 1998, see Effective Date of Repeal note above], all references in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] to the United States Enrichment Corporation shall be deemed to be references to the private corporation.''

SUBCHAPTER II—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

§§ 2297b to 2297b–15. Repealed. Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297b, act Aug. 1, 1946, ch. 724, title II, § 1301, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2925, related to establishment of United States Enrichment Corporation.

Section 2297b–1, act Aug. 1, 1946, ch. 724, title II, § 1302, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2925, related to offices of Corporation and service of process.

Section 2297b–2, act Aug. 1, 1946, ch. 724, title II, § 1303, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2925, related to powers of Corporation.

Section 2297b–3, act Aug. 1, 1946, ch. 724, title II, § 1304, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2926, related to Board of Directors of Corporation.

Section 2297b–4, act Aug. 1, 1946, ch. 724, title II, § 1305, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2927, related to employees of Corporation.

Section 2297b–5, act Aug. 1, 1946, ch. 724, title II, § 1306, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2928, related to independent and Comptroller General audits of Corporation's financial statements.

Section 2297b–6, act Aug. 1, 1946, ch. 724, title II, § 1307, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2929, related to annual reports by Corporation to President and Congress.

Section 2297b–7, act Aug. 1, 1946, ch. 724, title II, § 1308, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2929, related to accounts and transfer of unexpended balances.

Section 2297b–8, act Aug. 1, 1946, ch. 724, title II, § 1309, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2930, related to bonds, notes, and other evidences of indebtedness.

Section 2297b–9, act Aug. 1, 1946, ch. 724, title II, § 1310, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2931, related to exemption from State and local taxes and payments in lieu of such taxes.

Section 2297b–10, act Aug. 1, 1946, ch. 724, title II, § 1311, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2931, related to cooperation with other agencies.

Section 2297b–11, act Aug. 1, 1946, ch. 724, title II, § 1312, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2932, related to applicability of certain Federal laws.

Section 2297b–12, act Aug. 1, 1946, ch. 724, title II, § 1313, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2933, related to security of Corporation facilities, equipment, etc.

Section 2297b–13, act Aug. 1, 1946, ch. 724, title II, § 1314, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2933, related to control of information.

Section 2297b–14, act Aug. 1, 1946, ch. 724, title II, § 1315, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2933, related to governance of Corporation during transition period prior to appointment of Board.

Section 2297b–15, act Aug. 1, 1946, ch. 724, title II, § 1316, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2934, related to establishment of Working Capital Account.

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER III—RIGHTS, PRIVILEGES, AND ASSETS OF CORPORATION

§§ 2297c to 2297c–7. Repealed. Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297c, act Aug. 1, 1946, ch. 724, title II, § 1401, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2934; amended Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, related to marketing and contracting authority of United States Enrichment Corporation.

Section 2297c–1, act Aug. 1, 1946, ch. 724, title II, § 1402, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2934, related to Corporation pricing policy for Department of Energy and other customers.

Section 2297c–2, act Aug. 1, 1946, ch. 724, title II, § 1403, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2935, related to leasing of gaseous diffusion facilities of Department of Energy.

Section 2297c–3, act Aug. 1, 1946, ch. 724, title II, § 1404, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2935, related to capital structure of Corporation.

Section 2297c–4, act Aug. 1, 1946, ch. 724, title II, § 1405, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2936, authorized Corporation to apply for licenses for use of patented inventions and discoveries.

Section 2297c–5, act Aug. 1, 1946, ch. 724, title II, § 1406, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2936, related to liability for acts committed before and after transition date.

Section 2297c–6, act Aug. 1, 1946, ch. 724, title II, § 1407, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2937, related to transfer of uranium inventories to Corporation.

Section 2297c–7, act Aug. 1, 1946, ch. 724, title II, § 1408, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2937, related to purchase of highly enriched uranium from former Soviet Union.

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER IV—PRIVATIZATION OF CORPORATION

§§ 2297d, 2297d–1. Repealed. Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297d, act Aug. 1, 1946, ch. 724, title II, § 1501, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2937, related to strategic plan for privatization of United States Enrichment Corporation.

Section 2297d–1, act Aug. 1, 1946, ch. 724, title II, § 1502, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2938, related to implementation of privatization plan of Corporation.

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER V—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

§§ 2297e to 2297e–7. Repealed. Pub. L. 104–134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297e, act Aug. 1, 1946, ch. 724, title II, § 1601, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2939, related to assessment by United States Enrichment Corporation of viability of commercialization of AVLIS (atomic vapor laser isotope separation technology) and alternative uranium enrichment technologies.

