

(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 (without regard to subsection (a)(2) thereof) as soon as practicable after November 6, 1978, but in no event later than 120 days after such date.

(Aug. 1, 1946, ch. 724, title I, §170A, as added Pub. L. 95-601, §8(a), Nov. 6, 1978, 92 Stat. 2950; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109-58, title VI, §639, Aug. 8, 2005, 119 Stat. 794.)

Editorial Notes

REFERENCES IN TEXT

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

2005—Subsec. (b). Pub. L. 109-58 inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, in introductory provisions substituted “Except as provided in paragraph (2), the Nuclear Regulatory Commission” for “The Commission”, redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), respectively, and added par. (2).

§ 2210b. Uranium supply**(a) Assessment of domestic uranium industry viability; monitoring and reporting requirements; criteria; implementation by rules and regulations**

The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 2231 of this title, within 9 months of January 4, 1983, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

(b) Disclosure of information

Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18.

(c) Criteria for monitoring and reporting requirements

The criteria referred to in subsection (a) shall also include, but not be limited to—

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

(3) present and probable future use of the domestic market by foreign imports;

(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

(5) present and projected domestic uranium exploration expenditures and plans;

(6) present and projected employment and capital investment in the uranium industry;

(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

(d) Excessive imports; investigation by United States International Trade Commission

The Secretary or¹ 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 in-

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

creased 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 2251² of title 19.

(e) Excessive imports for contracts or options as threatening national security; investigation by Secretary of Commerce; recommendation for further investigation

(1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 1862 of title 19 an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

(Aug. 1, 1946, ch. 724, title I, § 170B, as added Pub. L. 97-415, § 23(b)(1), Jan. 4, 1983, 96 Stat. 2081; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

Editorial Notes

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.

² See References in Text note below.

Statutory Notes and Related Subsidiaries

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, directed the President to prepare and submit to Congress a comprehensive review of the status of the domestic uranium mining and milling industry by no later than 12 months after Jan. 4, 1983.

§ 2210c. Elimination of pension offset for certain rehired Federal retirees

(a) In general

The Commission may waive the application of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant—

(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(2) when a temporary emergency hiring need exists.

(b) Procedures

The Commission shall prescribe procedures for the exercise of authority under this section, including—

(1) criteria for any exercise of authority; and

(2) procedures for a delegation of authority.

(c) Effect of waiver

An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5.

(Aug. 1, 1946, ch. 724, title I, § 170C, as added Pub. L. 109-58, title VI, § 624(a), Aug. 8, 2005, 119 Stat. 783.)

§ 2210d. Security evaluations

(a) Security response evaluations

Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

(b) Force-on-force exercises

(1) The security evaluations shall include force-on-force exercises.

(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

(c) Action by licensees

The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

(d) Facilities under heightened threat levels

The Commission may suspend a security evaluation under this section if the Commission de-