

ing the Commission to conduct research for other persons for the development of atomic energy.

1967—Pub. L. 90-190 inserted provision which authorized the Commission, to the extent the Commission made certain determinations, to assist other persons on the fields of protection of public health and safety by conducting for such persons, through the facilities of the Commission, research and development or training activities and studies, and substituted “the activities and studies referred to in this section” for “such activities and studies”.

#### SUBCHAPTER IV—PRODUCTION OF SPECIAL NUCLEAR MATERIAL

### § 2061. Production facilities

#### (a) Ownership

The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; (2) are licensed by the Commission under this division; or (3) are owned by the United States Enrichment Corporation.

#### (b) Operation of Commission's facilities

The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

#### (c) Operation of other facilities

Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission.

(Aug. 1, 1946, ch. 724, title I, §41, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 928; amended Pub. L. 90-190, §8, Dec. 14, 1967, 81 Stat. 577; Pub. L. 101-575, §5(c), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102-486, title IX, §902(a)(2), (8), Oct. 24, 1992, 106 Stat. 2943, 2944.)

#### CODIFICATION

In subsec. (b), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes, as amended” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486, §902(a)(2), substituted “under this division” for “pursuant to under this chapter” in cl. (2) and added cl. (3).

1990—Subsec. (a)(2). Pub. L. 101-575 substituted “under this chapter” for “section 2133 or 2134 of this title”.

1967—Subsec. (b). Pub. L. 90-190 struck out provision requiring the President to determine in writing at least once each year the quantities of special nuclear material to be produced under this section, and to specify in such determination the quantities of special nuclear material to be available for distribution by the Commission pursuant to sections 2073 and 2074 of this title.

#### REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Pub. L. 103-316, title III, Aug. 26, 1994, 108 Stat. 1715, provided in part: “That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts [see below] into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: *Provided further*, That the authority to use these amounts appropriated is effective from the date of enactment of this Act [Aug. 26, 1994]: *Provided further*, That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the provisions of Energy and Water Development Appropriations Act (Public Law 101-101) [see below]: *Provided further*, That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Acts shall be treated as direct appropriations and shall be merged with funds appropriated under this head [ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES].”

Pub. L. 102-377, title III, Oct. 2, 1992, 106 Stat. 1334, provided in part that: “Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101-101 [set out below] shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to

discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of \$5,000,000 to remain available until expended.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–104, title III, Aug. 17, 1991, 105 Stat. 528.

Pub. L. 101–514, title III, Nov. 5, 1990, 104 Stat. 2090.

Pub. L. 101–101, title III, Sept. 29, 1989, 103 Stat. 659, provided in part that: “For necessary expenses of activities related to the production, distribution, and sale of isotopes and related services, \$16,243,000, to remain available until expended: *Provided*, That this amount and, notwithstanding 31 U.S.C. 3302, revenues received from the disposition of isotopes and related services shall be credited to this account to be available for carrying out these purposes without further appropriation: *Provided further*, That all unexpended balances of previous appropriations made for the purpose of carrying out activities related to the production, distribution, and sale of isotopes and related services may be transferred to this fund and merged with other balances in the fund and be available under the same conditions and for the same period of time: *Provided further*, That fees shall be set by the Secretary of Energy in such a manner as to provide full cost recovery, including administrative expenses, depreciation of equipment, accrued leave, and probable losses: *Provided further*, That all expenses of this activity shall be paid only from funds available in this fund: *Provided further*, That at any time the Secretary of Energy determines that moneys in the fund exceed the anticipated requirements of the fund, such excess shall be transferred to the general fund of the Treasury.”

#### § 2062. Irradiation of materials

The Commission and persons lawfully producing or utilizing special nuclear material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing special nuclear material.

(Aug. 1, 1946, ch. 724, title I, § 42, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; 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 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### § 2063. Acquisition of production facilities

The Commission is authorized to purchase any interest in facilities for the production of special nuclear materials, or in real property on which such facilities are located, without regard to the provisions of section 6101 of title 41 upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to requisition, condemn, or otherwise acquire any interest in such production facilities, or to condemn or otherwise acquire such real property, and just compensation shall be made therefor.

(Aug. 1, 1946, ch. 724, title I, § 43, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### CODIFICATION

In text, “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes, as amended” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760, which was classified to section 1805 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### § 2064. Disposition of energy; regulation on sale

If energy is produced at production facilities of the Commission or is produced in experimental utilization facilities of the Commission, such energy may be used by the Commission, or transferred to other Government agencies, or sold to publicly, cooperatively, or privately owned utilities or users at reasonable and non-discriminatory prices. If the energy produced is electric energy, the price shall be subject to regulation by the appropriate agency having jurisdiction. In contracting for the disposal of such energy, the Commission shall give preference and priority to public bodies and cooperatives or to privately owned utilities providing electric utility services to high cost areas not being served by public bodies or cooperatives. Nothing in this chapter shall be construed to authorize the Commission to engage in the sale or distribution of energy for commercial use except such energy as may be produced by the Commission incident to the operation of research and development facilities of the Commission, or of production facilities of the Commission.

(Aug. 1, 1946, ch. 724, title I, § 44, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### REFERENCES IN TEXT

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

#### PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 7(d) of act Aug. 1, 1946, ch. 724, 60 Stat. 764, which was classified to section 1807(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### § 2065. Improving the reliability of domestic medical isotope supply

##### (a) Medical isotope development projects

###### (1) In general

The Secretary shall carry out a technology-neutral program—

(A) to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses;

(B) to be carried out in cooperation with non-Federal entities; and