

**§ 2168. Dissemination of unclassified information**

**(a) Dissemination prohibited; rules and regulations; determinations of Secretary prerequisite to issuance of prohibiting regulations or orders; criteria**

(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Energy (hereinafter in this section referred to as the "Secretary"), with respect to atomic energy defense programs, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to—

(A) the design of production facilities or utilization facilities;

(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 2162 of this title.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

**(b) Civil penalties**

(1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed \$100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

(2) The provisions of subsections (b) and (c) of section 2282 of this title, shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection (a) of such section.

**(c) Criminal penalties**

For the purposes of section 2273 of this title, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 2201(b) of this title.

**(d) Judicial review**

Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(Aug. 1, 1946, ch. 724, title I, §148, as added Pub. L. 97-90, title II, §210(a)(1), Dec. 4, 1981, 95 Stat. 1169; amended Pub. L. 97-415, §17, Jan. 4, 1983, 96 Stat. 2076; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 112-239, div. C, title XXXI, §3134(c), Jan. 2, 2013, 126 Stat. 2193.)

AMENDMENTS

2013—Subsec. (e). Pub. L. 112-239 struck out subsec. (e), which related to quarterly reports for interested persons.

1983—Subsec. (a)(1). Pub. L. 97-415, §17(a), inserted “, with respect to atomic energy defense programs,” after “(hereinafter in this section referred to as the ‘Secretary’)”.

Subsecs. (d), (e). Pub. L. 97-415, §17(b), added subsecs. (d) and (e).

**§ 2169. Fingerprinting for criminal history record checks**

**(a) In general**

(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

(B) The Commission shall require to be fingerprinted any individual who—

(i) is permitted unescorted access to—

(I) a utilization facility; or

(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

(ii) is permitted access to safeguards information under section 2167 of this title.

(2) All fingerprints obtained by an individual or entity as required in paragraph (1) shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check.

(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(4) Notwithstanding any other provision of law—

(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

#### (b) Waiver

The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

#### (c) Regulations

For purposes of administering this section, the Commission shall prescribe requirements—

(1) to implement procedures for the taking of fingerprints;

(2) to establish the conditions for use of information received from the Attorney General, in order—

(A) to limit the dissemination of such information;

(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B) or shall be permitted access to safeguards information under section 2167 of this title;

(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

#### (d) Use of biometric methods

The Commission may require a person or individual to conduct fingerprinting under subsection (a)(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

(1) the Attorney General; and

(2) the Commission, by regulation.

#### (e) Processing fees; use of amounts collected

(1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

(2) Notwithstanding section 3302(b) of title 31, and to the extent approved in appropriation Acts—

(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

(3) Any amount made available for use under paragraph (2) shall remain available until expended.

(Aug. 1, 1946, ch. 724, title I, § 149, as added Pub. L. 99-399, title VI, § 606(a), Aug. 27, 1986, 100 Stat. 876; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109-58, title VI, § 652, Aug. 8, 2005, 119 Stat. 810.)

#### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, § 652(1), revised and restructured provisions of subsec. (a). Prior to amendment, subsec. (a) read as follows: “The Nuclear Regulatory Commission (in this section referred to as the ‘Commission’) shall require each licensee or applicant for a license to operate a utilization facility under section 2133 or 2134(b) of this title to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 2167 of this title. All fingerprints obtained by a licensee or applicant as required in the preceding sentence shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the licensee or applicant submitting such fingerprints.” Amendment by Pub. L. 109-58, § 652(1)(D), which misquoted the sentence to be stricken by leaving out the word “the” before “licensee”, was nevertheless executed to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109-58, §652(2)(A), substituted “requirements—” for “, subject to public notice and comment, regulations—” in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 109-58, §652(2)(B), substituted “unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B)” for “unescorted access to the facility of a licensee or applicant”.

Subsecs. (d), (e). Pub. L. 109-58, §652(3), (4), added subsec. (d) and redesignated former subsec. (d) as (e).

#### EFFECTIVE DATE

Pub. L. 99-399, title VI, §606(b), Aug. 27, 1986, 100 Stat. 877, provided that: “The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954 [subsec. (a) of this section], as added by this Act, shall take effect upon the promulgation of regulations by the Nuclear Regulatory Commission as set forth in subsection c. of such section [subsec. (c) of this section]. Such regulations shall be promulgated not later than 6 months after the date of the enactment of this Act [Aug. 27, 1986].”

### SUBCHAPTER XII—PATENTS AND INVENTIONS

#### § 2181. Inventions relating to atomic weapons, and filing of reports

##### (a) Denial of patent; revocation of prior patents

No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

##### (b) Denial of rights; revocation of prior rights

No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

##### (c) Report of invention to Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

##### (d) Report to Commission by Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c), and shall provide the Commission access to all such applications.

##### (e) Confidential information; circumstances permitting disclosure

Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

(Aug. 1, 1946, ch. 724, title I, §151, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 943; amended Pub. L. 87-206, §§7-9, Sept. 6, 1961, 75 Stat. 477; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(b)(18)], Nov. 29, 1999, 113 Stat. 1536, 1501A-585.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106-113 substituted “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office” for “Commissioner of Patents”.

1961—Pub. L. 87-206, §7, substituted provision concerning inventions relating to atomic weapons and filing of reports for provision relating to military utilization in section catchline.

Subsec. (c). Pub. L. 87-206, §8, struck out designation as cl. (1) of provision relating to production or utilization of special nuclear material or atomic energy and cls. (2) and (3) relating to utilization of special nuclear material in an atomic weapon and utilization of atomic energy in an atomic weapon, respectively, and substituted “the one hundred and eightieth day” for “whichever of the following is the later: either the ninetieth day after completion of such invention or discovery; or the ninetieth day”.

Subsec. (e). Pub. L. 87-206, §9, added subsec. (e).

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

#### EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING ATOMIC ENERGY CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of Title 35, Patents.