

ious classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

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

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

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

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

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

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

“(1) conformity with all conditions and requirements of the operating license;

“(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

“(3) effective response to any such event or sequence.

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

“(A) has been actively and extensively engaged in the duties listed in such license,

“(B) has discharged such duties safely to the satisfaction of the Commission,

“(C) is capable of continuing such duties, and

“(D) has participated in a requalification training program.

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

“(i) written questions, and

“(ii) emergency simulator exams.

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

“(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954 [this section], plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act [June 30, 1980] on the findings and recommendations of the study required by

this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment.”

**§ 2138. Suspension of licenses during war or national emergency**

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

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

AMENDMENTS

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

**§ 2139. Component and other parts of facilities**

**(a) Licenses for domestic activities**

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

**(b) Export licenses**

After consulting with the Secretaries of State, Energy, and Commerce, the Commission is authorized and directed to determine which component parts as defined in section 2014(v)(2) or 2014(cc)(2) of this title and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 2155(b)(2) of this title, no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development

of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 2155 of this title.

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

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

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

AMENDMENTS

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

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as an

Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

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

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

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

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

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

(a) Omitted

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

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

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

REFERENCES IN TEXT

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

CODIFICATION

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

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