

the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) of this section in such fiscal year.”

1999—Subsec. (a)(3). Pub. L. 106-60 substituted “September 30, 2000” for “September 30, 1999”.

1998—Subsec. (a)(3). Pub. L. 105-245 substituted “September 30, 1999” for “September 30, 1998”.

1993—Subsec. (a)(3). Pub. L. 103-66 substituted “September 30, 1998” for “September 30, 1995”.

1992—Subsec. (c)(1). Pub. L. 102-486, §2903(a)(1), substituted “Except as provided in paragraph (4), any licensee” for “Any licensee”.

Subsec. (c)(4). Pub. L. 102-486, §2903(a)(2), added par. (4).

EFFECTIVE DATE OF REPEAL

Pub. L. 115-439, title I, §101(b), Jan. 14, 2019, 132 Stat. 5568, provided that: “Effective October 1, 2020, section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is repealed.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-58, title VI, §637(c), Aug. 8, 2005, 119 Stat. 791, provided that: “The amendments made by this section [amending this section and repealing section 2213 of this title] take effect on October 1, 2006.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XXIX, §2903(b), Oct. 24, 1992, 106 Stat. 3125, provided that: “The amendments made [by] subsection (a) [amending this section] shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [42 U.S.C. 2214(c)] for fiscal year 1992 or any succeeding fiscal year.”

POLICY REVIEW

Pub. L. 102-486, title XXIX, §2903(c), Oct. 24, 1992, 106 Stat. 3125, provided that: “The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [42 U.S.C. 2214(c)], solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.”

§ 2215. Nuclear Regulatory Commission user fees and annual charges for fiscal year 2021 and each fiscal year thereafter

(a) Annual budget justification

(1) In general

In the annual budget justification submitted by the Commission to Congress, the Commission shall expressly identify anticipated expenditures necessary for completion of the requested activities of the Commission anticipated to occur during the applicable fiscal year.

(2) Restriction

Budget authority granted to the Commission for purposes of the requested activities of the Commission shall be used, to the maximum extent practicable, solely for conducting requested activities of the Commission.

(3) Limitation on corporate support costs

With respect to the annual budget justification submitted to Congress, corporate support

costs, to the maximum extent practicable, shall not exceed the following percentages of the total budget authority of the Commission requested in the annual budget justification:

(A) 30 percent for each of fiscal years 2021 and 2022.

(B) 29 percent for each of fiscal years 2023 and 2024.

(C) 28 percent for fiscal year 2025 and each fiscal year thereafter.

(b) Fees and charges

(1) Annual assessment

(A) In general

Each fiscal year, the Commission shall assess and collect fees and charges in accordance with paragraphs (2) and (3) in a manner that ensures that, to the maximum extent practicable, the amount assessed and collected is equal to an amount that approximates—

(i) the total budget authority of the Commission for that fiscal year; less

(ii) the budget authority of the Commission for the activities described in subparagraph (B).

(B) Excluded activities described

The activities referred to in subparagraph (A)(ii) are the following:

(i) Any fee relief activity, as identified by the Commission.

(ii) Amounts appropriated for a fiscal year to the Commission—

(I) from the Nuclear Waste Fund established under section 10222(c) of this title;

(II) for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2601 note;¹ Public Law 108-375);

(III) for the homeland security activities of the Commission (other than for the costs of fingerprinting and background checks required under section 2169 of this title and the costs of conducting security inspections);

(IV) for the Inspector General services of the Commission provided to the Defense Nuclear Facilities Safety Board;

(V) for research and development at universities in areas relevant to the mission of the Commission; and

(VI) for a nuclear science and engineering grant program that will support multiyear projects that do not align with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

(iii) Costs for activities related to the development of regulatory infrastructure for advanced nuclear reactor technologies, including activities required under section 103.¹

(C) Exception

The exclusion described in subparagraph (B)(iii) shall cease to be effective on January 1, 2031.

¹ See References in Text below.

(D) Report

Not later than December 31, 2029, the Commission shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report describing the views of the Commission on the continued appropriateness and necessity of the funding described in subparagraph (B)(iii).