Section 2297e–1, act Aug. 1, 1946, ch. 724, title II, § 1602, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2939, related to transfer of rights and property to Corporation.

Section 2297e–2, act Aug. 1, 1946, ch. 724, title II, § 1603, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2940, related to predeployment activities by Corporation.

Section 2297e–3, act Aug. 1, 1946, ch. 724, title II, § 1604, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2940; amended Pub. L. 102–572, title IX, § 902(b)(2), Oct. 29, 1992, 106 Stat. 4516, related to Corporation sponsorship of private for-profit corporation to construct AVLIS and alternative technologies.

Section 2297e–4, act Aug. 1, 1946, ch. 724, title II, § 1605, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2942, related to AVLIS Commercialization Fund within Corporation.

Section 2297e–5, act Aug. 1, 1946, ch. 724, title II, § 1606, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2942, related to Department research and development assistance.

Section 2297e–6, act Aug. 1, 1946, ch. 724, title II, § 1607, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2942, related to site selection.

Section 2297e–7, act Aug. 1, 1946, ch. 724, title II, § 1608, as added Pub. L. 102–486, title IX, § 901, Oct. 24, 1992, 106 Stat. 2942, related to exclusion from Price-Anderson coverage.

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER VI—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

§ 2297f. Gaseous diffusion facilities

(a) Issuance of standards

Within 2 years after October 24, 1992, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 2167 of this title) are in place.

(b) Annual report

(1) In general

Not later than the date on which a certificate of compliance is issued under subsection (c) of this section, the Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

(2) Required determination

Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) of this section and all applicable laws.

(c) Certification process

(1) Establishment

The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a) of this section.

(2) Periodic application for certificate of compliance

The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) of this section shall be based on the results of any such review.

(3) Treatment of certificate of compliance

The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any

requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

(4) NRC review

(A) In general

The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

(B) Access to facilities and information

The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

(C) Limitation

The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) of this section to a determination of whether the facilities are in compliance with the standards established under subsection (a) of this section.

(d) Requirement for operation

The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) of this section or approves a plan prepared by the Department for achieving compliance required under subsection (b) of this section.

(Aug. 1, 1946, ch. 724, title II, § 1701, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2951; amended Pub. L. 104–134, title III, § 3116(b)(3), Apr. 26, 1996, 110 Stat. 1321–349; Pub. L. 105–362, title XII, § 1202, Nov. 10, 1998, 112 Stat. 3292.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–362 substituted ''Not later than the date on which a certificate of compliance is issued under subsection (c) of this section, the Nuclear'' for ''The Nuclear'' and struck out ''at least annually'' after ''report''.

1996—Subsec. (c)(2). Pub. L. 104–134 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) of this section shall be based on the results of any such review.''

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§ 2297f–1. Licensing of other technologies

(a) In general

Corporation facilities using alternative technologies for uranium enrichment, including AVLIS, shall be licensed under sections 2073, 2093, and 2243 of this title.

(b) Costs for decontamination and decommissioning

The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) of this section in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

(Aug. 1, 1946, ch. 724, title II, § 1702, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 104–134, title III, § 3116(b)(4), Apr. 26, 1996, 110 Stat. 1321–349.)

REFERENCES IN TEXT

Section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990, referred to in subsec. (b), is section 5 of Pub. L. 101–575, Nov. 15, 1990, 104 Stat. 2835, which enacted section 2243 of this title and amended sections 2014, 2061, 2201, and 2284 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 substituted ''including'' for ''other than'' and ''sections 2073, 2093, and 2243'' for ''sections 2073 and 2093''.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§ 2297f–2. Regulation of Restricted Data

The Corporation shall be subject to this chapter with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

(Aug. 1, 1946, ch. 724, title II, § 1703, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953.)

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER VII—DECONTAMINATION AND DECOMMISSIONING

§ 2297g. Uranium Enrichment Decontamination and Decommissioning Fund

(a) Establishment

There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this subchapter as the ''Fund''). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this subchapter.

(b) Administration

(1) In general

The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

(2) Investments

The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

(Aug. 1, 1946, ch. 724, title II, § 1801, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953.)

§ 2297g–1. Deposits

(a) Amount

The Fund shall consist of deposits in the amount of $518,233,333 per fiscal year (to be annually adjusted for inflation beginning on October 24, 1992, using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

(b) Source

Deposits described in subsection (a) of this section shall be from the following sources:

(1) Sums collected pursuant to subsection (c) of this section.

(2) Appropriations made pursuant to subsection (d) of this section.

