

ment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Pub. L. 108-458, § 6904(a)(1), designated existing provisions as subsec. (a).

Pub. L. 108-458, § 6803(b)(2), inserted “participate in the development of,” after “interstate or foreign commerce,”.

Pub. L. 108-458, § 6803(b)(1), inserted “, inside or outside of the United States,” after “for any person”.

Subsec. (a). Pub. L. 108-458, § 6904(a)(4), which directed amendment by striking out “transfer or receive in interstate or foreign commerce,” before “manufacture”, was executed by striking out such phrase before “participate in the development of, manufacture” to reflect the probable intent of Congress and the intervening amendment by Pub. L. 108-458, § 6803(b)(2). See above.

Pub. L. 108-458, § 6904(a)(3), (5), (6), inserted “receive,” after “acquire,”, struck out “or” before “export”, and inserted “, or use, or possess and threaten to use,” before “any atomic weapon”.

Pub. L. 108-458, § 6904(a)(2), which directed amendment by inserting “knowingly” after “for any person to”, was executed by making the insertion after “for any person, inside or outside of the United States, to” to reflect the probable intent of Congress and the amendment by Pub. L. 108-458, § 6803(b)(1). See above.

Subsec. (b). Pub. L. 108-458, § 6904(a)(7), added subsec. (b).

1958—Pub. L. 85-479 included transfers or receipts in foreign commerce.

§ 2122a. Repealed. Pub. L. 106-65, div. C, title XXXII, § 3294(e)(1)(A), Oct. 5, 1999, 113 Stat. 970

Section, act Aug. 1, 1946, ch. 724, title I, § 93, as added Pub. L. 103-160, div. C, title XXXI, § 3156(a), Nov. 30, 1993, 107 Stat. 1953, related to congressional oversight of special access programs. See section 2426 of Title 50, War and National Defense.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

§ 2123. Transferred

CODIFICATION

Section, Pub. L. 102-190, div. C, title XXXI, § 3136, Dec. 5, 1991, 105 Stat. 1577; Pub. L. 103-35, title II, § 203(b)(3), May 31, 1993, 107 Stat. 102, which related to critical technology partnerships between laboratories of the Department of Energy and other entities, was renumbered section 4813 of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(k)(8), Nov. 24, 2003, 117 Stat. 1785, and transferred to section 2794 of Title 50, War and National Defense.

**SUBCHAPTER IX—ATOMIC ENERGY
LICENSES**

§ 2131. License required

It shall be unlawful, except as provided in section 2121 of this title, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 2133 or 2134 of this title.

(Aug. 1, 1946, ch. 724, title I, § 101, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Aug.

6, 1956, ch. 1015, § 11, 70 Stat. 1071; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1956—Act Aug. 6, 1956, inserted “use,” after “possess,”.

§ 2132. Utilization and production facilities for industrial or commercial purposes

(a) Issuance of licenses

Except as provided in subsections (b) and (c), or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

(b) Facilities constructed or operated under section 2134(b)

Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

(c) Cooperative Power Reactor Demonstration facilities

Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title.

(Aug. 1, 1946, ch. 724, title I, § 102, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Pub. L. 91-560, § 3, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1970—Pub. L. 91-560 substituted provisions authorizing Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with Commission entered into under Cooperative Power Reactor Demonstration Program, for provisions authorizing Commission to issue licenses pursuant to section 2133 of this title on a determination that such utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

§ 2133. Commercial licenses

(a) Conditions

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture,

produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

(b) Nonexclusive basis

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

(c) License period

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years from the authorization to commence operations, and may be renewed upon the expiration of such period.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any any¹ corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(f)² Accident notification condition; license revocation; license amendment to include condition

Each license issued for a utilization facility under this section or section 2134(b) of this title shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal oper-

ation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 2237 of this title, the Commission shall promptly amend each license for a utilization facility issued under this section or section 2134(b) of this title which is in effect on June 30, 1980, to include the provisions required under this subsection.

(Aug. 1, 1946, ch. 724, title I, § 103, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, §§ 12, 13, 70 Stat. 1071; Pub. L. 91-560, § 4, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 96-295, title II, § 201, June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109-58, title VI, § 621, Aug. 8, 2005, 119 Stat. 782.)

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. (c). Pub. L. 109-58 inserted "from the authorization to commence operations" after "forty years".

