

parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 2121(c), 2164(b), or 2164(c) of this title or arrangements pursuant thereto as it was in effect immediately prior to March 10, 1978.

(Pub. L. 95-242, title VI, §603(a), (b), Mar. 10, 1978, 92 Stat. 152.)

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

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.

EFFECTIVE DATE

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

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions 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.

§ 2154. International atomic pool

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074(a), 2077, 2094, 2112, 2133, 2134, or 2164(a) of this title: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(Aug. 1, 1946, ch. 724, title I, §124, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; amended Pub. L. 93-377, §5, Aug. 17, 1974, 88 Stat. 475; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

AMENDMENTS

1974—Pub. L. 93-377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

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.

§ 2155. Export licensing procedures

(a) Executive branch judgment on export applications; criteria governing United States nuclear exports

No license may be issued by the Nuclear Regulatory Commission (the "Commission") for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 2074, 2094, or 2112 of this title, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

(1) the Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, and the Nuclear Regulatory Commission, for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can¹ be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the appli-

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

cation or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 2153b or 2153c(a) of this title;

(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 2156 of this title will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 2156 of this title or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 2154 of this title shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 2156 of this title for a period of thirty days after March 10, 1978, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 2153c(a) of this title; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on March 10, 1978: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from

the provisions of paragraph (4) or (5) of section 2156 of this title, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 2159 of this title: *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no material changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

(b) Requests to be given timely consideration; Presidential review if Commission is unable to make required statutory determinations; Commission review

(1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this chapter, the Commission shall publicly issue its decision to that

effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and shall be referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 2155a of this title shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of sec-

tion 2155a of this title, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection (a)(1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection (a)(1) of this section.

(c) Additional export criteria

In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this chapter, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 2159 of this title.

(Aug. 1, 1946, ch. 724, title I, § 126, as added Pub. L. 95-242, title III, § 304(a), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, § 15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105-277, div. G, title XII, § 1225(d)(5), Oct. 21, 1998, 112 Stat. 2681-774.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2) and (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-277 substituted "and the Nuclear Regulatory Commission," for "the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission".

1994—Pub. L. 103-437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE

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

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg.

Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to the functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

NUCLEAR EXPORT REPORTING REQUIREMENT

Pub. L. 105-261, div. A, title XV, §1523, Oct. 17, 1998, 112 Stat. 2180, as amended by Pub. L. 106-113, div. B, §1000(a)(7) [div. B, title XI, §1135], Nov. 29, 1999, 113 Stat. 1536, 1501A-494, provided that:

“(a) NOTIFICATION OF CONGRESS.—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

“(b) APPLICABILITY.—The requirements of this section shall apply only to an export or reexport to a country that—

“(1) the President has determined is a country that has detonated a nuclear explosive device; and

“(2) is not a member of the North Atlantic Treaty Organization.

“(c) CONTENT OF NOTIFICATION.—The notification required pursuant to this section shall include—

“(1) a detailed description of the articles or services to be exported or reexported, including a brief description of the capabilities of any article to be exported or reexported;

“(2) an estimate of the number of officers and employees of the United States Government and of United States Government civilian contract personnel expected to be required in such country to carry out the proposed export or reexport;

“(3) the name of each licensee expected to provide the article or service proposed to be sold and a description from the licensee of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);

“(4) the projected delivery dates of the articles or services to be exported or reexported; and

“(5) the extent to which the recipient country in the previous two years has engaged in any of the actions specified in subparagraph (A), (B), or (C) of section 129(2) of the Atomic Energy Act of 1954 [42 U.S.C. 2158(2)(A), (B), (C)].”

[Memorandum of President of the United States, July 8, 2004, 69 F.R. 43725, delegated to Secretary of State the functions conferred upon the President by section 1523 of Pub. L. 105-261, set out above.]

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.

EX. ORD. NO. 12055. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12055, Apr. 27, 1978, 43 F.R. 18157, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America and by Section 126b(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2155), as amended by Section 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 131) [subsec. (b)(2) of this section], and having determined that withholding the export proposed pursuant to Nuclear Regulatory Commission export license application XSNM-1060 would be seriously prejudicial to the achievement of the United States non-proliferation objectives, that export to India is authorized; however, such export shall not occur for a period of 60 days as defined by Section 130g of the Atomic Energy Act of 1954, as amended [section 2159(g) of this title].

JIMMY CARTER.

EXECUTIVE ORDER NO. 12193

Ex. Ord. No. 12193, Feb. 12, 1980, 45 F.R. 9885, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1981, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EX. ORD. NO. 12218. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12218, June 19, 1980, 45 F.R. 41625, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126b. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(b)(2)), and having determined that withholding the exports proposed pursuant to Nuclear Regulatory Commission export license applications XSNM-1379, XSNM-1569, XCOM-0240, XCOM-0250, XCOM-0376, XCOM-0381 and XCOM-0395, would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security, those exports to India are authorized; however, such exports shall not occur for a period of 60 days as defined by Section 130 g. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2159(g)).

JIMMY CARTER.

EXECUTIVE ORDER NO. 12295

Ex. Ord. No. 12295, Feb. 24, 1981, 46 F.R. 14113, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1982, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617. See notes below.

EXECUTIVE ORDER NO. 12351

Ex. Ord. No. 12351, Mar. 9, 1982, 47 F.R. 10505, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1983, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12409

Ex. Ord. No. 12409, Mar. 7, 1983, 48 F.R. 9829, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1984, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12463

Ex. Ord. No. 12463, Feb. 23, 1984, 49 F.R. 7097, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1985, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12506

Ex. Ord. No. 12506, Mar. 4, 1985, 50 F.R. 8991, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1986. See notes below.

EXECUTIVE ORDER NO. 12554

Ex. Ord. No. 12554, Feb. 28, 1986, 51 F.R. 7423, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1987. See notes below.

EXECUTIVE ORDER NO. 12587

Ex. Ord. No. 12587, Mar. 9, 1987, 52 F.R. 7397, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1988, was superseded by Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875. See notes below.

EXECUTIVE ORDER NO. 12629

Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1989. See notes below.

EXECUTIVE ORDER NO. 12670

Ex. Ord. No. 12670, Mar. 9, 1989, 54 F.R. 10267, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1990, was superseded by Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313. See notes below.

EXECUTIVE ORDER NO. 12706

Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1991, was superseded by Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501. See notes below.

EXECUTIVE ORDER NO. 12753

Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1992, was superseded by Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717. See notes below.

EXECUTIVE ORDER NO. 12791

Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1993, was superseded by Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401. See notes below.

EXECUTIVE ORDER NO. 12840

Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1994, was superseded by Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473. See notes below.

EXECUTIVE ORDER NO. 12903

Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1995, was superseded by Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365. See note below.

EX. ORD. NO. 12955. NUCLEAR COOPERATION WITH EUROPEAN ATOMIC ENERGY COMMUNITY

Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such Act and extended for 12-month periods by Executive Order Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, 12791, 12840, and 12903 [see notes above], failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objec-

tives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to December 31, 1995. Executive Order No. 12903 shall be superseded on the effective date of this Executive order.

WILLIAM J. CLINTON.

DELEGATION OF FUNCTIONS REGARDING DETERMINATION OF TIME, TERMS AND CONDITIONS OF NUCLEAR EXPORTS

Memorandum of the President of the United States, dated Oct. 3, 1980, provided:

By the authority vested in me by Title 3, United States Code, Section 301, you are hereby authorized to perform the following functions on my behalf:

1. Determination of the time, terms and conditions of exports made pursuant to any Executive Order heretofore or hereafter issued under Section 126(b)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2155(b)(2)).

2. Issuance of such rules, regulations and procedures as you may from time to time deem necessary or desirable for the exercise of functions delegated by paragraph 1.

This memorandum shall be published in the Federal Register.

JIMMY CARTER.

§ 2155a. Regulations establishing Commission procedures covering grant, suspension, revocation, or amendment of nuclear export licenses or exemptions

(a) Omitted

(b) Within one hundred and twenty days of March 10, 1978, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c) The procedures to be established pursuant to subsection (b) of this section shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act [42 U.S.C. 2239(a)], shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

(Pub. L. 95-242, title III, § 304(b), (c), Mar. 10, 1978, 92 Stat. 135.)