(c) Special assessment

The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed $150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) of this section to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before October 24, 1992, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before October 24, 1992. For purposes of this subsection—

(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

(d) Authorization of appropriations

There are authorized to be appropriated to the Fund, for the period encompassing 15 years after October 24, 1992, such sums as are necessary to ensure that the amount required under subsection (a) of this section is deposited for each fiscal year.

(e) Termination of assessments

The collection of amounts under subsection (c) of this section shall cease after the earlier of—

(1) 15 years after October 24, 1992; or

(2) the collection of $2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

(f) Continuation of deposits

Except as provided in subsection (e) of this section, deposits shall continue to be made into the Fund under subsection (d) of this section for the period specified in such subsection.

(g) Treatment of assessment

Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

(Aug. 1, 1946, ch. 724, title II, § 1802, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 105–388, § 11(c), Nov. 13, 1998, 112 Stat. 3485; Pub. L. 107–222, § 1(c), Aug. 21, 2002, 116 Stat. 1336.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–222 substituted ''$518,233,333'' for ''$488,333,333'' and inserted ''beginning on October 24, 1992,'' after ''inflation''.

1998—Subsec. (a). Pub. L. 105–388 substituted ''$488,333,333'' for ''$480,000,000''.

§ 2297g–2. Department facilities

(a) Study by National Academy of Sciences

The National Academy of Sciences shall conduct a study and provide recommendations for

reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after October 24, 1992. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

(b) Payment of decontamination and decommissioning costs

The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

(c) Payment of remedial action costs

The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this division may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

(Aug. 1, 1946, ch. 724, title II, § 1803, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2954.)

§ 2297g–3. Employee provisions

All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and section 3145 of title 40. This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

(Aug. 1, 1946, ch. 724, title II, § 1804, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2955.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.)'' and ''section 3145 of title 40'' substituted for ''the Act of June 13, 1934 (40 U.S.C. 276c)'', on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 2297g–4. Reports to Congress

Within 3 years after October 24, 1992, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this subchapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this division.

(Aug. 1, 1946, ch. 724, title II, § 1805, as added Pub. L. 102–486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2955.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed in item 7 on page 83), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

SUBCHAPTER VIII—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

§ 2297h. Definitions

For purposes of this subchapter:

(1) The term ''AVLIS'' means atomic vapor laser isotope separation technology.

(2) The term ''Corporation'' means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term ''gaseous diffusion plants'' means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term ''highly enriched uranium'' means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term ''low-enriched uranium'' means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term ''low-level radioactive waste'' has the meaning given such term in section 2021b(9) of this title.

(7) The term ''private corporation'' means the corporation established under section 2297h–3 of this title.

(8) The term ''privatization'' means the transfer of ownership of the Corporation to private investors.

(9) The term ''privatization date'' means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term ''public offering'' means an underwritten offering to the public of the common stock of the private corporation pursuant to section 2297h–2 of this title.

(11) The ''Russian HEU Agreement'' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term ''Secretary'' means the Secretary of Energy.

(13) The ''Suspension Agreement'' means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term ''uranium enrichment'' means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

(Pub. L. 104–134, title III, § 3102, Apr. 26, 1996, 110 Stat. 1321–335.)

REFERENCES IN TEXT

This subchapter, referred to in text, means subchapter A of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

EX. ORD. NO. 13085. ESTABLISHMENT OF ENRICHMENT OVERSIGHT COMMITTEE

Ex. Ord. No. 13085, May 26, 1998, 63 F.R. 29335, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

SECTION 1. *Establishment*. There is hereby established an Enrichment Oversight Committee (EOC).

SEC. 2. *Objectives*. The EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 (''HEU Agreement''), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

SEC. 3. *Organization*. (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President's transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104–134, title III, 3112(b)(10), 110 Stat. 1321–344, 1321–346 (1996) [42 U.S.C. 2297h–10(b)(10)].

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy, and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

SEC. 4. *HEU Agreement Oversight*. The EOC shall form an HEU Agreement Oversight Subcommittee (the ''Subcommittee'') in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence Community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

SEC. 5. *Foreign Ownership, Control, or Influence (FOCI)*. The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 [50 U.S.C. 435 note] with respect to the USEC and any successor entities (*see* National Industrial Security Program Operating Manual, Department of Defense 2–3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq*. (1994), and the USEC Privatization Act, Public Law 104–134, title III, 110 Stat. 1321–335 *et seq*. (1996) [42 U.S.C. 2297h et seq.];

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

SEC. 6. *Domestic Enrichment Services*. The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act [42 U.S.C. 2297h–10], as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provided that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of Directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

SEC. 7. *Coordination with the Nuclear Regulatory Commission*. Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

WILLIAM J. CLINTON.