1980—Subsec. (f). Pub. L. 96-295 added subsec. (f).

1970—Subsec. (a). Pub. L. 91-560 struck out requirement of a finding of practical value under section 2132 and substituted "utilization and production facilities for industrial or commercial purposes" for "such type of utilization or production facility".

1956—Subsec. (a). Act Aug. 6, 1956, § 12, inserted "use," after "possess,".

Subsec. (d). Act Aug. 6, 1956, § 13, inserted "an alien or any" after "issued to".

ADVANCED NUCLEAR REACTOR PROGRAM LICENSING

Pub. L. 115-439, title I, § 103(a), Jan. 14, 2019, 132 Stat. 5571, provided that:

"(1) STAGED LICENSING.—For the purpose of predictable, efficient, and timely reviews, not later than 270 days after the date of enactment of this Act [Jan. 14, 2019], the [Nuclear Regulatory] Commission shall develop and implement, within the existing regulatory framework, strategies for—

"(A) establishing stages in the licensing process for commercial advanced nuclear reactors; and

"(B) developing procedures and processes for—

"(i) using a licensing project plan; and

"(ii) optional use of a conceptual design assessment.

"(2) RISK-INFORMED LICENSING.—Not later than 2 years after the date of enactment of this Act, the Commission shall develop and implement, where appropriate, strategies for the increased use of risk-informed, performance-based licensing evaluation techniques and guidance for commercial advanced nuclear reactors within the existing regulatory framework, including evaluation techniques and guidance for the resolution of the following:

"(A) Applicable policy issues identified during the course of review by the Commission of a commercial advanced nuclear reactor licensing application.

"(B) The issues described in SECY-93-092 and SECY-15-077, including—

"(i) licensing basis event selection and evaluation;

"(ii) source terms;

¹ So in original.

² So in original. Probably should be "(e)".

- “(iii) containment performance; and
- “(iv) emergency preparedness.

“(3) RESEARCH AND TEST REACTOR LICENSING.—For the purpose of predictable, efficient, and timely reviews, not later than 2 years after the date of enactment of this Act, the Commission shall develop and implement strategies within the existing regulatory framework for licensing research and test reactors, including the issuance of guidance.

“(4) TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK.—Not later than December 31, 2027, the Commission shall complete a rulemaking to establish a technology-inclusive, regulatory framework for optional use by commercial advanced nuclear reactor applicants for new reactor license applications.

“(5) TRAINING AND EXPERTISE.—As soon as practicable after the date of enactment of this Act, the Commission shall provide for staff training or the hiring of experts, as necessary—

“(A) to support the activities described in paragraphs (1) through (4); and

“(B) to support preparations—

“(i) to conduct pre-application interactions; and

“(ii) to review commercial advanced nuclear reactor license applications.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission to carry out this subsection \$14,420,000 for each of fiscal years 2020 through 2024.”

[For definitions of terms used in section 103(a) of Pub. L. 115-439, set out above, see section 3 of Pub. L. 115-439, set out as a note under section 2215 of this title.]

§ 2134. Medical, industrial, and commercial licenses

(a) Medical therapy

The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

(b) Industrial and commercial purposes

As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter.

(c) Research and development activities

The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development. The Commis-

sion is authorized to issue licenses under this section for utilization facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title in which the licensee sells research and testing services and energy to others, subject to the condition that the licensee shall recover not more than 75 percent of the annual costs to the licensee of owning and operating the facility through sales of nonenergy services, energy, or both, other than research and development or education and training, of which not more than 50 percent may be through sales of energy.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for co-operation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, §104, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 937; amended Pub. L. 91-560, §5, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 115-439, title I, §106(b), Jan. 14, 2019, 132 Stat. 5577.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), 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

2019—Subsec. (c). Pub. L. 115-439 struck out “and which are not facilities of the type specified in subsection (b)” after “section 2051 of this title” and inserted at end “The Commission is authorized to issue licenses under this section for utilization facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title in which the licensee sells research and testing services and energy to others, subject to the condition that the licensee shall recover not more than 75 percent of the annual costs to the licensee of owning and operating the facility through sales of nonenergy services, energy, or both, other than research and development or education and training, of which not more than 50 percent may be through sales of energy.”