(2) Fees for service or thing of value

In accordance with section 9701 of title 31, the Commission shall assess and collect fees from any person who receives a service or thing of value from the Commission to cover the costs to the Commission of providing the service or thing of value.

(3) Annual charges**(A) In general**

Subject to subparagraph (B) and except as provided in subparagraph (D), the Commission may charge to any licensee or certificate holder of the Commission an annual charge in addition to the fees assessed and collected under paragraph (2).

(B) Cap on annual charges of certain licensees**(i) Operating reactors**

The annual charge under subparagraph (A) charged to an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the final rule of the Commission entitled “Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015” (80 Fed. Reg. 37432 (June 30, 2015)), as may be adjusted annually by the Commission to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(ii) Waiver

The Commission may waive, for a period of 1 year, the cap on annual charges described in clause (i) if the Commission submits to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a written determination that the cap on annual charges may compromise the safety and security mission of the Commission.

(C) Amount per licensee**(i) In general**

The Commission shall establish by rule a schedule of annual charges fairly and equitably allocating the aggregate amount of charges described in subparagraph (A) among licensees and certificate holders.

(ii) Requirement

The schedule of annual charges under clause (i)—

- (I) to the maximum extent practicable, shall be reasonably related to the cost of providing regulatory services; and

(II) may be based on the allocation of the resources of the Commission among licensees or certificate holders or classes of licensees or certificate holders.

(D) Exemption**(i) Definition of research reactor**

In this subparagraph, the term “research reactor” means a nuclear reactor that—

(I) is licensed by the Commission under section 2134(c) of this title for operation at a thermal power level of not more than 10 megawatts; and

(II) if licensed under subclause (I) for operation at a thermal power level of more than 1 megawatt, does not contain—

(aa) a circulating loop through the core in which the licensee conducts fuel experiments;

(bb) a liquid fuel loading; or

(cc) an experimental facility in the core in excess of 16 square inches in cross-section.

(ii) Exemption

Subparagraph (A) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

(c) Performance and reporting**(1) In general**

Not later than 180 days after January 14, 2019, the Commission shall develop for the requested activities of the Commission—

- (A) performance metrics; and
- (B) milestone schedules.

(2) Delays in issuance of final safety evaluation

The Executive Director for Operations of the Commission shall inform the Commission of a delay in issuance of the final safety evaluation for a requested activity of the Commission by the completion date required by the performance metrics or milestone schedule under paragraph (1) by not later than 30 days after the completion date.

(3) Delays in issuance of final safety evaluation exceeding 180 days

If the final safety evaluation for the requested activity of the Commission described in paragraph (2) is not completed by the date that is 180 days after the completion date required by the performance metrics or milestone schedule under paragraph (1), the Commission shall submit to the appropriate congressional committees a timely report describing the delay, including a detailed explanation accounting for the delay and a plan for timely completion of the final safety evaluation.

(d) Accurate invoicing

With respect to invoices for fees described in subsection (b)(2), the Commission shall—

- (1) ensure appropriate review and approval prior to the issuance of invoices;
- (2) develop and implement processes to audit invoices to ensure accuracy, transparency, and fairness; and

(3) modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices for those fees.

(e) Report

Not later than September 30, 2021, the Commission shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report describing the implementation of this section, including any impacts and recommendations for improvement.

(f) Effective date

Except as provided in subsection (c), this section takes effect on October 1, 2020.

(Pub. L. 115-439, title I, § 102, Jan. 14, 2019, 132 Stat. 5568.)

REFERENCES IN TEXT

Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, referred to in subsec. (b)(1)(B)(ii)(II), is section 3116 of Pub. L. 108-375, which is set out as a note under section 2602 of Title 50, War and National Defense.

Section 103, referred to in subsec. (b)(1)(B)(iii), is section 103 of Pub. L. 115-439, title I, Jan. 14, 2019, 132 Stat. 5571. Subsec. (a) of section 103 of Pub. L. 115-439 enacted provisions set out as a note under section 2133 of this title. Subsecs. (b) to (e) of section 103 of Pub. L. 115-439 are not classified to the Code.

