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CODIFICATION

The Atomic Energy Act of 1954, which is classified principally to this chapter, is act Aug. 1, 1946, ch. 724. It was originally enacted as the Atomic Energy Act of 1946, act Aug. 1, 1946, ch. 724, 60 Stat. 755, which consisted of sections 1 to 21 and was classified generally to chapter 14 (§1801 et seq.) of this title. The Atomic Energy Act of 1946 was renamed the Atomic Energy Act of 1954 and amended generally by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, and was subsequently transferred to this chapter. Sections that were enacted as part of the 1954 general amendment are shown herein as having been added to act Aug. 1, 1946, and not as amending it, due to the extensive revision and restatement of the 1946 Act's provisions by the 1954 Act. Sections added to the Act after the 1954 general amendment are shown as being added directly to act Aug. 1, 1946, without reference in their source credits to act Aug. 30, 1954.

Division A—Atomic Energy

SUBCHAPTER I—GENERAL PROVISIONS

§ 2011. Congressional declaration of policy

Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

(Aug. 1, 1946, ch. 724, title I, §1, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

A prior section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which related to declaration of policy and purpose of former chapter 14 of this title, was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114-17, §1, May 22, 2015, 129 Stat. 201, provided that: "This Act [enacting section 2160e of this title]

may be cited as the ‘Iran Nuclear Agreement Review Act of 2015’.”

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112-239, div. C, title XXXI, § 3171, Jan. 2, 2013, 126 Stat. 2211, provided that: “This subtitle [subtitle F (§§ 3171-3178) of title XXXI of div. C of Pub. L. 112-239, enacting sections 2065 and 2142 of this title, amending section 2160d of this title, and enacting provisions set out as a note under section 2065 of this title] may be cited as the ‘American Medical Isotopes Production Act of 2012’.”

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109-58, title VI, § 601, Aug. 8, 2005, 119 Stat. 779, provided that: “This subtitle [subtitle A (§§ 601-610) of title VI of Pub. L. 109-58, amending sections 2210 and 2282a of this title and enacting provisions set out as notes under sections 2210 and 2282a of this title] may be cited as the ‘Price-Anderson Amendments Act of 2005’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-245, § 1, July 10, 2000, 114 Stat. 501, provided that: “This Act [enacting section 285a-9 of this title and enacting and amending provisions set out as notes under section 2210 of this title] may be cited as the ‘Radiation Exposure Compensation Act Amendments of 2000’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-134, title III, § 3101, Apr. 26, 1996, 110 Stat. 1321-335, provided that: “This subchapter [subch. A (§§ 3101-3117) of ch. 1 of title III of Pub. L. 104-134, enacting sections 2297h to 2297h-13 of this title, amending sections 2014, 2239, 2243, 2282, 2296b-7, 2297f, and 2297f-1 of this title and section 9101 of Title 31, Money and Finance, repealing sections 2297 to 2297e-7 of this title, and enacting provisions set out as notes under section 2297 of this title and section 9101 of Title 31] may be cited as the ‘USEC Privatization Act’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-408, § 1, Aug. 20, 1988, 102 Stat. 1066, provided that: “This Act [enacting section 2282a of this title, amending sections 2014, 2210, and 2273 of this title, and enacting provisions set out as notes under sections 2014 and 2210 of this title] may be cited as the ‘Price-Anderson Amendments Act of 1988’.”

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88-489, § 21, Aug. 26, 1964, 78 Stat. 607, provided that: “This Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2221, 2233, and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under sections 2012 and 2072 of this title] may be cited as the ‘Private Ownership of Special Nuclear Materials Act’.”

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85-846, § 1, Aug. 28, 1958, 72 Stat. 1084, provided: “That this Act [enacting sections 2291 to 2296 of this title] may be cited as the ‘EURATOM Cooperation Act of 1958’.”

SHORT TITLE

Act Aug. 1, 1946, ch. 724, title I, § 291, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944, provided that: “This Act [enacting this chapter, amending sections 190j and 622 of Title 2, The Congress, and repealing sections 2251 to 2257 and 2315 of this title] may be cited as the ‘Atomic Energy Act of 1954’.”

SEPARABILITY

Act Aug. 1, 1946, ch. 724, title I, § 281, as added by act Aug. 30, 1954, § 1; renumbered title I, Oct. 24, 1992, Pub. L. 102-486, title IX, § 902(a)(8), 106 Stat. 2944, provided

that: “If any provision of this Act [see Short Title note above] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.”

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2012. Congressional findings

The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

(b) Repealed. Pub. L. 88-489, § 1, Aug. 26, 1964, 78 Stat. 602.

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(h) Repealed. Pub. L. 88-489, § 2, Aug. 26, 1964, 78 Stat. 602.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

(Aug. 1, 1946, ch. 724, title I, § 2, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921; amended Pub. L. 85-256, § 1, Sept. 2, 1957, 71 Stat. 576; Pub. L. 88-489, §§ 1, 2, Aug. 26, 1964, 78 Stat. 602; 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 subsec. (f), 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

A prior section 2 of act Aug. 1, 1946, ch. 724, 60 Stat. 756, which related to establishment of Atomic Energy Commission, its membership, tenure, compensation, and appointment of certain officers and committees, was classified to section 1802 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88-489, §1, struck out subsec. (b) which found that use of United States property by others must be regulated in national interest and in order to provide for common defense and security and to protect health and safety of public.

Subsec. (h). Pub. L. 88-489, §2, struck out subsec. (h) which found it essential to common defense and security that title to all special nuclear material be in United States while such special nuclear material is within United States.

1957—Subsec. (i). Pub. L. 85-256 added subsec. (i).

CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS

Pub. L. 88-489, §20, Aug. 26, 1964, 78 Stat. 607, provided that: "Nothing in this Act [amending this section and sections 2013, 2073 to 2078, 2135, 2153, 2201, 2233 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under this section and section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives."

§ 2013. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization

of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

(Aug. 1, 1946, ch. 724, title I, §3, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 922; amended Pub. L. 88-489, §3, Aug. 26, 1964, 78 Stat. 602; 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

A prior section 3 of act Aug. 1, 1946, ch. 724, 60 Stat. 758, which related to research and development activities by the Atomic Energy Commission, was classified to section 1803 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

Sections 4 to 10 of act Aug. 1, 1946, ch. 724, 60 Stat. 759-766, which related to production of fissionable material, prohibited acts, ownership and operation of production facilities, irradiation of materials, and manufacture of production facilities; control of fissionable materials; military application of atomic energy; license requirements for utilization of atomic energy, reports to Congress, and issuance of licenses; force and effect of international agreements; property of Commission and its exempt status from taxation; and control of information, were classified to sections 1804 to 1810, respectively, of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954. Section numbers 4 to 10 were not repeated in the general amendment of act Aug. 1, 1946.

AMENDMENTS

1964—Subsec. (c). Pub. L. 88-489 inserted "whether owned by the Government or others" and "and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons".

§ 2014. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the ju-

dicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term “agreement for cooperation” means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term “atomic energy” means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term “atomic weapon” means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term “byproduct material” means—

(1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(B) any material that—

(i) has been made radioactive by use of a particle accelerator; and

(ii) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source material, that—

(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(B) before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

(f) The term “Commission” means the Atomic Energy Commission.

(g) The term “common defense and security” means the common defense and security of the United States.

(h) The term “defense information” means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(i) The term “design” means (1) specifications, plans, drawings, blueprints, and other items of

like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

(j) The term “extraordinary nuclear occurrence” means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines to be substantial, and which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, “offsite” means away from “the location” or “the contract location” as defined in the applicable Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, indemnity agreement, entered into pursuant to section 2210 of this title.

(k) The term “financial protection” means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(l) The term “Government agency” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(m) The term “indemnitor” means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, with respect to any obligation undertaken by it in indemnity agreement entered into pursuant to section 2210 of this title.

