

transfer United States civil nuclear technology to a foreign country submitted during the year preceding the submission of the report;

(B) the length of time each such application was under review;

(C) for each such application, an identification of any officer to which the authorization under such section 2077(b) of this title was delegated pursuant to section 2201(n) of this title;

(D) the number of such applications that were granted; and

(E) a description of efforts to streamline the review of such applications, taking into account the proliferation and diversion potential of end-users in the country to which United States civil nuclear technology would be transferred pursuant to such applications.

**(f) Notifications of potential diversions**

The Director of National Intelligence shall notify the Department of Energy and the appropriate congressional committees not later than 30 days after the date on which the Director determines that there is credible intelligence that United States civil nuclear technology is being or has been diverted—

(1) to a military program in a foreign country to which the transfer of the technology was authorized under section 2077(b) of this title; or

(2) to a foreign country to which the transfer of the technology was not so authorized.

**(g) Guidelines**

Not later than 60 days after November 25, 2015, the Secretary of Energy shall issue guidance with respect to the use of the clear and intended authority of the Secretary under section 2282 of this title to impose civil penalties, including fines and debarment, and to make referrals to the Attorney General for prosecution, for violations of the terms of authorizations for the transfer of United States civil nuclear technology issued under section 2077(b) of this title.

**(h) Report on transfer of sensitive items**

**(1) In general**

Not later than 180 days after November 25, 2015, and annually thereafter, the President shall submit to the appropriate congressional committees a report—

(A) describing the efforts of covered foreign countries to prevent the transfer of sensitive items, including efforts to improve the prevention of the transfer of such items; and

(B) assessing the adequacy of such efforts.

**(2) Sensitive items defined**

In this subsection, the term “sensitive items” means goods, services, and technologies described in section 2(a) of the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106-178; 50 U.S.C. 1701 note).

**(i) Definitions**

In this section:

**(1) Appropriate congressional committees**

The term “appropriate congressional committees” means—

(A) the congressional defense committees; (B) the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(C) the Committee on Energy and Commerce, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

**(2) Covered foreign country**

The term “covered foreign country” means a foreign country that is a nuclear-weapon state, as defined by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow July 1, 1968, but does not include the United States, the United Kingdom, or France.

(Pub. L. 114-92, div. C, title XXXI, §3136, Nov. 25, 2015, 129 Stat. 1209; Pub. L. 115-232, div. C, title XXXI, §3116(c), Aug. 13, 2018, 132 Stat. 2291.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2016, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2018—Subsec. (e)(2)(C) to (E). Pub. L. 115-232 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 114-92, 129 Stat. 745. See note under section 101 of Title 10, Armed Forces.

DELEGATION OF AUTHORITY PURSUANT TO SECTION 3136(h) OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Memorandum of President of the United States, May 10, 2016, 81 F.R. 31161, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate functions and authorities vested in the President by section 3136(h) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) (the “Act”) to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

**§ 2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges**

Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 2076 of this title, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 2073 of this title, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Energy

Committees and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Energy Committees, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 1, 1946, ch. 724, title I, § 58, as added Pub. L. 85-79, § 2, July 3, 1957, 71 Stat. 275; amended Pub. L. 88-489, § 13, Aug. 26, 1964, 78 Stat. 605; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103-437, § 15(f)(4), Nov. 2, 1994, 108 Stat. 4592.)

#### AMENDMENTS

1994—Pub. L. 103-437 substituted “Energy Committees” for “Joint Committee” in two places.

1964—Pub. L. 88-489 substituted “guaranteed purchase” and “purchase” for “fair” wherever appearing, “licensed and distributed” for “licensed or distributed”, and provided that the Joint Committee resolution waiving the conditions of the forty-five-day period must be in writing.

### SUBCHAPTER VI—SOURCE MATERIAL

#### § 2091. Determination of source material

The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission’s determination, together with the assent of the President, shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Energy Committees, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, § 61, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932; 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)(4), Nov. 2, 1994, 108 Stat. 4592.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1994—Pub. L. 103-437 substituted “Energy Committees” for “Joint Committee” in two places.

#### § 2092. License requirements for transfers

Unless authorized by a general or specific license issued by the Commission which the Commission is authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

(Aug. 1, 1946, ch. 724, title I, § 62, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### § 2093. Domestic distribution of source material

##### (a) License

The Commission is authorized to issue licenses for and to distribute source material within the United States to qualified applicants requesting such material—

- (1) for the conduct of research and development activities of the types specified in section 2051 of this title;
- (2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;
- (3) for use under a license issued pursuant to section 2133 of this title; or
- (4) for any other use approved by the Commission as an aid to science or industry.

##### (b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of source material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

- (1) the physical characteristics of the source material to be distributed;
- (2) the quantities of source material to be distributed; and
- (3) the intended use of the source material to be distributed.

##### (c) Determination of charges

The Commission may make a reasonable charge determined pursuant to section 2201(m) of this title for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) and shall make a reasonable charge determined pursuant to section 2201(m) of this title, for the source material licensed and distributed under subsection (a)(3). The Commission shall establish criteria in writing for the determination of whether a charge will be made for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4), considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the