CODIFICATION

Section was enacted as part of the Nuclear Energy Innovation and Modernization Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PURPOSE

Pub. L. 115-439, § 2, Jan. 14, 2019, 132 Stat. 5565, provided that: “The purpose of this Act [see Short Title of 2019 Amendment note set out under section 2011 of this title] is to provide—

“(1) a program to develop the expertise and regulatory processes necessary to allow innovation and the commercialization of advanced nuclear reactors;

“(2) a revised fee recovery structure to ensure the availability of resources to meet industry needs without burdening existing licensees unfairly for inaccurate workload projections or premature existing reactor closures; and

“(3) more efficient regulation of uranium recovery.”

[For definition of “advanced nuclear reactors” as used in section 2 of Pub. L. 115-439, set out above, see section 3 of Pub. L. 115-439, set out below.]

DEFINITIONS

Pub. L. 115-439, § 3, Jan. 14, 2019, 132 Stat. 5565, provided that: “In this Act [see Short Title of 2019 Amendment note set out under section 2011 of this title]:

“(1) **ADVANCED NUCLEAR REACTOR.**—The term ‘advanced nuclear reactor’ means a nuclear fission or fusion reactor, including a prototype plant (as defined in sections 50.2 and 52.1 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act [Jan. 14, 2019])), with significant improvements compared to commercial nuclear reactors under construction as of the date of enactment of this Act, including improvements such as—

“(A) additional inherent safety features;

“(B) significantly lower levelized cost of electricity;

“(C) lower waste yields;

“(D) greater fuel utilization;

“(E) enhanced reliability;

“(F) increased proliferation resistance;

“(G) increased thermal efficiency; or

“(H) ability to integrate into electric and non-electric applications.

“(2) **ADVANCED NUCLEAR REACTOR FUEL.**—The term ‘advanced nuclear reactor fuel’ means fuel for use in an advanced nuclear reactor or a research and test reactor, including fuel with a low uranium enrichment level of not greater than 20 percent.

“(3) **AGREEMENT STATE.**—The term ‘Agreement State’ means any State with which the Commission has entered into an effective agreement under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)).

“(4) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term ‘appropriate congressional committees’ means the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives.

“(5) **COMMISSION.**—The term ‘Commission’ means the Nuclear Regulatory Commission.

“(6) **CONCEPTUAL DESIGN ASSESSMENT.**—The term ‘conceptual design assessment’ means an early-stage review by the Commission that—

“(A) assesses preliminary design information for consistency with applicable regulatory requirements of the Commission;

“(B) is performed on a set of topic areas agreed to in the licensing project plan; and

“(C) is performed at a cost and schedule agreed to in the licensing project plan.

“(7) **CORPORATE SUPPORT COSTS.**—The term ‘corporate support costs’ means expenditures for acquisitions, administrative services, financial management, human resource management, information management, information technology, policy support, outreach, and training, as those categories are described and calculated in Appendix A of the Congressional Budget Justification for Fiscal Year 2018 of the Commission.

“(8) **LICENSING PROJECT PLAN.**—The term ‘licensing project plan’ means a plan that describes—

“(A) the interactions between an applicant and the Commission; and

“(B) project schedules and deliverables in specific detail to support long-range resource planning undertaken by the Commission and an applicant.

“(9) **REGULATORY FRAMEWORK.**—The term ‘regulatory framework’ means the framework for reviewing requests for certifications, permits, approvals, and licenses for nuclear reactors.

“(10) **REQUESTED ACTIVITY OF THE COMMISSION.**—The term ‘requested activity of the Commission’ means—

“(A) the processing of applications for—

“(i) design certifications or approvals;

“(ii) licenses;

“(iii) permits;

“(iv) license amendments;

“(v) license renewals;

“(vi) certificates of compliance; and

“(vii) power uprates; and

“(B) any other activity requested by a licensee or applicant.

