

cumstances, receive spent nuclear fuel if the spent nuclear fuel—

“(1) cannot be transferred in an expeditious manner from its port of entry in the United States to a storage facility that is located at a Department of Energy facility and is capable of receiving and storing the spent nuclear fuel; or

“(2) will remain on a vessel in the port of entry for a period that exceeds the period necessary to unload the fuel from the vessel pursuant to routine unloading procedures.

“(e) **CRITERIA FOR PORT OF ENTRY.**—The Secretary of Energy shall, if economically feasible and to the maximum extent practicable, provide for the receipt of spent nuclear fuel under this section at a port of entry in the United States which, as determined by the Secretary and compared to each other port of entry in the United States that is capable of receiving the spent nuclear fuel—

“(1) has the lowest human population in the area surrounding the port of entry;

“(2) is closest in proximity to the facility which will store the spent nuclear fuel; and

“(3) has the most appropriate facilities for, and experience in, receiving spent nuclear fuel.

“(f) **DEFINITION.**—In this section, the term ‘spent nuclear fuel’ means nuclear fuel that—

“(1) was originally exported to a foreign country from the United States in the form of highly enriched uranium; and

“(2) was used in a research reactor by the Government of a foreign country or by a foreign-owned or foreign-controlled entity.”

Executive Documents

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of functions vested in President under subsecs. (a)(2)(G), (b)(1), and (f)(2) of this section, and of function vested in President under subsec. (f)(1)(A)(ii) of this section to extent that such function relates to preparation of a detailed generic plan, see section 1(b) and (c) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

Secretary of State responsible for performing function vested in President under subsec. (c) of this section, except that Secretary of State may not waive 60-day requirement for preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without approval of President, see section 2(e) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2160a. Review of Nuclear Proliferation Assessment Statements

No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement, or any annexes thereto, called for in this Act or in the 1954 Act.

(Pub. L. 95-242, title IV, § 406, Mar. 10, 1978, 92 Stat. 148; Pub. L. 105-277, div. G, title XII, § 1225(e)(5), Oct. 21, 1998, 112 Stat. 2681-775.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§ 3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105-277 inserted “, or any annexes thereto,” before “called for in”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DEFINITIONS

For definitions of terms used in this section, see section 3203 of Title 22, Foreign Relations and Intercourse.

§ 2160b. Authority to suspend nuclear cooperation with nations which have not ratified the Convention on the Physical Security of Nuclear Material

The President may suspend nuclear cooperation under this chapter with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.

(Aug. 1, 1946, ch. 724, title I, § 132, as added Pub. L. 99-399, title VI, § 602, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

Editorial Notes

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.

§ 2160c. Consultation with Department of Defense concerning certain exports and subsequent arrangements

(a) In addition to other applicable requirements—

(1) a license may be issued by the Nuclear Regulatory Commission under this chapter for the export of special nuclear material described in subsection (b); and

(2) approval may be granted by the Secretary of Energy under section 2160 of this title for the transfer of special nuclear material described in subsection (b);

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

(b) Subsection (a) applies to the export or transfer of more than 2 kilograms of plutonium or more than 5 kilograms of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.

(Aug. 1, 1946, ch. 724, title I, §133, as added Pub. L. 99-399, title VI, §603, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-236, title VIII, §829, Apr. 30, 1994, 108 Stat. 521.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), 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

1994—Subsec. (b). Pub. L. 103-236 substituted “5 kilograms” for “20 kilograms”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note under section 6301 of Title 22, Foreign Relations and Intercourse.

§ 2160d. Further restrictions on exports

(a) In general

Except as provided in subsection (b), the Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this chapter, the Commission determines that—

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

(b) Medical isotope production

(1) Definitions

In this subsection:

(A) Highly enriched uranium

The term “highly enriched uranium” means uranium enriched to include concentration of U-235 above 20 percent.

(B) Medical isotope

The term “medical isotope” includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

(C) Radiopharmaceutical

The term “radiopharmaceutical” means a radioactive isotope that—

(i) contains byproduct material combined with chemical or biological material; and

(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

(D) Recipient country

The term “recipient country” means Canada, Belgium, France, Germany, and the Netherlands.

(2) Licenses

The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this chapter (except subsection (a)), the Commission determines that—

(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

(i) uses an alternative nuclear reactor fuel; or

(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

(3) Review of physical protection requirements

(A) In general

The Commission shall review the adequacy of physical protection requirements that, as