

termines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

**(e) Report**

Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

(Aug. 1, 1946, ch. 724, title I, § 170D, as added Pub. L. 109-58, title VI, § 651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

**§ 2210e. Design basis threat rulemaking**

**(a) Rulemaking**

The Commission shall—

(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

**(b) Factors**

When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

- (1) the events of September 11, 2001;
- (2) an assessment of physical, cyber, biochemical, and other terrorist threats;
- (3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;
- (4) the potential for assistance in an attack from several persons employed at the facility;
- (5) the potential for suicide attacks;
- (6) the potential for water-based and air-based threats;
- (7) the potential use of explosive devices of considerable size and other modern weaponry;
- (8) the potential for attacks by persons with a sophisticated knowledge of facility operations;
- (9) the potential for fires, especially fires of long duration;
- (10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;
- (11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and
- (12) the potential for theft and diversion of nuclear materials from such facilities.

(Aug. 1, 1946, ch. 724, title I, § 170E, as added Pub. L. 109-58, title VI, § 651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

**Editorial Notes**

**REFERENCES IN TEXT**

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 109-58, which was approved August 8, 2005.

**§ 2210f. Recruitment tools**

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

(Aug. 1, 1946, ch. 724, title I, § 170F, as added Pub. L. 109-58, title VI, § 651(c)(2), Aug. 8, 2005, 119 Stat. 801.)

**§ 2210g. Expenses authorized to be paid by the Commission**

The Commission may—

(1) pay transportation, lodging, and subsistence expenses of employees who—

(A) assist scientific, professional, administrative, or technical employees of the Commission; and

(B) are students in good standing at an institution of higher education (as defined in section 1002 of title 20) pursuing courses related to the field in which the students are employed by the Commission; and

(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.

(Aug. 1, 1946, ch. 724, title I, § 170G, as added Pub. L. 109-58, title VI, § 651(c)(3), Aug. 8, 2005, 119 Stat. 801.)

**§ 2210h. Radiation source protection**

**(a) Definitions**

In this section:

**(1) Code of conduct**

The term “Code of Conduct” means the code entitled the “Code of Conduct on the Safety and Security of Radioactive Sources”, approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

**(2) Radiation source**

The term “radiation source” means—

(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

**(b) Commission approval**

Not later than 180 days after August 8, 2005, the Commission shall issue regulations prohibiting a person from—

(1) exporting a radiation source, unless the Commission has specifically determined under section 2077 or 2112 of this title, consistent with the Code of Conduct, with respect to the exportation, that—

(A) the recipient of the radiation source may receive and possess the radiation source under the laws and regulations of the country of the recipient;

(B) the recipient country has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

(C) before the date on which the radiation source is shipped—

(i) a notification has been provided to the recipient country; and

(ii) a notification has been received from the recipient country;

as the Commission determines to be appropriate;

(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that—

(A) the proposed recipient is authorized by law to receive the radiation source; and

(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and

(3) selling or otherwise transferring ownership of a radiation source, unless the Commission—

(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and

(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation.

#### **(c) Tracking system**

(1)(A) Not later than 1 year after August 8, 2005, the Commission shall issue regulations establishing a mandatory tracking system for radiation sources in the United States.

(B) In establishing the tracking system under subparagraph (A), the Commission shall coordinate with the Secretary of Transportation to ensure compatibility, to the maximum extent practicable, between the tracking system and any system established by the Secretary of Transportation to track the shipment of radiation sources.

(2) The tracking system under paragraph (1) shall—

(A) enable the identification of each radiation source by serial number or other unique identifier;

(B) require reporting within 7 days of any change of possession of a radiation source;

(C) require reporting within 24 hours of any loss of control of, or accountability for, a radiation source; and

(D) provide for reporting under subparagraphs (B) and (C) through a secure Internet connection.

#### **(d) Penalty**

A violation of a regulation issued under subsection (a) or (b) shall be punishable by a civil penalty not to exceed \$1,000,000.