(n) The term “international arrangement” means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

(o) The term “Energy Committees” means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(p) The term “licensed activity” means an activity licensed pursuant to this chapter and covered by the provisions of section 2210(a) of this title.

(q) The term “nuclear incident” means any occurrence, including an extraordinary nuclear oc-

currence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section 2210(l) of this title, it shall include any such occurrence outside the United States: *And provided further,* That as the term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in section 2210(c) of this title, it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to subchapters V, VI, VII, and IX of this division, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Nuclear Regulatory Commission to another person licensed by the Nuclear Regulatory Commission.

(r) The term “operator” means any individual who manipulates the controls of a utilization or production facility.

(s) The term “person” means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(t) The term “person indemnified” means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section 2210(c) of this title, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.

(u) The term “produce”, when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear mate-

rial from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(v) The term “production facility” means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this division shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

(w) The term “public liability” means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation), except: (i) claims under State or Federal workmen’s compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in subsections (a), (c), and (k) of section 2210 of this title, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. “Public liability” also includes damage to property of persons indemnified: *Provided,* That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

(x) The term “research and development” means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(y) The term “Restricted Data” means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 2162 of this title.

(z) The term “source material” means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 2091 of this title to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

(aa) The term “special nuclear material” means (1) plutonium, uranium enriched in the

isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 2071 of this title, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(bb) The term “United States” when used in a geographical sense includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

(cc) The term “utilization facility” means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(dd) The terms “high-level radioactive waste” and “spent nuclear fuel” have the meanings given such terms in section 10101 of this title.

(ee) The term “transuranic waste” means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

(ff) The term “nuclear waste activities”, as used in section 2210 of this title, means activities subject to an agreement of indemnification under subsection (d) of such section, that the Secretary of Energy is authorized to undertake, under this chapter or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).

(gg) The term “precautionary evacuation” means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacua-

tion and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

(hh) The term “public liability action”, as used in section 2210 of this title, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 2210 of this title, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

(jj)¹ LEGAL COSTS.—As used in section 2210 of this title, the term “legal costs” means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.

(Aug. 1, 1946, ch. 724, title I, §11, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 922; amended Aug. 6, 1956, ch. 1015, §1, 70 Stat. 1069; Pub. L. 85-256, §3, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85-602, §1, Aug. 8, 1958, 72 Stat. 525; Pub. L. 87-206, §§2, 3, Sept. 6, 1961, 75 Stat. 476; Pub. L. 87-615, §§4, 5, Aug. 29, 1962, 76 Stat. 410; Pub. L. 89-645, §1(a), Oct. 13, 1966, 80 Stat. 891; Pub. L. 94-197, §1, Dec. 31, 1975, 89 Stat. 1111; Pub. L. 95-604, title II, §201, Nov. 8, 1978, 92 Stat. 3033; Pub. L. 100-408, §§4(b)-5(b), 11(b), (d)(2), 16(a)(1), (b)(1), (2), (d)(1)-(3), Aug. 20, 1988, 102 Stat. 1069, 1070, 1076, 1078-1080; Pub. L. 101-575, §5(a), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102-486, title IX, §902(a)(8), title XI, §1102, Oct. 24, 1992, 106 Stat. 2944, 2955; Pub. L. 103-437, §15(f)(1), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104-134, title III, §3116(b)(1), Apr. 26, 1996, 110 Stat. 1321-349; Pub. L. 109-58, title VI, §651(e)(1), Aug. 8, 2005, 119 Stat. 806.)

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.

For definition of Canal Zone, referred to in subsec. (bb), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Section 213 of Public Law 96-164, referred to in subsec. (ff), is Pub. L. 96-164, title II, §213, Dec. 29, 1979, 93 Stat. 1265, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 11 of act Aug. 1, 1946, ch. 724, 60 Stat. 768, which related to patents and inventions, was classified to section 1811 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

Sections 12 to 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 770-775, which related to authority, powers and duties of Atomic Energy Commission; compensation for acquisition of private property; judicial review; Joint Committee of Congress on Atomic Energy; penalties for violation of certain provisions of chapter 14 of this title, injunctions, subpoena of witnesses, and production of documents; reports and recommendations to Congress; definitions; and authorization of appropriations, were classified to sections 1812 to 1819, respectively, of this title, and section 20 of act Aug. 1, 1946, ch. 724, 60 Stat.

¹ So in original. No subsec. (ii) has been enacted.

775, which related to separability of provisions of the act, was set out as a note under section 1801 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954. Section numbers 12 to 20 were not repeated in the general amendment of act Aug. 1, 1946.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-58 substituted “means—” for “means”, realigned margins of pars. (1) and (2), and added pars. (3) and (4).

1996—Subsec. (v). Pub. L. 104-134, which directed the amendment of subsec. (v) by striking out “or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology”, was executed by striking out “or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology” before “, such term as used”, to reflect the probable intent of Congress.

1994—Subsec. (o). Pub. L. 103-437 substituted “‘Energy Committees’ means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives” for “‘Joint Committee’ means the Joint Committee on Atomic Energy”.

1992—Subsec. (v). Pub. L. 102-486 amended last sentence generally. Prior to amendment, last sentence read as follows: “Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this division shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.”

1990—Subsec. (v). Pub. L. 101-575 inserted at end “Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV of this chapter shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.”

1988—Subsecs. (j), (m). Pub. L. 100-408, §16(b)(1), substituted “Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,” for “Commission” wherever appearing.

Subsec. (q). Pub. L. 100-408, §16(d)(1), substituted “section” for “subsection” in three places, which for purposes of codification was translated as “section”, thus requiring no change in text.

Pub. L. 100-408, §16(a)(1), substituted “Nuclear Regulatory Commission” for “Commission” wherever appearing.

Subsec. (t). Pub. L. 100-408, §16(d)(2), substituted “section” for “subsection” in two places, which for purposes of codification was translated as “section”, thus requiring no change in text.

Pub. L. 100-408, §16(b)(2), substituted “Secretary of Energy” for “Commission” in cl. (2).

Subsec. (w). Pub. L. 100-408, §16(d)(3), substituted “subsections (a), (c), and (k) of section 2210 of this title” for “section 2210(a), (c), and (k) of this title”.

Pub. L. 100-408, §5(a), inserted “or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)” after first reference to “nuclear incident”.

Subsecs. (dd) to (ff). Pub. L. 100-408, §4(b), added subsecs. (dd) to (ff).

Subsec. (gg). Pub. L. 100-408, §5(b), added subsec. (gg).

Subsec. (hh). Pub. L. 100-408, §11(b), added subsec. (hh).

Subsec. (jj). Pub. L. 100-408, §11(d)(2), added subsec. (jj).

1978—Subsec. (e). Pub. L. 95-604 designated existing provisions as cl. (1) and added cl. (2).

1975—Subsec. (q). Pub. L. 94-197 substituted “source, special nuclear, or byproduct material” for “facility or

device” and inserted proviso to include within term as used in section 2210(c) of this title any occurrence outside both the United States and any other nation.

Subsec. (t). Pub. L. 94-197 expanded definition to include nuclear incidents occurring outside the United States as the term is used in section 2210(c) of this title and inserted reference to person required to maintain financial protection.

1966—Subsec. (j). Pub. L. 89-645, §1(a)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 89-645, §1(a)(1), redesignated former subsecs. (j) and (k) as (k) and (l), respectively. Former subsec. (l) redesignated (n).

Subsec. (m). Pub. L. 89-645, §1(a)(3), added subsec. (m). Former subsec. (m) redesignated (o).

Subsecs. (n) to (p). Pub. L. 89-645, §1(a)(1), redesignated former subsecs. (l) to (n) as (n) to (p), respectively. Former subsecs. (n) to (p) redesignated (p) to (r), respectively.

Subsec. (q). Pub. L. 89-645, §1(a)(1), (4), redesignated former subsec. (o) as (q) and inserted “, including an extraordinary nuclear occurrence,” between “occurrence” and “within”, respectively. Former subsec. (q) redesignated (s).

Subsecs. (r) to (cc). Pub. L. 89-645, §1(a)(1), redesignated former subsecs. (p) to (aa) as (r) to (cc), respectively.

1962—Subsec. (o). Pub. L. 87-615, §4, enlarged definition of “nuclear incident” to include any occurrence within the United States causing any of the listed injuries and damages within or outside the United States, provided that as used in section 2210(l) of this title, term shall “include” instead of “mean” any such occurrence outside the United States, and that as used in section 2210(d) of this title, the term shall include any such occurrence outside the United States if such occurrence involves a facility or device owned by, and used by or under contract with, the United States.

Subsec. (r). Pub. L. 87-615, §5, limited definition of “person indemnified” to nuclear incidents occurring within the United States, or in connection with the nuclear ship Savannah, and inserted provisions with respect to nuclear incidents occurring outside the United States.

1961—Subsec. (b). Pub. L. 87-206, §2, included section 2121(c) of this title in enumeration.

Subsec. (u). Pub. L. 87-206, §3, designated existing provisions as cls. (i) and (ii) and added cl. (iii).

1958—Subsec. (o). Pub. L. 85-602 inserted proviso defining “nuclear incident” as it is used in section 2210(l) of this title.

1957—Subsec. (j). Pub. L. 85-256 added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k) to (m). Pub. L. 85-256, redesignated former subsecs. (j) to (l) as (k) to (m), respectively. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 85-256 added subsec. (n). Former subsec. (n) redesignated (q).

Subsec. (o). Pub. L. 85-256 added subsec. (o). Former subsec. (o) redesignated (s).

Subsecs. (p), (q). Pub. L. 85-256 redesignated former subsecs. (m) and (n) as (p) and (q), respectively. Former subsecs. (p) and (q) redesignated (t) and (u), respectively.

Subsec. (r). Pub. L. 85-256 added subsec. (r). Former subsec. (r) redesignated (w).

Subsecs. (s), (t). Pub. L. 85-256 redesignated former subsecs. (o) and (p) as (s) and (t), respectively. Former subsecs. (s) and (t) redesignated (x) and (y), respectively.

Subsec. (u). Pub. L. 85-256 added subsec. (u). Former subsec. (u) redesignated (z).

Subsecs. (v) to (aa). Pub. L. 85-256 redesignated former subsecs. (q) to (v) as (v) to (aa), respectively.

1956—Subsec. (u). Act Aug. 6, 1956, substituted “the Canal Zone and Puerto Rico” for “and the Canal Zone”.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on

Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-408, § 20, Aug. 20, 1988, 102 Stat. 1084, provided that:

“(a) Except as provided in subsection (b), the amendments made by this Act [enacting section 2282a of this title and amending this section and sections 2210 and 2273 of this title] shall become effective on the date of the enactment of this Act [Aug. 20, 1988] and shall be applicable with respect to nuclear incidents occurring on or after such date.

“(b)(1) The amendments made by section 11 [amending this section and section 2210 of this title] shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

“(2)(A) Section 234A of the Atomic Energy Act of 1954 [section 2282a of this title] shall not apply to any violation occurring before the date of the enactment of this Act.

“(B) Section 223 c. of the Atomic Energy Act of 1954 [section 2273(c) of this title] shall not apply to any violation occurring before the date of enactment of this Act.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-604, title II, § 208, Nov. 8, 1978, 92 Stat. 3041, provided that: “Except as otherwise provided in this title [see section 202(b) of Pub. L. 95-604, set out as an Effective Date note under section 2113 of this title] the amendments made by this title [enacting sections 2022 and 2114 of this title, amending this section and sections 2021, 2111, and 2201 of this title, and enacting provisions set out as notes under sections 2021 and 2113 of this title] shall take effect on the date of the enactment of this Act [Nov. 8, 1978].”

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2015. Transfer of property

Nothing in this chapter shall be deemed to repeal, modify, amend, or alter the provisions of section 9(a) of the Atomic Energy Act of 1946, as heretofore amended.

(Aug. 1, 1946, ch. 724, title I, § 241, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960; 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.

Section 9(a) of the Atomic Energy Act of 1946, as heretofore amended, referred to in text, which was formerly classified to section 1809(a) of this title, provided that: “The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

“(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials

for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources (relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

“(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

“(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine.”

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765, which was classified to section 1809 of this title, prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2015a. Cold standby

The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.

(Aug. 1, 1946, ch. 724, title I, § 242, as added Pub. L. 107-222, § 1(d)(1), Aug. 21, 2002, 116 Stat. 1336.)

§ 2015b. Scholarship and fellowship program

(a) Scholarship program

To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

(1)¹ award scholarships to undergraduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) of this section to be employed by the Commission in the area of study for which the scholarship is awarded.

(b) Fellowship program

To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

(1)¹ award fellowships to graduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) of this section to be employed by the Commission in the area of study for which the fellowship is awarded.

(c) Requirements

(1) In general

As a condition of receiving a scholarship or fellowship under subsection (a) or (b) of this

¹ So in original. No par. (2) has been enacted.

section, a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

(ii) interest at a rate determined by the Commission.

(2) Waiver or suspension

The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

(d) Competitive process

Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title.

(e) Direct appointment

The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has—

(1) received a scholarship or fellowship awarded by the Commission under this section; and

(2) completed the academic program for which the scholarship or fellowship was awarded.

(Aug. 1, 1946, ch. 724, title I, §243, as added Pub. L. 109-58, title VI, §622(a), Aug. 8, 2005, 119 Stat. 782.)

§ 2015c. Partnership program with institutions of higher education

(a) Definitions

In this section:

(1) Hispanic-serving institution

The term “Hispanic-serving institution” has the meaning given the term in section 1101a(a) of title 20.

(2) Historically Black college and university

The term “historically Black college or university” has the meaning given the term “part B institution” in section 1061 of title 20.

(3) Tribal college

The term “Tribal college” has the meaning given the term “tribally controlled college or university” in section 1801(a) of title 25.

(b) Partnership program

The Commission may establish and participate in activities relating to research, mentoring, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

(1) to educate and train students (including present or potential employees of the Commission); and

(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.

(Aug. 1, 1946, ch. 724, title I, §244, as added Pub. L. 109-58, title VI, §651(c)(4)(A), Aug. 8, 2005, 119 Stat. 802; amended Pub. L. 110-315, title IX, §941(k)(2)(L), Aug. 14, 2008, 122 Stat. 3467.)

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110-315 made technical amendment to reference in original act which appears in text as reference to section 1801(a) of title 25.

§ 2016. Repealed. Pub. L. 105-85, div. C, title XXXI, § 3152(a)(1), Nov. 18, 1997, 111 Stat. 2042

Section, act Aug. 1, 1946, ch. 724, title I, §251, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended June 11, 1959, Pub. L. 86-43, 73 Stat. 73; renumbered title I, Oct. 24, 1992, Pub. L. 102-486, title IX, §902(a)(8), 106 Stat. 2944, required Commission to submit to Congress annual report on its activities.

§ 2017. Authorization of appropriations

(a) Congressional authorization

No appropriation shall be made to the Commission, nor shall the Commission waive charges for the use of materials under the Cooperative Power Reactor Demonstration Program, unless previously authorized by legislation enacted by the Congress.

(b) Accounting

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

(c) Restoration or replacement of facilities

Notwithstanding the provisions of subsection (a) of this section, funds are hereby authorized to be appropriated for the restoration or replacement of any plant or facility destroyed or otherwise seriously damaged, and the Commission is authorized to use available funds for such purposes.