1970—Subsec. (b). Pub. L. 91-560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii)

where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

ENCOURAGING PRIVATE INVESTMENT IN RESEARCH AND
TEST REACTORS

Pub. L. 115-439, title I, §106(a), Jan. 14, 2019, 132 Stat. 5577, provided that: "The purpose of this section [amending this section] is to encourage private investment in research and test reactors."

§ 2135. Antitrust provisions governing licenses

(a) Violations of antitrust laws

Nothing contained in this chapter shall relieve any person from the operation of the following Acts, as amended, "An Act to protect trade and commerce against unlawful restraints and monopolies" approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes" approved August twenty-seven, eighteen hundred and ninety-four; "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen; and "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" approved September twenty-six, nineteen hundred and fourteen. In the event a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the laws cited above, to have violated any of the provisions of such laws in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) Reports to Attorney General

The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing Acts, or to restrict free competition in private enterprise.

(c) Transmissions to Attorney General of copies of license applications; publication of advice; factors considered; exceptions

(1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to construct or operate a utilization or production facility under section 2133 of this title: *Provided, however*, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date of initial Commission publication in the Federal Register of notice of the filing of an application for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General's advice, the Commission shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Commission on such licensing matter in connection with the subject matter of his advice. The Commission shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws as specified in subsection (a).

(6) In the event the Commission's finding under paragraph (5) is in the affirmative, the Commission shall also consider, in determining whether the license should be issued or continued, such other factors, including the need for power in the affected area, as the Commission in its judgment deems necessary to protect the public interest. On the basis of its findings, the Commission shall have the authority to issue or continue a license as applied for, to refuse to issue a license, to rescind a license or amend it, and to issue a license with such conditions as it deems appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the

requirements of this subsection such classes or types of licenses as the Commission may determine would not significantly affect the applicant's activities under the antitrust laws as specified in subsection (a).

(8) With respect to any application for a construction permit on file at the time of enactment into law of this subsection, which permit would be for issuance under section 2133 of this title, and with respect to any application for an operating license in connection with which a written request for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation with the Attorney General, may, upon determination that such action is necessary in the public interest to avoid unnecessary delay, establish by rule or order periods for Commission notification and receipt of advice differing from those set forth above and may issue a construction permit or operating license in advance of consideration of and findings with respect to the matters covered in this subsection: *Provided*, That any construction permit or operating license so issued shall contain such conditions as the Commission deems appropriate to assure that any subsequent findings and orders of the Commission with respect to such matters will be given full force and effect.

(9) **APPLICABILITY.**—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 2133 or 2134(b) of this title that is filed on or after August 8, 2005. (Aug. 1, 1946, ch. 724, title I, §105, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 938; amended Pub. L. 88-489, §14, Aug. 26, 1964, 78 Stat. 606; Pub. L. 91-560, §6, Dec. 19, 1970, 84 Stat. 1473; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 107-273, div. C, title IV, §14102(c)(2)(D), Nov. 2, 2002, 116 Stat. 1921; Pub. L. 109-58, title VI, §625, Aug. 8, 2005, 119 Stat. 784.)

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.

The act to protect trade and commerce against unlawful restraints and monopolies, referred to in subsec. (a), is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Sections seventy-three to seventy-six, inclusive, of an act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", referred to in subsec. (a), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, known as the Wilson Tariff Act, which are classified to sections 8 to 11, respectively, of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

"An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29,

Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, known as the Federal Trade Commission Act, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Subsec. (c)(9). Pub. L. 109-58 added par. (9).

2002—Subsec. (a). Pub. L. 107-273 substituted "seventy-six" for "seventy-seven".

1970—Subsec. (c). Pub. L. 91-560 designated existing provisions as pars. (1), (2), (4), and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134(b) of this title, and added pars. (6) to (8).

1964—Subsec. (a). Pub. L. 88-489 struck out "including the provisions which vest title to all special nuclear material in the United States," before "shall relieve any person".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107-273, set out as a note under section 3 of Title 15, Commerce and Trade.

§ 2136. Classes of facilities

The Commission may—

(a) group the facilities licensed either under section 2133 or 2134 of this title into classes which may include either production or utilization facilities or both, upon the basis of the similarity of operating and technical characteristics of the facilities;

(b) define the various activities to be carried on at each such class of facility; and

(c) designate the amounts of special nuclear material available for use by each such facility.