#### **(e) National Academy of Sciences study**

(1) Not later than 60 days after August 8, 2005, the Commission shall enter into an arrangement

with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of industrial, research, and commercial uses for radiation sources.

(2) The study under paragraph (1) shall include a review of uses of radiation sources in existence on the date on which the study is conducted, including an identification of any industrial or other process that—

(A) uses a radiation source that could be replaced with an economically and technically equivalent (or improved) process that does not require the use of a radiation source; or

(B) may be used with a radiation source that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source.

(3) Not later than 2 years after August 8, 2005, the Commission shall submit to Congress the results of the study under paragraph (1).

#### **(f) Task force on radiation source protection and security**

(1) There is established a task force on radiation source protection and security (referred to in this section as the “task force”).

(2)(A) The chairperson of the task force shall be the Chairperson of the Commission (or a designee).

(B) The membership of the task force shall consist of the following:

(i) The Secretary of Homeland Security (or a designee).

(ii) The Secretary of Defense (or a designee).

(iii) The Secretary of Energy (or a designee).

(iv) The Secretary of Transportation (or a designee).

(v) The Attorney General (or a designee).

(vi) The Secretary of State (or a designee).

(vii) The Director of National Intelligence (or a designee).

(viii) The Director of the Central Intelligence Agency (or a designee).

(ix) The Administrator of the Federal Emergency Management Agency (or a designee).

(x) The Director of the Federal Bureau of Investigation (or a designee).

(xi) The Administrator of the Environmental Protection Agency (or a designee).

(3)(A) The task force, in consultation with Federal, State, and local agencies, the Conference of Radiation Control Program Directors, and the Organization of Agreement States, and after public notice and an opportunity for comment, shall evaluate, and provide recommendations relating to, the security of radiation sources in the United States from potential terrorist threats, including acts of sabotage, theft, or use of a radiation source in a radiological dispersal device.

(B) Not later than 1 year after August 8, 2005, and not less than once every 4 years thereafter, the task force shall submit to Congress and the President a report, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

(i) a list of additional radiation sources that should be required to be secured under this

chapter, based on the potential attractiveness of the sources to terrorists and the extent of the threat to public health and safety of the sources, taking into consideration—

- (I) radiation source radioactivity levels;
- (II) radioactive half-life of a radiation source;
- (III) dispersability;
- (IV) chemical and material form;
- (V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and
- (VI) any other factor that the Chairperson of the Commission determines to be appropriate;

(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;

(iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;

(iv) modifications to the national tracking system for radiation sources;

(v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this chapter;

(vi) modifications to export controls on radiation sources to ensure that foreign recipients of radiation sources are able and willing to adequately control radiation sources from the United States;

(vii)(I) any alternative technologies available as of the date on which the report is submitted that may perform some or all of the functions performed by devices or processes that employ radiation sources; and

(II) the establishment of appropriate regulations and incentives for the replacement of the devices and processes described in subclause (I)—

(aa) with alternative technologies in order to reduce the number of radiation sources in the United States; or

(bb) with radiation sources that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source; and

(viii) the creation of, or modifications to, procedures for improving the security of use, transportation, and storage of radiation sources, including—

(I) periodic audits or inspections by the Commission to ensure that radiation sources are properly secured and can be fully accounted for;

(II) evaluation of the security measures by the Commission;

(III) increased fines for violations of Commission regulations relating to security and safety measures applicable to licensees that possess radiation sources;

(IV) criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources);

(V) requirements for effective and timely exchanges of information relating to the re-

sults 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.

(Aug. 1, 1946, ch. 724, title I, § 170H, as added Pub. L. 109–58, title VI, § 651(d)(1), Aug. 8, 2005, 119 Stat. 802; amended Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

#### Editorial Notes

##### 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.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in subsec. (f)(2)(B)(ix) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

#### § 2210i. Secure transfer of nuclear materials

(a) The Commission shall establish a system to ensure that materials described in subsection (b), when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this chapter, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.