(d) Substituted construction projects

Funds authorized to be appropriated for any construction project to be used in connection

with the development or production of special nuclear material or atomic weapons may be used to start another construction project not otherwise authorized if the substituted construction project is within the limit of cost of the construction project for which substitution is to be made, and the Commission certifies that—

(1) the substituted project is essential to the common defense and security;

(2) the substituted project is required by changes in weapon characteristics or weapon logistic operations; and

(3) the Commission is unable to enter into a contract with any person on terms satisfactory to it to furnish from a privately owned plant or facility the product or services to be provided by the new project.

(Aug. 1, 1946, ch. 724, title I, §261, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended Pub. L. 85-79, §1, July 3, 1957, 71 Stat. 274; Pub. L. 87-615, §8, Aug. 29, 1962, 76 Stat. 411; Pub. L. 88-72, §107, July 22, 1963, 77 Stat. 88; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which was classified to section 1819 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-72 required legislative authorization of appropriations to the Commission and waiver of charges for use of materials under the Cooperative Power Reactor Demonstration Program. Former provisions of subsec. (a) authorized appropriations necessary and appropriate to carry out the provisions and purposes of this chapter, excepting in par. (1) sums necessary for acquisition of real property or facility acquisition, construction or expansion (and deeming under certain conditions a nonmilitary experimental reactor to be a facility) and in par. (2) sums necessary to carry out cooperative programs for development and construction of reactors for demonstration of their use in production of electrical power or process heat, or for propulsion, or for commercial provision of byproduct material, irradiation or other special service, for civilian use, by arrangements providing for payment of funds, rendering of services and undertaking of research and development without full reimbursement, the waiver of charges accompanying such arrangement or the provision of other financial assistance pursuant to such arrangement or the acquisition of real property or facility acquisition, construction or expansion undertaken by the Commission as part of such arrangement.

Subsec. (b). Pub. L. 88-72 substituted “Any act appropriating funds to the Commission” for “The acts appropriating such sums.”

Subsec. (c). Pub. L. 88-72 struck out authorization of funds provision for advance planning, construction design and architectural services in connection with any plant or facility and inserted “Notwithstanding” phrase.

Subsec. (d). Pub. L. 88-72 struck out “hereafter” after “Funds” and inserted “construction” before “project” wherever appearing.

1962—Subsecs. (c), (d). Pub. L. 87-615 added subsecs. (c) and (d).

1957—Pub. L. 85-79 designated first sentence as introductory clause of subsec. (a) and as (a)(1), inserted proviso to (a)(1), added (a)(2), by designating second sentence as subsec. (b), and struck out former sentence

which provided that “Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated.”

EFFECTIVE DATE OF 1963 AMENDMENT

Pub. L. 88-72, §107, July 22, 1963, 77 Stat. 88, provided that the amendment made by that section is effective Jan. 1, 1964.

§ 2017a. Omitted

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87-701, §103, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for advance planning, construction design, and architectural services in connection with certain projects, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 2017a-1 of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Sept. 26, 1961, Pub. L. 87-315, §103, 75 Stat. 678.
 May 13, 1960, Pub. L. 86-457, §103, 74 Stat. 121.
 June 23, 1959, Pub. L. 86-50, §103, 73 Stat. 83.
 Aug. 4, 1958, Pub. L. 85-590, §103, 72 Stat. 493.
 Aug. 21, 1957, Pub. L. 85-162, title I, §103, 71 Stat. 406.
 May 3, 1956, ch. 233, §103, 70 Stat. 129.
 July 11, 1955, ch. 304, §103, 69 Stat. 293.

§ 2017a-1. Omitted

CODIFICATION

Section, Pub. L. 95-39, title III, §304, June 3, 1977, 91 Stat. 189, which authorized the Administrator of the Energy Research and Development Administration to perform construction design services for any Administration construction project whenever the Administrator made certain determinations, was from an Act authorizing appropriations for fiscal year 1977 to the Energy Research and Development Administration, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 5821(g) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Pub. L. 94-187, title III, §301, Dec. 31, 1975, 89 Stat. 1073.
 Pub. L. 93-276, title I, §103, May 10, 1974, 88 Stat. 118.
 Pub. L. 93-60, §103, July 6, 1973, 87 Stat. 144.
 Pub. L. 92-314, title I, §103, June 16, 1972, 86 Stat. 225.
 Pub. L. 92-84, title I, §103, Aug. 11, 1971, 85 Stat. 306.
 Pub. L. 91-273, §103, June 2, 1970, 84 Stat. 300.
 Pub. L. 91-44, §103, July 11, 1969, 83 Stat. 47.
 Pub. L. 90-289, §103, Apr. 19, 1968, 82 Stat. 97.
 Pub. L. 90-56, §103, July 26, 1967, 81 Stat. 125.
 Pub. L. 89-428, §103, May 21, 1966, 80 Stat. 163.
 Pub. L. 89-32, §103, June 2, 1965, 79 Stat. 122.
 Pub. L. 88-332, §104, June 30, 1964, 78 Stat. 229.

§ 2017b. Omitted

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87-701, §104, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for restoration or replacement of facilities, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 2017(c) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Sept. 26, 1961, Pub. L. 87-315, §104, 75 Stat. 678.
 May 13, 1960, Pub. L. 86-457, §104, 74 Stat. 122.
 June 23, 1959, Pub. L. 86-50, §104, 73 Stat. 83.

Aug. 4, 1958, Pub. L. 85-590, 72 Stat. 493.
 Aug. 21, 1957, Pub. L. 85-162, title I, §104, 71 Stat. 406.
 May 3, 1956, ch. 233, §104, 70 Stat. 129.
 July 11, 1955, ch. 304, §104, 69 Stat. 293.

§ 2018. Agency jurisdiction

Nothing in this chapter shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.

(Aug. 1, 1946, ch. 724, title I, §271, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended Pub. L. 89-135, Aug. 24, 1965, 79 Stat. 551; 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

1965—Pub. L. 89-135 inserted “produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.”

§ 2019. Applicability of Federal Power Act

Every licensee under this chapter who holds a license from the Commission for a utilization or production facility for the generation of commercial electric energy under section 2133 of this title and who transmits such electric energy in interstate commerce or sells it at wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act [16 U.S.C. 791a et seq.].

(Aug. 1, 1946, ch. 724, title I, §272, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; 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.

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

§ 2020. Licensing of Government agencies

Nothing in this chapter shall preclude any Government agency now or hereafter authorized

by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

(Aug. 1, 1946, ch. 724, title I, §273, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; 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.

§ 2021. Cooperation with States

(a) Purpose

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission’s regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this division, and section 2201 of this title, with respect to any one or more of the following materials within the State:

(1) Byproduct materials (as defined in section 2014(e) of this title).

(2) Source materials.

(3) Special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority

to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) of this section shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

(1) the construction and operation of any production or utilization facility or any uranium enrichment facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 2014(e)(2) of this title. Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The¹ Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection (o) of this section and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the

terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this division, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory, and miscellaneous functions of Administrator of Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provi-

¹ So in original. Probably should not be capitalized.

sion or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements; emergency situations; State nonaction on causes of danger; authority exercisable only during emergency and commensurate with danger

(1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a

position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201(b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) "State" and "agreement" defined

As used in this section, the term "State" means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term "agreement" includes any amendment to any agreement.