“(11) **RESEARCH AND TEST REACTOR.**—

“(A) **IN GENERAL.**—The term ‘research and test reactor’ means a reactor that—

“(i) falls within the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842); and

“(ii) is useful in the conduct of research and development activities as licensed under section 104 c. of the Atomic Energy Act [of 1954] (42 U.S.C. 2134(c)).

“(B) **EXCLUSION.**—The term ‘research and test reactor’ does not include a commercial nuclear reactor.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(13) STANDARD DESIGN APPROVAL.—The term ‘standard design approval’ means the approval of a final standard design or a major portion of a final design standard as described in subpart E of part 52 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).

“(14) TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK.—The term ‘technology-inclusive regulatory framework’ means a regulatory framework developed using methods of evaluation that are flexible and practicable for application to a variety of reactor technologies, including, where appropriate, the use of risk-informed and performance-based techniques and other tools and methods.

“(15) TOPICAL REPORT.—The term ‘topical report’ means a document submitted to the Commission that addresses a technical topic related to nuclear reactor safety or design.”

SUBCHAPTER XIV—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

§ 2221. Just compensation for requisitioned property

The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 2063, 2075, 2096, and 2138 of this title. Except in case of real property or any interest therein, the Commission shall determine and pay such just compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the United States Court of Federal Claims or in any district court of the United States for the district in which such claimant is a resident in the manner provided by section 1346 of title 28 to recover such further sum as added to said 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, title I, §171, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 952; amended Pub. L. 88-489, §17, Aug. 26, 1964, 78 Stat. 606; Pub. L. 97-164, title I, §160(a)(16), Apr. 2, 1982, 96 Stat. 48; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

1964—Pub. L. 88-489 substituted “2075” for “2072 (with respect to the material for which the United States is required to pay just compensation).”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under

section 171 of Title 28, Judiciary and Judicial Procedure.

RETROCESSION OF LAND TO NEW MEXICO

Act Aug. 30, 1954, ch. 1073, §3, 68 Stat. 961, provided that:

“There is hereby retroceded to the State of New Mexico the exclusive jurisdiction heretofore acquired from the State of New Mexico by the United States of America over the following land of the United States Atomic Energy Commission in Bernalillo County and within the boundaries of the Sandia base, Albuquerque, New Mexico.

“Beginning at the center quarter corner of section 30, township 10 north, range 4 east, New Mexico principal meridian, Bernalillo County, New Mexico, thence south no degrees twenty-three minutes thirty seconds west one thousand nine hundred forty-seven and twenty one-hundredths feet, thence north eighty-nine degrees thirty-six minutes forty-five seconds east two thousand sixty-eight and forty one-hundredths feet, thence north eighty-nine degrees three minutes fifteen seconds east five hundred forty-six feet, thence north no degrees thirty-nine minutes no seconds east two hundred thirty-two and seventy one-hundredths feet, thence north eighty-nine degrees twenty-one minutes no seconds west eight hundred fifty-two and twenty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east five hundred and sixty one-hundredths feet, thence along the back of the south curb of West Sandia Drive, Sandia Base, Bernalillo County, New Mexico, eight hundred sixty-five and sixty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east one thousand three hundred thirty-five and three-tenths feet to a point south eighty-nine degrees twenty-seven minutes forty-five seconds west a distance of thirty feet from the quarter corner common to sections 30 and 29, township 10 north, range 4 east, thence south eighty-nine degrees, twenty-seven minutes forty-five seconds west two thousand six hundred twenty-three and forty one-hundredths feet to the point of beginning.

“This retrocession of jurisdiction shall take effect upon acceptance by the State of New Mexico.”

§ 2222. Condemnation of real property

Proceedings for condemnation shall be instituted pursuant to the provisions of section 3113 of title 40, and section 1403 of title 28. Sections 3114 to 3116 and 3118 of title 40 shall be applicable to any such proceedings.

(Aug. 1, 1946, ch. 724, title I, §172, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

CODIFICATION

In text, “section 3113 of title 40” substituted for “the Act approved August 1, 1888, as amended,” and “Sections 3114 to 3116 and 3118 of title 40” substituted for “The Act approved February 26, 1931, as amended,” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2223. Patent application disclosures

In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid