
REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1946, 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.

§ 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.


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


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 desir-

able 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, 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 subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed 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, if such provisions were applicable to such position, shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(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 serv-

1 See References in Text note below.
Upon the request of the Commission and as to whom the Commission shall have determined that permitting 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 chapters 1 to 11 (except section 559) of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3506, 4710, and 4711) of subtitle I of title 41, section 3509, and subsections 3501(b) and 559 of subtitle I of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3506, 4710, and 4711) of subtitle I of title 41, 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) 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 interest 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

---

1 So in original.
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;


(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 otherwise 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, 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.
(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 agitation for the operation 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):

(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)2 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.

2See References in Text note below.
(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 201(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 so defined in section 201(e)(2) of this title, will make available such bonding, surety, or other financial arrangements as may be 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.


**Effective Date of 1958 Amendment**


**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 2207 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. 95–91, title VII, §709(c)(2), Aug. 4, 1977, 91 Stat. 608, 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 duration 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 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 I, 2, and 21 of EX. Ord. No. 12666, 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. 85–157, 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**

Pub. L. 85–162, title II, §203, Aug. 21, 1957, 71 Stat. 410, 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 222(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;

(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) 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.


REFERENCES IN TEXT

Section 103 of the Brady Handgun Violence Prevention Act, referred to in subsec. (c), is section 103 of Pub. L. 103–159, which was classified as a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification as section 4091 of Title 34, Crime Control and Law Enforcement. Guidelines to carry out this section, referred to in subsec. (d), were issued effective Sept. 11, 2009, see 74 F.R. 66600.

§ 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.


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 of this title and the members of advisory boards established pursuant to section 2203(a) of this title may serve as such without regard to the provisions of sections 281, 283, or 284 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.


REFERENCES IN TEXT


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 207, 208, and 209, 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. 99–91, title VII, §709(c)(1), Aug. 4, 1977, 91 Stat. 608. Energy Research and Development Administration terminated and functions vested in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 712(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 pro-
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 determining 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.


CODIFICATION


AMENDMENTS


§ 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.


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


Section was not enacted as part of the Atomic Energy Act of 1946 which comprises this chapter.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted “Energy Committees” 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.

This chapter, referred to in text, was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, 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 Atomic Energy Act of 1946, as amended, referred to in subsection (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, §1, 68 Stat. 919. 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.


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 contracts or subcontract: 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.


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, 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.

AMENDMENTS


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, 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.
or local government by reason of such activities shall be considered in determining the amount of the payment.


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 2551 of this title.


§ 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) 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). 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 (o)), but not more than $15,000,000 in any 1 year (subject to adjustment for inflation under subsection (t)), 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), 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 rate-payers 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) 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 require-
ments under subsection (b) or agreements of in-
demnification under subsection (c) or (k).

(B)(i)(I) Beginning 60 days after August 20,
1988, agreements of indemnification under sub-
paragraph (A) shall be the exclusive means of in-
demnification for public liability arising from
activities described in such subparagraph, in-
cluding 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 agree-
ments of indemnification under subparagraph
(A) the provisions relating to the waiver of any
issue or defense as to charitable or govern-
mental immunity authorized in subsection (n)(1)
to be incorporated in agreements of indem-
nification. 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 un-
der subparagraph (A).

(ii) Public liability arising out of nuclear
waste activities subject to an agreement of in-
demnification under subparagraph (A) that are
funded by the Nuclear Waste Fund established
in section 10223 of this title shall be com-
pensated from the Nuclear Waste Fund in an
amount not to exceed the maximum amount of
financial protection required of licensees under
subsection (b).

(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 indemni-
fied against such liability above the amount of the
financial protection required, in the amount of
$10,000,000,000 (subject to adjustment for in-
flation under subsection (U), in the aggregate,
for all persons indemnified in connection with
the contract and for each nuclear incident, in-
cluding 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 prede-
cessor 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 De-
partment of Energy demonstration reactor li-
censed 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 in-
demnity 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 con-
tracts 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 para-
graph (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 prin-
cipal, 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, includ-
ing such legal costs as are authorized to be paid
under subsection (o)(1)(D), shall not exceed—
(A) in the case of facilities designed for pro-
ducing substantial amounts of electricity and
having a rated capacity of 100,000 electrical
displacement or more, the maximum amount of fi-
nancial protection required of such facilities
under subsection (b) (plus any surcharge as-
essed under subsection (o)(1)(E));
(B) in the case of contractors with whom the
Secretary has entered into an agreement of in-
demnification under subsection (d), the
amount of indemnity and financial protection
that may be required under paragraph (2) of
subsection (d); 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 li-
censee; or
(ii) if the amount of financial protection
required of the licensee exceeds $60,000,000,
$560,000,000 or the amount of financial pro-
tection 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 Con-
gress will thoroughly review the particular inci-
dent in accordance with the procedures set forth
in subsection (l) and will in accordance with
such procedures, take whatever action is deter-
mined to be necessary (including approval of ap-
propriate compensation plans and appropriation
of funds) to provide full and prompt compensa-
tion to the public for all public liability claims
resulting from a disaster of such magnitude.

(3) No provision of paragraph (1) may be con-
strued to preclude the Congress from enacting a
revenue measure, applicable to licensees of the
Commission required to maintain financial pro-
tection pursuant to subsection (b), to fund any
action undertaken pursuant to paragraph (2).

(4) With respect to any nuclear incident occur-
ring outside of the United States to which an
agreement of indemnification entered into under
the provisions of subsection (d) 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 $80,000,000. 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 determining 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 6101 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, and to the courts.

(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), the Secretary or the Commission, 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), 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), 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 subparagraph (A), (B), or (C) of subsection (e)(1);

(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), 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) 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 of this subsection.

(5) For the purpose of paragraph (4) of this subsection—

1 So in original. Probably should be “Commission.”.

2 So in original. Probably should be paragraph “(6)”.
(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 resolution clause of which is as follows: "That the numbered ... Senate on...", 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 immediately 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.

(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time there-
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.

(1) 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).

2. 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.

(2) 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), 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) 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, 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 licensees have and maintain financial protection under subsection (a),

(E) arises out of, 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 licensees have and maintain financial protection under subsection (a), or

(F) arises out of, from, or occurs in the course of nuclear waste activities, 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 enforceable in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon 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 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).

(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 (c), determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection (b) (or an equivalent amount in the case of a contractor indemnified under subsection (d)); 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—

So in original. The period probably should be a comma.
(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 under subparagraph (A), (B), or (C) of subsection (b), any licensee required to pay a standard deferred premium under subsection (b)(1) 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 in-
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) 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) 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.


The Federal Advisory Committee Act, referred to in subsec. (j)(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.


C O N D I T I O N S


A M E N D M E N T S

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” for “$10,000,000 in any 1 year” in second proviso of third sentence.


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) 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.”

Subsec. (e)(1). Pub. L. 109–58, §604(c), struck out “the maximum amount of financial protection required of licensees under subsection (b) or” before “the amount of indemnity” and substituted “paragraph (d)” for “paragraph (3) of subsection (d), whichever amount is more”.

R E F E R E N C E S I N T E X T

This chapter, referred to in subsecs. (b)(1) and (h), was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1946, ch. 1073, §1, 60 Stat. 919, known as the Atomic Energy Act of 1946, 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.
Subsec. (e)(4). Pub. L. 109–58, §605(b), substituted ‘‘$500,000,000’’ for ‘‘$100,000,000’’.


Subsec. (t)(2), (3). Pub. L. 109–58, §607, added par. (2) and redesignated former par. (2) as (3).


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.’’


Pub. L. 100–408, §16(d)(4), substituted ‘‘section 211’’ for ‘‘subsection 21i of the Atomic Energy Act of 1954, as amended’’.

Pub. L. 100–408, §16(d)(4), substituted ‘‘subsection b’’ for ‘‘subsection 170b’’.

Pub. L. 100–408, §16(d)(4), substituted ‘‘subsection c’’ for ‘‘subsection 170c’’.

Pub. L. 100–408, §16(d)(4), substituted ‘‘which for purposes of codification were translated as ‘‘section 1022b’’ of this title’’.

Pub. L. 100–408, §16(d)(4), substituted ‘‘subsection b’’ and ‘‘subsection c’’, 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’’.

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’’.

Pub. L. 100–408, §2(a)(c)(3), added ‘‘(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)’’.

Pub. L. 100–408, §2(a)(c)(3), added ‘‘(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 $65,000,000 (subject to adjustment for inflation under subsection (t)), but not more than $10,000,000 in any one year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection)’’.

Pub. L. 100–408, §2(a)(c)(3), added ‘‘(excluding legal costs subject to subsection (o)(1)(D), payment of which has not been authorized under such subsection)’’.

Pub. L. 100–408, §2(a)(c)(3), added ‘‘(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. (c). Pub. L. 100–408, §16(e)(3), inserted ‘‘Indemnification of licensees 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.


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 3679 of the Revised Statutes’’.

Pub. L. 100–408, §16(c)(1), substituted ‘‘which for purposes of codification was translated as ‘‘section 5 of title 41’’’.

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(e)(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’’.

Pub. L. 100–408, §16(d)(5), added ‘‘(l), changing its structure from a single unnumbered subsection to one consisting of six numbered paragraphs.

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 “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)’’, 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 the 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, designating 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)’’ for ‘‘subsection (e)’’ in introductory provisions.

Subsec. (o)(1)(B). Pub. L. 100–408, §16(d)(7), substituted ‘‘paragraph (C)’’ for ‘‘paragraph (3) of this subsection’’.

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 “Recess of 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, 1983, 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. (s). Pub. L. 100–408, §14, added subsec. (s).


1975—Subsec. (a). Pub. L. 94–197, §2, inserted provision relating to the public purposes cited in section 202(2) 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 require 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 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 107 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” after “‘the Commission 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 $50,000,000.

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)(ii). 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).


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 insurable 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, 1966” wherever appearing,
and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $50,000,000.

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 $50,000,000.

Subsec. (e). Pub. L. 89–210, §3, inserted proviso prohibiting the aggregate liability to exceed the sum of $50,000,000.


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 liability of each person 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 $50,000,000.

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.

1965—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 indemnity 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 appropriate 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”.


“(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 1990 (38 U.S.C. 101 note) [Pub. L. 100–488, see Tables for classification], and obtained from the Committee on the Biological Effects of Ionizing Radiations, and the President’s Advisory Committee on Human Radi-
ization Experiments provide medical validation for the extension of compensable radiologic 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(2)(B), July 10, 2000, 114 Stat. 508, 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**


**RADIATION EXPOSURE COMPENSATION**


**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 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.

**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) 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, 1968;
§ 2210

TITLE 42—THE PUBLIC HEALTH AND WELFARE
Page 4840

“(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 subparagraph (I) or (II) of clause (I) or onsite participation described in clause (II) (as the case may be); and

“(II) more than (sic) 2 years after first exposure to fallout.

“(B) Amounts.—If the conditions described in subparagraph (C)(ii) are met, an individual—

“(i) who is described in subparagraph (I) or (II) of subparagraph (A)(i) shall receive $50,000; or

“(ii) who is described in subparagraph (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 Cochino, Yavapai, Navajo, Apache, and Gila, and that part of Arizona that is north of the Grand Canyon

“(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.

“(1) Eligibility of individuals.—

“(A) in General.—An individual shall receive $100,000 for a claim made under this Act if—

“(i) who is 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

“(B) who 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;

“(C) the claim for that payment is filed with the Attorney General by or on behalf of that individual; and

“(D) the Attorney General makes a determination to include such State.

“(2) Payment Requirement.—Each payment under this section may be made only in accordance with section 6.

“(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.

“(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 (1.3x10¹⁰) million electron volts of alpha energy per liter of air;

“(3) the term ‘nonmalignant respiratory disease’ means fibrosis of the lung, pulmonary fibrosis, cor pulmonale 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) 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; and
“(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 ‘doo 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 carbon and acid leach plants.

(2) CHEST X-RAYS.—
“(A) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described under clause (i) of a nonmalignant pulmonary disease of a claimant that is accompanied by written documentation shall be considered to be conclusive evidence of that disease.

(3) 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) board certified physician; and
“(iii) has a documented ongoing physician patient relationship with the claimant.

(4) 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 DIAGNOSIS.—
“(i) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described under clause (i) 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.

(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 individuals 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 Act, determine the existence of the nonmalignant pulmonary disease specified in section 4(a)(2) or other disease specified in section 4(a)(2) that an individual was exposed to the working level months of radiation under subsection (a), and shall—

(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 workers compensation), against any person, or

(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—

(C) A 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.

“(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—

“(1) 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.

“(E) ACTION ON CLAIMS.—

“(1) IN GENERAL.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures 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 hold unlawful and set aside any final determination made by the Commission that is based on any evidence not introduced in a hearing before the Commission, to the extent or in the amount that the court finds the evidence was irrelevant, 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.


“NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES

Pub. L. 100–408, § 19, Aug. 20, 1988, 102 Stat. 1083, 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. 2210b(b)) for the manufacture, production, possession, or use of 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 Title 42, § 2210]. 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 CONVENOR.—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 convenor for such negotiations.

“(3) SUBMISSION OF RECOMMENDATIONS OF THE CONVENOR.—The convenor 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 convenor
§ 2210a. Conflicts of interest relating to contracts

(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 assure, 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) 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, Government Organization and Employees.

§ 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 2251 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) 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 37 1/2 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 of 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 of this title.

(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 37 1/2 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 from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 1962 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.


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

Pub. L. 97–415, §23(a), Jan. 4, 1983, 96 Stat. 2080, 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.


§ 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现代 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.


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, title VI, §651(a)(1), Aug. 8, 2005.

§ 2210f. Recruitment tools

The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.


§ 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.


§ 2210h. Radiation source protection

(a) Definitions
In this section:
(1) Code of conduct

(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; and
(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) 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 Administrator of the Environmental Protection 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 Nuclear Regulatory Commission (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 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), 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.


REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3)(B)(i), (v), was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, 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.

EFFECTIVE DATE

Pub. L. 109–58, title VI, §656(c), Aug. 8, 2005, 119 Stat. 814, provided that: “The amendment made by subsection (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; except; 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.


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 collection of annual charges from Nuclear Regulatory Commission licensees.

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


PRIOR PROVISIONS


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).

(2) First assessment

The first assessment of fees under subsection (b) and annual charges under subsection (c) 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), 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, except—

(i) amounts collected under subsection (b) 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 10232(c) 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 1946 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.’’


Pub. L. 109-103 inserted ‘‘and fiscal year 2006’’ before period at end.


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 licensees 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.’’


1992—Subsec. (a)(1). Pub. L. 102-486, §2903(a)(1), substituted ‘‘Except as provided in paragraph (4), any licensee’’ for ‘‘Any licensee’’.


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

Pub. L. 102-486, title XXXIX, §2903(b), Oct. 24, 1992, 106 Stat. 3125, 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

Pub. L. 102-486, title XXXIX, §2903(c), Oct. 24, 1992, 106 Stat. 3125, 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 1546 of title 26 to recover such further sum as added to said 75 per centum will constitute just compensation.


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


1964—Pub. L. 88–489 substituted “1975” for “2072” (with respect to the material for which the United States is required to pay just compensation)."

CONCLUSION

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.


CONCLUSION


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 said 75 per centum will constitute just compensation.