(o) State compliance requirements: compliance with section 2113(b) of this title and health and environmental protection standards; procedures for licenses, rulemaking, and license impact analysis; amendment of agreements for transfer of State collected funds; proceedings duplication restriction; alternative requirements

In the licensing and regulation of byproduct material, as defined in section 2014(e)(2) of this title, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection (b) of this section, a State shall require—

(1) compliance with the requirements of subsection (b) of section 2113 of this title (respecting ownership of byproduct material and land), and

(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 2113, 2114, and 2022 of this title, and

(3) procedures which—

(A) in the case of licenses, provide procedures under State law which include—

(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

(ii) an opportunity for cross examination, and

(iii) a written determination which is based upon findings included in such determination and upon the evidence presented

during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014(e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 2113(b) of this title, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 2201(x) of this title. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for

public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

(Aug. 1, 1946, ch. 724, title I, § 274, as added Pub. L. 86-373, § 1, Sept. 23, 1959, 73 Stat. 688; amended 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086; Pub. L. 95-604, title II, § 204(a)-(e)(1), (f), Nov. 8, 1978, 92 Stat. 3036-3038; Pub. L. 96-295, title II, § 205, June 30, 1980, 94 Stat. 787; Pub. L. 97-415, § 19(a), Jan. 4, 1983, 96 Stat. 2078; renumbered title I and amended Pub. L. 102-486, title IX, § 902(a)(6), (8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109-58, title VI, § 651(e)(2), Aug. 8, 2005, 119 Stat. 807.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (i), (j)(1), and (m), 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.

For definition of Canal Zone, referred to in subsec. (n), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (h) of this section, provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council pursuant to Reorg. Plan No. 3 of 1970, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-58 substituted "State:" for "State—" in introductory provisions, added pars. (1) to (3), and struck out former pars. (1) to (4) which read as follows:

"(1) byproduct materials as defined in section 2014(e)(1) of this title;

"(2) byproduct materials as defined in section 2014(e)(2) of this title;

"(3) source materials;

"(4) special nuclear materials in quantities not sufficient to form a critical mass."

1992—Subsec. (c)(1). Pub. L. 102-486, § 902(a)(6), inserted before semicolon at end "or any uranium enrichment facility".

1983—Subsec. (o). Pub. L. 97-415 inserted provisions relating to the adoption of equivalent alternative requirements by the States.

1980—Subsec. (j). Pub. L. 96-295 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (b). Pub. L. 95-604, § 204(a), inserted in par. (1) "as defined in section 2014(e)(1) of this title" after "byproduct materials", added par. (2), and redес-

ignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c). Pub. L. 95-604, §204(f), required the Commission to retain authority under the agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 2014(e)(2) of this title.

Subsec. (d)(2). Pub. L. 95-604, §204(b), inserted "in accordance with the requirements of subsection (o) of this section and in all other respects" before "compatible".

Subsec. (j). Pub. L. 95-604, §204(d), inserted "all or part of" after "suspend", designated provision requiring termination or suspension be necessary to protect the public health and safety as cl. (1), added cl. (2), and inserted provision requiring the Commission to periodically review the agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

Subsec. (n). Pub. L. 95-604, §204(c), inserted definition of "agreement".

Subsec. (o). Pub. L. 95-604, §204(e)(1), added subsec. (o).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 204(e)(2) of Pub. L. 95-604, as added by Pub. L. 96-106, §22(d), Nov. 9, 1979, 93 Stat. 800, provided that: "The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954 [this section]) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978]."

Amendment by Pub. L. 95-604 effective Nov. 8, 1978, see section 208 of Pub. L. 95-604, set out as a note under section 2014 of this title.

STATE AUTHORITIES AND AGREEMENTS RESPECTING BY-PRODUCT MATERIAL; ENTRY AND EFFECTIVE DATES OF AGREEMENTS

Pub. L. 95-604, title II, §204(g), (h), Nov. 8, 1978, 92 Stat. 3038, as amended by Pub. L. 96-106, §22(a), (b), Nov. 9, 1979, 93 Stat. 799; Pub. L. 97-415, §19(b), Jan. 4, 1983, 96 Stat. 2079, provided that:

"(g) Nothing in any amendment made by this section [amending this section] shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 [this chapter] respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

"(h)(1) During the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954 [this section]) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title], or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act) [subsec. (o) of this section]. The Commission shall have the authority to ensure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 [section 2022 of this title] as may be necessary to implement title I of this Act [section 7911 et seq. of this title].

"(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 [this section] with respect to byproduct material as defined in section 11 e. (2) of such Act. [section 2014(e)(2) of this title], may be entered into at any time after the date of the enactment of this Act [Nov. 8, 1978] but no such agreement may take effect before the date three years after the date of the enactment of this Act.

"(3) Notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954 [subsec. (b) of this section], authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act [section 2014(e)(2) of this title], the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material: *Provided, however,* That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954 [this section], the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274j. of the Atomic Energy Act of 1954 [subsec. (j) of this section]."

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

EXECUTIVE ORDER NO. 12192

Ex. Ord. No. 12192, Feb. 12, 1980, 45 F.R. 9727, which established the State Planning Council on Radioactive Waste Management and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §13, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 2021a. Storage or disposal facility planning

(a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a

program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) of this section within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

(Pub. L. 95-601, §14, Nov. 6, 1978, 92 Stat. 2953.)

REFERENCES IN TEXT

Commission, referred to in text, probably means the Nuclear Regulatory Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

CODIFICATION

Section was enacted as part of an act authorizing appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PLAN FOR PERMANENT DISPOSAL OF WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES; SUBMISSION OF PLAN TO CONGRESS NOT LATER THAN JUNE 30, 1983

Pub. L. 97-90, title II, §213, Dec. 4, 1981, 95 Stat. 1171, directed President to submit to Committees on Armed Services of Senate and of House of Representatives not later than June 30, 1983, a report setting forth his plans for permanent disposal of high-level and transuranic wastes resulting from atomic energy defense activities, such report to include, but not be limited to, for each State in which such wastes are stored in interim storage facilities on Dec. 4, 1981, specific estimates of amounts planned for expenditure in each of the next five fiscal years to achieve the permanent disposal of such wastes and general estimates of amounts planned for expenditure in fiscal years thereafter to achieve such purpose, and a thorough and detailed program management plan for the disposal of such wastes.

WEST VALLEY DEMONSTRATION PROJECT; RADIOACTIVE WASTE MANAGEMENT; PROJECT ACTIVITIES; PUBLIC HEARINGS; REVIEW OF PROJECT AND CONSULTATIONS; AUTHORIZATION OF APPROPRIATIONS; REPORT TO CONGRESS

Pub. L. 107-66, title III, Nov. 12, 2001, 115 Stat. 503, provided in part: "That funding for the West Valley Demonstration Project shall be reduced in subsequent fiscal years to the minimum necessary to maintain the project in a safe and stable condition, unless, not later than September 30, 2002, the Secretary: (1) provides written notification to the Committees on Appropriations of the House of Representatives and the Senate that agreement has been reached with the State of New York on the final scope of Federal activities at the West Valley site and on the respective Federal and State cost shares for those activities; (2) submits a written copy of that agreement to the Committees on Appropriations of the House of Representatives and the Senate; and (3) provides a written certification that the Federal actions proposed in the agreement will be in full compliance with all relevant Federal statutes and are in the best interest of the Federal Government."

Pub. L. 96-368, Oct. 1, 1980, 94 Stat. 1347, as amended by Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000, provided that:

"SECTION 1. This Act may be cited as the 'West Valley Demonstration Project Act'.

"SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the

purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

"(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

"(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

"(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

"(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

"(5) The Secretary shall decontaminate and decommission—

"(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

"(B) the facilities used in the solidification of the waste, and

"(C) any material and hardware used in connection with the project, in accordance with such requirements as the Commission may prescribe.

"(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

"(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

"(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

"(3) The Secretary shall—

"(A) undertake detailed engineering and cost estimates for the project,

"(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

"(C) conduct appropriate safety analyses of the project, and

"(D) prepare required environmental impact analyses of the project.

"(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 [see section 6301 et seq. of Title 31, Money and Finance] under which the State will carry out the following:

"(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

"(B) The Secretary shall provide technical assistance in securing required license amendments.

"(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project,

but may use the perpetual care fund to pay such share.