§ 2297h–1. Sale of Corporation

(a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) Proceeds

Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

(Pub. L. 104–134, title III, § 3103, Apr. 26, 1996, 110 Stat. 1321–336.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–2. Method of sale

(a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 2297h–3 of this title (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) Board determination

The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) Adequate proceeds

The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 2297h–1(a) of this title.

(d) Application of securities laws

Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) Expenses

Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

(Pub. L. 104–134, title III, § 3104, Apr. 26, 1996, 110 Stat. 1321–336.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B

(§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–3. Establishment of private corporation

(a) Incorporation

(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18.

(b) Status of private corporation

(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28 shall be allowable against the United States based on actions of the private corporation.

(c) Application of post-Government employment restrictions

Beginning on the privatization date, the restrictions stated in section 207(a), (b), (c), and (d) of title 18 shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) Dissolution

In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

(Pub. L. 104–134, title III, § 3105, Apr. 26, 1996, 110 Stat. 1321–337.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–4. Transfers to private corporation

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 2297h–5 of this title,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 2297h–6(a) of this title,

(4) the Corporation's right to purchase power from the Secretary under section 2297h–6(b) of this title,

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

(Pub. L. 104–134, title III, § 3106, Apr. 26, 1996, 110 Stat. 1321–338.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–5. Leasing of gaseous diffusion facilities

(a) Transfer of lease

Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) Renewal

The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) Exclusion of facilities for production of highly enriched uranium

The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE responsibility for preexisting conditions

The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) Environmental audit

For purposes of subsection (d) of this section, the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) Treatment under Price-Anderson provisions

Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) Waiver of EIS requirement

The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 4332 of this title.

(h) Maintenance of security

(1) In general

With respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines relating to the authority of the Department of Energy's contractors (including any Federal agency, or private entity operating a gaseous diffusion plant under a contract or lease with the Department of Energy) and any subcontractor (at any tier) to carry firearms and make arrests in providing security at Federal installations, issued under section 2201(k) of this title shall require, at a minimum, the presence of all security police officers carrying sidearms at all times to ensure maintenance of security at the gaseous diffusion plants (whether a gaseous diffusion plant is operated directly by a Federal agency or by a private entity under a contract or lease with a Federal agency).

(2) Funding

(A) The costs of arming and providing arrest authority to the security police officers required under paragraph (1) shall be paid as follows:

(i) the Department of Energy (the ''Department'') shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are: (I) employees of the Department or the contractor or subcontractors of the Department; or (II) employees of the private entity leasing the gaseous diffusion plant who perform work on behalf of the Department (including employees of a contractor or subcontractor of the private entity); and

(ii) the private entity leasing the gaseous diffusion plant shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are employees of the private entity (including employees of a contractor or subcontractor) other than those employees who perform work for the Department.

(B) Neither the private entity leasing the gaseous diffusion plant nor the Department shall reduce its payments under any contract or lease or take other action to offset its share of the costs referred to in subparagraph (A), and the Department shall not reimburse the private entity for the entity's share of these costs.

(C) Nothing in this subsection shall alter the Department's responsibilities to pay the safety, safeguards and security costs associated with the Department's highly enriched uranium activities.

(Pub. L. 104–134, title III, § 3107, Apr. 26, 1996, 110 Stat. 1321–338; Pub. L. 105–62, title V, § 511, Oct. 13, 1997, 111 Stat. 1341; Pub. L. 105–245, title III, § 310, Oct. 7, 1998, 112 Stat. 1853.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to this chapter (§ 2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–245 substituted ''all security police officers'' for ''an adequate number of security guards'' in par. (1) and added par. (2).

1997—Subsec. (h). Pub. L. 105–62 added subsec. (h).

§ 2297h–6. Transfer of contracts

(a) Transfer of contracts

Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 2297c(b) of this title, or

(2) entered into by the Corporation before the privatization date.

(b) Nontransferable power contracts

The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) Effect of transfer

(1) Notwithstanding subsection (a) of this section, the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) of this section for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations

by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) of this section is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a) of this section, and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) Pricing

The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

(Pub. L. 104–134, title III, § 3108, Apr. 26, 1996, 110 Stat. 1321–339.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–7. Liabilities

(a) Liability of United States

(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) of this section or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) Liability of Corporation

Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 2297h–6 of this title or any other action the Corporation is required to take under this subchapter.

(c) Liability of private corporation

Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) Liability of officers and directors

(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

(Pub. L. 104–134, title III, § 3109, Apr. 26, 1996, 110 Stat. 1321–339.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d)(2), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d)(2), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–8. Employee protections

(a) Contractor employees

(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).[1]

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 185[1] of title 29.

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act [29 U.S.C. 151 et seq.], may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(8) CONTINUITY OF BENEFITS.—To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than 30 days after August 8, 2005, the Secretary shall implement such actions as are necessary to ensure that any employee who—

(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

[1] See References in Text note below.

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.

(b) Former Federal employees

(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as ''CSRS'') or the Federal Employees' Retirement System (referred to in this section as ''FERS'') on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5 for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the ''normal cost'' (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of ''normal cost'' being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5 for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as ''FEHBP'') on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

(Pub. L. 104–134, title III, § 3110, Apr. 26, 1996, 110 Stat. 1321–340; Pub. L. 104–206, title III, Sept. 30, 1996, 110 Stat. 2995; Pub. L. 109–58, title VI, § 633, Aug. 8, 2005, 119 Stat. 790.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (a)(3), (7)(C), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (a)(5), were classified to sections 7274h and 7274i, respectively, of this title and were renumbered sections 4604 and 4643, respectively, of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, § 3141(i)(5)(A)–(C), (14)(A)–(C), Nov. 24, 2003, 117 Stat. 1777, 1779, 1780, which are classified to sections 2704 and 2733, respectively, of Title 50, War and National Defense.

Section 185 of title 29, referred to in subsec. (a)(7)(A), was in the original ''section 301 of the Labor Management Relations Act (29 U.S.C. 185)'', and has been translated as reading section 301 of the Labor Management Relations Act, 1947, to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2005—Subsec. (a)(8). Pub. L. 109–58 added par. (8).

1996—Subsec. (b)(3). Pub. L. 104–206 which directed the amendment of subsec. (b) by inserting par. (3), was executed to reflect the probable intent of Congress by substituting par. (3) for former par. (3) which read as fol-

lows: ''The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5 for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).''

§ 2297h–9. Ownership limitations

(a) Securities limitations

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) Ownership limitation

Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

(Pub. L. 104–134, title III, § 3111, Apr. 26, 1996, 110 Stat. 1321–343.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–10. Uranium transfers and sales

(a) Transfers and sales by Secretary

The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) Russian HEU

(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of April 26, 1996, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,[1]

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexa-

[1] So in original.

fluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users

Year:	(millions lbs. U_3O_8 equivalent)
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) Transfers to Corporation

(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2) of this section.

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) Inventory sales

(1) In addition to the transfers authorized under subsections (c) and (e) of this section, the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e) of this section, no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) Government transfers

Notwithstanding subsection (d)(2) of this section, the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) Savings provision

Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

(Pub. L. 104–134, title III, § 3112, Apr. 26, 1996, 110 Stat. 1321–344.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2297h–11. Low-level waste

(a) Responsibility of DOE

(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 2073, 2093, and 2243 of this title.

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(4) In the event that a licensee requests the Secretary to accept for disposal depleted uranium pursuant to this subsection, the Secretary shall be required to take title to and possession of such depleted uranium at an existing DUF6 storage facility.

(b) Agreements with other persons

The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) of this section with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) State or interstate compacts

Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

(Pub. L. 104–134, title III, § 3113, Apr. 26, 1996, 110 Stat. 1321–347; Pub. L. 108–447, div. C, title III, § 311, Dec. 8, 2004, 118 Stat. 2959.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a)(4). Pub. L. 108–447, § 311, which directed the addition of par. (4) to subsec. (a) of section 3113 of Public Law 102–486 (42 U.S.C. 2297h–11), was executed by adding par. (4) to subsec. (a) of this section, which is section 3113 of Pub. L. 104–134, to reflect the probable intent of Congress.

§ 2297h–12. AVLIS

(a) Exclusive right to commercialize

The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) Transfer of related property to Corporation

(1) In general

To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) Exception

Facilities, real estate, improvements, and equipment related to the gaseous diffusion,

and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) Expiration of transfer authority

The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) Liability for patent and related claims

With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b) of this section, the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

(Pub. L. 104–134, title III, § 3114, Apr. 26, 1996, 110 Stat. 1321–348.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to this chapter (§ 2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h–13. Application of certain laws

(a) OSHA

(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after April 26, 1996, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) Antitrust laws

For purposes of the antitrust laws, the performance by the private corporation of a ''matched import'' contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) Energy Reorganization Act requirements

(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 5851 of this title to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 5846 of this title shall apply to the directors and officers of the private corporation.

(Pub. L. 104–134, title III, § 3115, Apr. 26, 1996, 110 Stat. 1321–348.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(1), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

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