(Aug. 1, 1946, ch. 724, title I, §106, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 938; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2137. Operators' licenses

The Commission shall—

(a) prescribe uniform conditions for licensing individuals as operators of any of the various classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

(c) issue licenses to such individuals in such form as the Commission may prescribe; and

(d) suspend such licenses for violations of any provision of this chapter or any rule or regulation issued thereunder whenever the Commission deems such action desirable.

(Aug. 1, 1946, ch. 724, title I, §107, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), 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.

TECHNICAL CAPABILITY OF LICENSEE PERSONNEL IMPROVEMENT PLAN; STUDY OF LICENSE REQUIREMENT FOR PLANT MANAGERS AND SENIOR LICENSEE OFFICERS; REPORT TO CONGRESS

Pub. L. 96-395, title III, §307, June 30, 1980, 94 Stat. 791, provided that:

"(a) The Commission is authorized and directed to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under section 103 or 104b. of the Atomic Energy Act of 1954 [sections 2133 and 2134(b) of this title]. In proposing such plan, the Commission shall consider the feasibility of requiring standard mandatory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954 [this section], and for the licensing of such personnel, to assure—

- "(1) conformity with all conditions and requirements of the operating license;
- "(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and
- "(3) effective response to any such event or sequence.

Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator—

- "(A) has been actively and extensively engaged in the duties listed in such license,
- "(B) has discharged such duties safely to the satisfaction of the Commission,
- "(C) is capable of continuing such duties, and
- "(D) has participated in a requalification training program.

Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including—

- "(i) written questions, and
- "(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment of this Act [June 30, 1980], and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

"(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954 [this section], plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the

date of enactment of this Act [June 30, 1980] on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment."

§ 2138. Suspension of licenses during war or national emergency

Whenever the Congress declares that a state of war or national emergency exists, the Commission is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility.

(Aug. 1, 1946, ch. 724, title I, §108, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; amended Pub. L. 86-373, §2, Sept. 23, 1959, 73 Stat. 691; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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

1959—Pub. L. 86-373 struck out "distributed under the provisions of section 2073(a) of this title," before "or to order".

§ 2139. Component and other parts of facilities

(a) Licenses for domestic activities

With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v)(2) or 2014(cc)(2) of this title the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

(b) Export licenses

After consulting with the Secretaries of State, Energy, and Commerce, the Commission is authorized and directed to determine which component parts as defined in section 2014(v)(2) or 2014(cc)(2) of this title and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 2155(b)(2) of this title, no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding,

based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 2155 of this title.

(c) Exports inimical to common defense and security of United States

The Commission shall not issue an export license under the authority of subsection (b) if it is advised by the executive branch, in accordance with the procedures established under section 2155(a) of this title, that the export would be inimical to the common defense and security of the United States.

(Aug. 1, 1946, ch. 724, title I, §109, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; amended Pub. L. 87-615, §9, Aug. 29, 1962, 76 Stat. 411; Pub. L. 89-645, §1(b), Oct. 13, 1966, 80 Stat. 891; Pub. L. 95-242, title III, §309(a), Mar. 10, 1978, 92 Stat. 141; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105-277, div. G, title XII, §1225(d)(2), Oct. 21, 1998, 112 Stat. 2681-774.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-277 struck out “and the Director” after “Energy, and Commerce”.

1978—Subsec. (a). Pub. L. 95-242 designated existing provisions as subsec. (a) and substituted “the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security” for “the Commission may (a) issue general licenses for activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security”.

Subsecs. (b), (c). Pub. L. 95-242 added subsecs. (b) and (c).

1966—Pub. L. 89-645 substituted “section 2014(v)(2) or 2014 (cc)(2)” for “section 2014(t)(2) or 2014(aa)(2)”.

1962—Pub. L. 87-615 substituted “section 2014(t)(2) or 2014(aa)(2)” for “section 2014(p)(2) or 2014(v)(2)”.

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 OF 1978 AMENDMENT

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

EXPORTS CONTRACTED FOR PRIOR TO NOV. 1, 1977, MADE WITHIN ONE YEAR OF MAR. 10, 1978; SAVINGS PROVISION

Pub. L. 95-242, title III, §309(d), Mar. 10, 1978, 92 Stat. 142, provided that: “The amendments to section 109 of the 1954 Act [42 U.S.C. 2139] made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments [Mar. 10, 1978].”

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.