“(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

“(c) Within one year from the date of the enactment of this Act [Oct. 1, 1980], the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended [this chapter], the Energy Reorganization Act of 1974, as amended [section 5801 et seq. of this title], or any other law. The agreement shall provide for the following:

“(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

“(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

“(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

“(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

“(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the United States Geological Survey, and the commercial operator of the Center.

“SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

“(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

“(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

“SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

“SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 [this chapter] or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974 [section 5801 et seq. of this title]. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

“(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

“SEC. 6. For purposes of this Act:

“(1) The term ‘Secretary’ means the Secretary of Energy.

“(2) The term ‘Commission’ means the Nuclear Regulatory Commission.

“(3) The term ‘State’ means the State of New York.

“(4) The term ‘high level radioactive waste’ means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

“(5) The term ‘transuranic waste’ means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

“(6) The term ‘low level radioactive waste’ means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

“(7) The term ‘project’ means the project prescribed by section 2(a).

“(8) The term ‘Center’ means the Western New York Service Center in West Valley, New York.”

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under section 4 of Pub. L. 96-368, set out above, is listed in item 1 on page 84), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) [div. A. §1402(1)] of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.]

§ 2021b. Definitions

For purposes of sections 2021b to 2021j of this title:

(1) Agreement State

The term “agreement State” means a State that—

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 2021 of this title; and

(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

(2) Allocation

The term “allocation” means the assignment of a specific amount of low-level radio-

active waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under sections 2021b to 2021j of this title.

(3) Commercial nuclear power reactor

The term “commercial nuclear power reactor” means any unit of a civilian light-water moderated utilization facility required to be licensed under section 2133 or 2134(b) of this title.

(4) Compact

The term “compact” means a compact entered into by two or more States pursuant to sections 2021b to 2021j of this title.

(5) Compact commission

The term “compact commission” means the regional commission, committee, or board established in a compact to administer such compact.

(6) Compact region

The term “compact region” means the area consisting of all States that are members of a compact.

(7) Disposal

The term “disposal” means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

(8) Generate

The term “generate”, when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(9) Low-level radioactive waste

(A) In general

The term “low-level radioactive waste” means radioactive material that—

- (i) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 2014(e)(2) of this title); and
- (ii) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

(B) Exclusion

The term “low-level radioactive waste” does not include byproduct material (as defined in paragraphs (3) and (4) of section 2014(e) of this title).

(10) Non-sited compact region

The term “non-sited compact region” means any compact region that is not a sited compact region.

(11) Regional disposal facility

The term “regional disposal facility” means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

(12) Secretary

The term “Secretary” means the Secretary of Energy.

(13) Sited compact region

The term “sited compact region” means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

(14) State

The term “State” means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 96-573, §2, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842; amended Pub. L. 109-58, title VI, §651(e)(3)(B), Aug. 8, 2005, 119 Stat. 808.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021b, Pub. L. 96-573, §2, Dec. 22, 1980, 94 Stat. 3347, related to definitions respecting low-level radioactive waste policy as used in former sections 2021b to 2021d of this title, prior to repeal by Pub. L. 99-240, §102.

AMENDMENTS

2005—Par. (9). Pub. L. 109-58 designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-240, title I, §101, Jan. 15, 1986, 99 Stat. 1842, provided that: “This Title [enacting this section and sections 2021c to 2021j of this title, repealing former sections 2021b to 2021d of this title, and enacting and repealing a provision set out as a note under this section] may be cited as the ‘Low-Level Radioactive Waste Policy Amendments Act of 1985.’”

SHORT TITLE

Pub. L. 96-573, §1, as added by Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, provided that: “This Act [enacting sections 2021b to 2021j of this title] may be cited as the ‘Low-Level Radioactive Waste Policy Act.’”

A prior section 1 of Pub. L. 96-573, which provided that Pub. L. 96-573 [enacting former sections 2021b to 2021d of this title] could be cited as the “Low-Level Radioactive Waste Policy Act”, was repealed by Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842.

§ 2021c. Responsibilities for disposal of low-level radioactive waste

(a)(1) Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the Federal Government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the Federal Government except such waste that is—

- (i) owned or generated by the Department of Energy;
- (ii) owned or generated by the United States Navy as a result of the decommission-

sioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections¹ 2021e or 2021f of this title.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraph (A) or (B).

(b)(1) The Federal Government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

(3) Not later than 12 months after January 15, 1986, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the Federal and non-Federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a Federal responsibility pursuant to paragraph (b)(1)(D) that becomes a Federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

(Pub. L. 96-573, §3, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1843.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, 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.

January 15, 1986, referred to in subsec. (b)(3), was in the original “the date of enactment of this Act” and was translated as meaning the date of enactment of Pub. L. 99-240 to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021c, Pub. L. 96-573, §3, Dec. 22, 1980, 94 Stat. 3347, related to the applicability of low-level radioactive waste compacts, prior to repeal by Pub. L. 99-240, §102. See section 2021d of this title.

§ 2021d. Regional compacts for disposal of low-level radioactive waste

(a) In general

(1) Federal policy

It is the policy of the Federal Government that the responsibilities of the States under section 2021c of this title for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

(2) Interstate compacts

To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(b) Applicability to Federal activities

(1) In general

(A) Activities of the Secretary

Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 2021c(a)(1)(B)(i)–(iii) of this title.

(B) Federal low-level radioactive waste disposed of at non-Federal facilities

Low-level radioactive waste owned or generated by the Federal Government that is

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

disposed of at a regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

(2) Federal low-level radioactive waste disposal facilities

Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the Federal Government shall not be subject to any compact or any action taken under a compact.

(3) Effect of compacts on Federal law

Nothing contained in sections 2021b to 2021j of this title or any compact may be construed to confer any new authority on any compact commission or State—

(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

(B) to regulate health, safety, or environmental hazards from source material, by-product material, or special nuclear material;

(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

(E) to require indemnification pursuant to the provisions of chapter 171 of title 28 (commonly referred to as the Federal Tort Claims Act), or section 2210 of this title, whichever is applicable.

(4) Federal authority

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency, or to alter, amend, or otherwise affect any Federal law governing the judicial review of any action taken pursuant to any compact.

(5) State authority preserved

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title expands, diminishes, or otherwise affects State law.

(c) Restricted use of regional disposal facilities

Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

(1) January 1, 1986; and

(2) the Congress by law consents to the compact.

(d) Congressional review

Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

(Pub. L. 96-573, §4, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1845.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021d, Pub. L. 96-573, §4, Dec. 22, 1980, 94 Stat. 3348, related to policy of Federal Government concerning low-level radioactive waste disposal, implementation of that policy, and a report to Congress and the States to assist in carrying out the policy, prior to repeal by Pub. L. 99-240, §102.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL
COMPACT CONSENT ACT

Pub. L. 105-236, Sept. 20, 1998, 112 Stat. 1542, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Texas Low-Level Radioactive Waste Disposal Compact Consent Act’.

“SEC. 2. CONGRESSIONAL FINDING.

“The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

“SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

“The consent of the Congress to the compact set forth in section 5—

“(1) shall become effective on the date of the enactment of this Act [Sept. 20, 1998];

“(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

“(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

“SEC. 4. CONGRESSIONAL REVIEW.

“The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [Sept. 20, 1998], and at such intervals thereafter as may be provided in such compact.

“SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).

“(b) TEXT OF COMPACT.—The compact reads substantially as follows: [Text of compact appears at 112 Stat. 1543].”

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE
DISPOSAL COMPACT CONSENT ACT

Pub. L. 100-712, Nov. 23, 1988, 102 Stat. 4773, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act’[.]

“SEC. 2. CONGRESSIONAL FINDING.

“The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b-2021j].

“SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

“The consent of the Congress to the compact set forth in section 5—

“(1) shall become effective on the date of the enactment of this Act [Nov. 23, 1988];

“(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j]; and

“(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

“SEC. 4. CONGRESSIONAL REVIEW.

“The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act [Nov. 23, 1988], and at such intervals thereafter as may be provided in such compact.

“SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 4773]”.

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT

Pub. L. 100–319, May 19, 1988, 102 Stat. 471, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Appalachian States Low-Level Radioactive Waste Compact Consent Act’.

“SEC. 2. CONGRESSIONAL FINDING.

“The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

“SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

“The consent of the Congress to the compact set forth in section 5—

“(1) shall become effective on the date of the enactment of this Act [May 19, 1988],

“(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j], and

“(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

“SEC. 4. CONGRESSIONAL REVIEW.

“The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [May 19, 1988], and at such intervals thereafter as may be provided for in such compact.

“SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2) [42 U.S.C. 2021d(a)(2)]), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 471]”.

OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

Pub. L. 99–240, title II, Jan. 15, 1986, 99 Stat. 1859, provided that:

“SEC. 201. SHORT TITLE.

“This Title may be cited as the ‘Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act’.

“Subtitle A—General Provisions

“SEC. 211. CONGRESSIONAL FINDING.

“The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

“SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

“The consent of the Congress to each of the compacts set forth in subtitle B—

“(1) shall become effective on the date of the enactment of this Act [Jan. 15, 1986];

“(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended [42 U.S.C. 2021b–2021j]; and

“(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

“SEC. 213. CONGRESSIONAL REVIEW.

“The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act [Jan. 15, 1986], and at such intervals thereafter as may be provided in such compact.

“Subtitle B—Congressional Consent to Compacts

“SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

“The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1860.]

“SEC. 222. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1863.]

“SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1871; 103 Stat. 1289.]

“SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1880; 108 Stat. 4607.]

“SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

“The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows: [Text of compact appears at 99 Stat. 1892.]

“SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1902.]

“SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

“In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021d(a)(2)], the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1910.]”

§ 2021e. Limited availability of certain regional disposal facilities during transition and licensing periods

(a) Availability of disposal capacity

(1) Pressurized water and boiling water reactors

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c) of this section.

(2) Other sources of low-level radioactive waste

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

(3) Allocation of disposal capacity

(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section and located in the sited compact region in which such waste is generated.

(B) Any State in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such

waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b) of this section: *Provided, however,* That in the event that all three States in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of 10 per centum of the average annual volume for each such facility designated in subsection (b) of this section.

(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) of this section to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b) of this section.

(4) Cessation of operation of low-level radioactive waste disposal facility

No provision of this section shall be construed to obligate any State referred to in paragraphs (1) through (3) of subsection (b) of this section to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such State ceases operations.

(b) Limitations

The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

(1) Barnwell, South Carolina

The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a total of 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

(2) Richland, Washington

The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

(3) Beatty, Nevada

The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility lo-

cated at Beatty, Nevada to a total of 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

(c) Commercial nuclear power reactor allocations

(1) Amount

Subject to the provisions of subsections (a) through (g) of this section each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) of this section during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

Reactor Type	4-year Transition Period		3-year Licensing Period	
	In Sited Region	All Other Locations	In Sited Region	All Other Locations
PWR ...	1027	871	934	685
BWR ...	2300	1951	2091	1533

(2) Method of calculation

For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

(3) Unused allocations

Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

(4) Transferability

Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) of this section may assign any disposal capacity allocated to it under this subsection to any other person in each State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

(5) Unusual volumes

(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear

power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

(6) Limitation

During the seven-year interim access period referred to in subsection (a) of this section, the disposal facilities referred to in subsection (b) of this section shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors.

(d) Use of surcharge funds for milestone incentives; consequences of failure to meet disposal deadline

(1) Surcharges

The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2) of this section, such surcharges shall not exceed—

- (A) in 1986 and 1987, \$10 per cubic foot of low-level radioactive waste;
- (B) in 1988 and 1989, \$20 per cubic foot of low-level radioactive waste; and
- (C) in 1990, 1991, and 1992, \$40 per cubic foot of low-level radioactive waste.

(2) Milestone incentives

(A) Escrow account

Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) of this section shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

- (i) paid or repaid in accordance with subparagraph (B) or (C); or
- (ii) paid to the State collecting such fees in accordance with subparagraph (F).

(B) Payments

- (i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a

State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on January 15, 1986, and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) of this section is met by the State in which such waste originated.

(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending December 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) of this section is met by the State in which such waste originated (or its compact region, where applicable).

(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) of this section is met by the State in which such waste originated (or its compact region, where applicable).

(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

(C) Failure to meet January 1, 1993 deadline

If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner noti-

fies the State that the waste is available for shipment; or

(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however,* That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment.

(D) Recipients of payments

The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

(i) if the State in which such waste originated is not a member of a compact region, to such State;

(ii) if the State in which such waste originated is a member of the compact re-

¹ So in original. Probably should be "subparagraph".

gion, to the compact commission serving such State.

(E) Uses of payments

(i) Limitations

Any amount paid under subparagraphs (B) or (C) may only be used to—

(I) establish low-level radioactive waste disposal facilities;

(II) mitigate the impact of low-level radioactive waste disposal facilities on the host State;

(III) regulate low-level radioactive waste disposal facilities; or

(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

(ii) Reports

(I) Recipient

Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

(II) Department of Energy

Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

(F) Payment to States

Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

(G) Penalty surcharges

No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1) of this section.

(e) Requirements for access to regional disposal facilities

(1) Requirements for non-sited compact regions and non-member States

Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

(B) By January 1, 1988

(i) each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan;

(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan; and

(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in sections 2021b to 2021j of this title. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State.

(C) By January 1, 1990

(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

(D) By January 1, 1992, a complete application (as determined by the Nuclear Regu-

latory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

(2) Penalties for failure to comply

(A) By July 1, 1986

If any State fails to comply with subparagraph (1)(A)—

(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d) of this section; and

(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(B) By January 1, 1988

If any non-sited compact region or non-member State fails to comply with paragraph (1)(B)—

(i) any generator of low-level radioactive waste within such region or non-member State shall—

(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d) of this section; and

(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d) of this section; and

(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(C) By January 1, 1990

If any non-sited compact region or non-member State fails to comply with para-

graph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) of this section.

(D) By January 1, 1992

If any non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d) of this section.

(3) Denial of access

No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

(4) Restoration of suspended access; penalties for failure to comply

Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of this subsection shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

(f) Monitoring of compliance and denial of access to non-Federal facilities for noncompliance; information requirements of certain States; proprietary information

(1) Administration

Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section is located shall have authority—

(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

(B) to deny access to any non-Federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

(i) is in excess of the limitations or allocations established in this section; or

(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1) of this section.

(2) Availability of information during interim access period

(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate handler who fails to provide information under subparagraph (A).

(C) PROPRIETARY INFORMATION.—

(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

(II) accepts liability for wrongful disclosure; and

(III) demonstrates that such information is essential to such monitoring.

(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under sections 2021b to 2021j of this title may be required to disclose such information under State law.

(g) Nondiscrimination

Except as provided in subsections (b) through (e) of this section, low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

(Pub. L. 96-573, §5, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1846.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

CONSTITUTIONALITY

For constitutionality of section 102 of Pub. L. 99-240, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

§ 2021f. Emergency access

(a) In general

The Nuclear Regulatory Commission may grant emergency access to any regional disposal

facility or non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

(b) Request for emergency access

Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that the Nuclear Regulatory Commission grant emergency access to a regional disposal facility or a non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

(c) Determination of Nuclear Regulatory Commission

(1) Required determination

Not later than 45 days after receiving a request under subsection (b) of this section, the Nuclear Regulatory Commission shall determine whether—

(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 2021e(c) of this title or ceasing activities that generate low-level radioactive waste.

(2) Required notification

If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-Federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e) of this section, no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

(d) Temporary emergency access

Upon determining that emergency access is necessary because of an immediate and serious

threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c) of this section. Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

(e) Extension of emergency access

The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c) of this section, if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

(f) Reciprocal access

Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any subsequently operating non-Federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

(g) Approval by compact commission

Any grant of access under this section shall be submitted to the compact commission for the region in which the designated disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriate authority under subsection (f) of this section.

(h) Limitations

No State shall be required to provide emergency or reciprocal access to any regional dis-

posal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

(i) Volume reduction and surcharges

Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in sections 2021b to 2021j of this title.

(j) Deduction from allocation

Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 2021e(c) of this title.

(k) Agreement States

Any agreement under section 2021 of this title shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

(Pub. L. 96-573, §6, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1855.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021g. Responsibilities of Department of Energy

(a) Financial and technical assistance

The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States determined¹ by the Secretary to require assistance for purposes of carrying out sections 2021b to 2021j of this title—

(1) continuing technical assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized data-base to monitor the management of low-level radioactive wastes; and

(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title.

¹ So in original. Probably should be "determined".

(b) Omitted

(Pub. L. 96-573, §7, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1858.)

CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and submit to Congress on an annual basis a report on low-level waste disposal, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 2 on page 84 of House Document No. 103-7.

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021h. Alternative disposal methods

(a) Not later than 12 months after January 15, 1986, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

(b) Not later than 24 months after January 15, 1986, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant technical information regarding the methods identified pursuant to subsection (a) of this section that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation, disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

(Pub. L. 96-573, §8, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1858.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021i. Licensing review and approval

In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state¹ shall—

(1) not later than 12 months after January 15, 1986, establish procedures and develop the technical capability for processing applications for such licenses;

(2) to the extent practicable, complete all activities associated with the review and proc-

essing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

(Pub. L. 96-573, §9, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1859.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2021j. Radioactive waste below regulatory concern

(a) Not later than 6 months after January 15, 1986, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

(b) The standards and procedures established by the Commission pursuant to subsection (a) of this section shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.

(Pub. L. 96-573, §10, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1859.)

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2022. Health and environmental standards for uranium mill tailings**(a) Promulgation and revision of rules for protection from hazards at inactive or deposi-tory sites**

As soon as practicable, but not later than October 1, 1982, the Administrator of the Environ-

¹ So in original. Probably should be "States".

mental Protection Agency (hereinafter referred to in this section as the "Administrator") shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7914(h)]) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911]) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911 et seq.]. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.]. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate. The Administrator may periodically revise any standard promulgated pursuant to this subsection. After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.

(b) Promulgation and revision of rules for protection from hazards at processing or disposal sites

(1) As soon as practicable, but not later than October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form, standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 2014(e)(2) of this title, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material. If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this chapter without regard to any provision of this chapter requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this

chapter. Requirements established by the Commission under this chapter with respect to byproduct material as defined in section 2014(e)(2) of this title shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection (f)(3) of this section. Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 2014(e)(2) of this title pending promulgation by the Commission of any such standard of general application. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended [42 U.S.C. 6921 et seq.], which are applicable to such hazards: *Provided, however*, That no permit issued by the Administrator is required under this chapter or the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.], for the processing, possession, transfer, or disposal of byproduct material, as defined in section 2014(e)(2) of this title. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 2021(b)(2) of this title shall apply such revised standard in the case of any license for byproduct material as defined in section 2014(e)(2) of this title or any revision thereof.

(c) Publication in Federal Register; notice and hearing; consultations; judicial review; time for petition; venue; copy to Administrator; record; administrative jurisdiction; review by Supreme Court; effective date of rule

(1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such pro-

mulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. The judgement of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

(d) Federal and State implementation and enforcement

Implementation and enforcement of the standards promulgated pursuant to subsection (b) of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this chapter. States exercising authority pursuant to section 2021(b)(2) of this title shall implement and enforce such standards in accordance with subsection (o) of such section.

(e) Other authorities of Administrator unaffected

Nothing in this chapter applicable to byproduct material, as defined in section 2014(e)(2) of this title, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended [42 U.S.C. 7401 et seq.], or the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.].

(f) Implementation or enforcement of Uranium Mill Licensing Requirements

(1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the "October 3 regulations"). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

(2) Following the proposal by the Administrator of standards under subsection (b) of this section, the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection (b) of this section. During the period of such suspension, the Commission shall continue to regulate byproduct material (as defined in section 2014(e)(2) of this title) under this chapter on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection (b) of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 2114 of this title to promulgate regulations to protect the public health and safety and the environment.

(Aug. 1, 1946, ch. 724, title I, §275, as added Pub. L. 95-604, title II, §206(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97-415, §§18(a), 22(b), Jan. 4, 1983, 96 Stat. 2077, 2080; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

The Uranium Mill Tailings Radiation Control Act of 1978, referred to in subsec. (a), is Pub. L. 95-604, Nov. 8, 1978, 92 Stat. 3021, as amended. Title I of such act is classified generally to subchapter I (§7911 et seq.) of chapter 88 of this title. For complete classification of this act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Solid Waste Disposal Act, as amended, referred to in subsecs. (a) and (b)(2), is title II of Pub. L. 89-272, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. Subtitle C of the Solid Waste Disposal Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This chapter, referred to in subsecs. (b), (d), (e), and (f)(2), 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 Clean Air Act of 1970, as amended, referred to in subsec. (e), probably means the Clean Air Act, which is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (e), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97-415, §§18(a)(1), 22(b)(1), substituted “October 1, 1982” for “one year after November 8, 1978” inserted provisions relating to the application of the Administrator’s proposed standards to actions by the Secretary of Energy in the event the Administrator fails to promulgate standards in final form after Oct. 1, 1982, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (b)(1). Pub. L. 97-415, §§18(a)(2), (3), 22(b)(2), substituted “October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,” for “eighteen months after November 8, 1978, the Administrator shall, by rule, promulgate” inserted provisions relating to the consequences of failure by the Administrator to promulgate standards in final form by Oct. 1, 1983, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (f). Pub. L. 97-415, §18(a)(4), added subsec. (f).

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95-604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

§ 2023. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission

(a) In general

No provision of this chapter, or of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b et seq.], may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after October 24, 1992, exempts such waste from regulation.

(b) Relation to other State authority

This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a) of this section, this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

(c) Definitions

For purposes of this section:

(1) The term “low-level radioactive waste” means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on October 24, 1992.

(2) The term “off-site incineration” means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

(3) The term “State” means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Aug. 1, 1946, ch. 724, title I, §276, as added Pub. L. 102-486, title XXIX, §2901(a), Oct. 24, 1992, 106 Stat. 3122.)

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 Low-Level Radioactive Waste Policy Act, referred to in subsec. (a), is Pub. L. 96-573, as amended generally by Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, which is classified generally to section 2021b et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2021b of this title and Tables.

SUBCHAPTER II—ORGANIZATION

§§ 2031, 2032. Repealed. Pub. L. 93-438, title I, § 104(a), Oct. 11, 1974, 88 Stat. 1237

Section 2031, act Aug. 1, 1946, ch. 724, §21, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 924; amended Aug. 9, 1955, ch. 697, §3, 69 Stat. 630, provided for establishment of Atomic Energy Commission, its composition, Chairman, acting Chairman, quorum, official spokesman, and seal.

Provisions similar to section 2031 were contained in section 1802(a)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Another prior section 21 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which provided that act Aug. 1, 1946, could be cited as the Atomic Energy Act of 1946, was set out as a note under section 1801 of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2032, act Aug. 1, 1946, ch. 724, §22, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 924; amended Sept. 4, 1957, Pub. L. 85-287, §1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88-426, title III, §305(10)(A), 78 Stat. 423, provided for appointment of members of Commission, terms of office, and prohibition from engaging in any other vocation, business, or employment, by the members.

Provisions similar to section 2032 were contained in section 1802(a)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of this title.

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

Ex. Ord. No. 9816, eff. Dec. 31, 1946, 12 F.R. 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.