§ 2139a. Regulations implementing requirements relating to licensing for components and other parts of facilities

(a) Omitted

(b) The Commission, not later than one hundred and twenty days after March 10, 1978, shall publish regulations to implement the provisions of subsections (b) and (c) of section 2139 of this title. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, and the Department of Commerce.

(c) The President, within not more than one hundred and twenty days after March 10, 1978, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations by the Department of Commerce with the Department of State, the Commission, the Department of Energy, and the Department of Defense.

(Pub. L. 95-242, title III, §309(b), (c), Mar. 10, 1978, 92 Stat. 141; Pub. L. 103-236, title VII, §714(b), Apr. 30, 1994, 108 Stat. 498; Pub. L. 105-277, div. G, title XII, §1225(e)(4), Oct. 21, 1998, 112 Stat. 2681-775.)

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

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.

Section is based on subssecs. (b) and (c) of Pub. L. 95-242. Subsec. (a) of Pub. L. 95-242 amended section 2139 of this title, and subsec. (d) is set out as a note under section 2139 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-277, §1225(e)(4)(A), substituted “and the Department of Commerce” for “the Department of Commerce, and the Arms Control and Disarmament Agency”.

Subsec. (c). Pub. L. 105-277, §1225(e)(4)(B), struck out “the Arms Control and Disarmament Agency,” after “Department of State.”.

1994—Subsec. (c). Pub. L. 103-236 struck out “, as required,” after “prior consultations” in last sentence.

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.

DELEGATION OF FUNCTIONS

Secretary of Commerce to be responsible for performing function vested in President by subsec. (c) of this section, see section 3 of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under 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.

§ 2140. Exclusions from license requirement

Nothing in this subchapter shall be deemed—

(a) to require a license for (1) the processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission; or (2) the construction or operation of facilities under contract with and for the account of the Commission; or

(b) to require a license for the manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 2121 of this title, or for the use of such facility by the Department of Defense or a contractor thereof.

(Aug. 1, 1946, ch. 724, title I, §110, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§ 2141. Licensing by Nuclear Regulatory Commission of distribution of special nuclear material, source material, and byproduct material by Department of Energy

(a) The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to section 2074, 2094, and 2112 of this title, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 2112 of this title.

(b) The Department of Energy shall not distribute any special nuclear material or source material under section 2074 or 2094 of this title other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Nuclear Regulatory Commission and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after March 10, 1978, and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 2156 of this title or their equivalent and any applicable criteria in section 2157 of this title are met, and that the proposed distribution would not be inimical to the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §111, as added Pub. L. 95-242, title III, §301(c), Mar. 10, 1978, 92 Stat. 125; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 105-277, div. G, title XII, §1225(d)(3), Oct. 21, 1998, 112 Stat. 2681-774.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-277 substituted “the Nuclear Regulatory Commission” for “the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission.”.

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.

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

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 Inter-course.

§ 2142. Domestic medical isotope production

(a) The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this chapter—

(1) the Commission determines that—

(A) there is no alternative medical isotope production target that can be used in that reactor; and

(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

(b) As used in this section—

(1) the term “alternative medical isotope production target” means a nuclear reactor target which is enriched to less than 20 percent of the isotope U-235;

(2) a target “can be used” in a nuclear research or test reactor if—

(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

(B) use of the target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

(3) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235; and

(4) the term “medical isotope” includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.

(Aug. 1, 1946, ch. 724, title I, §112, as added Pub. L. 112-239, div. C, title XXXI, §3176(a), Jan. 2, 2013, 126 Stat. 2215; Pub. L. 113-66, div. C, title XXXI, §3144, Dec. 26, 2013, 127 Stat. 1071.)

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

2013—Pub. L. 113-66 inserted section designation and catchline.

SUBCHAPTER X—INTERNATIONAL ACTIVITIES

§ 2151. Effect of international arrangements

Any provision of this chapter or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangements made after August 30, 1954 shall be deemed to be of no force or effect.

(Aug. 1, 1946, ch. 724, title I, §121, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2152. Policies contained in international arrangements

In the performance of its functions under this chapter, the Commission shall give maximum effect to the policies contained in any international arrangement made after August 30, 1954.

(Aug. 1, 1946, ch. 724, title I, §122, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2153. Cooperation with other nations

No cooperation with any nation, group of nations or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) **Terms, conditions, duration, nature, scope, and other requirements of proposed agreements for cooperation; Presidential exemptions; negotiations; Nuclear Proliferation Assessment Statement**

the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, con-