

subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this subtitle, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

(6) Exchange of uranium for services

The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for—

(A) services related to the final disposition of the spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); or

(B) any other services associated with carrying out the uranium lease and take-back program authorized by this subsection.

(d) Coordination of environmental reviews

The Department and the Nuclear Regulatory Commission shall ensure to the maximum extent practicable that environmental reviews for the production of the medical isotopes shall complement and not duplicate each review.

(e) Operational date

The Secretary shall establish a program as described in subsection (c)(3) not later than 3 years after January 2, 2013.

(f) Radioactive waste

Notwithstanding section 10101 of this title, radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there is no further use shall be considered low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

(Pub. L. 112-239, div. C, title XXXI, §3173, Jan. 2, 2013, 126 Stat. 2211.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (c)(5), is subtitle F (§§3171-3178) of title XXXI of div. C of Pub. L. 112-239. For complete classification of this subtitle to the Code, see Short Title of 2013 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the American Medical Isotopes Production Act of 2012 and also as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

DEFINITIONS

Pub. L. 112-239, div. C, title XXXI, §3172, Jan. 2, 2013, 126 Stat. 2211, provided that: "In this subtitle [subtitle F (§§3171-3178), see Short Title of 2013 Amendment note set out under section 2011 of this title and Tables]:

"(1) DEPARTMENT.—The term 'Department' means the Department of Energy.

"(2) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' means uranium enriched to 20 percent or greater in the isotope U-235.

"(3) LOW ENRICHED URANIUM.—The term 'low enriched uranium' means uranium enriched to less than 20 percent in the isotope U-235.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Energy."

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

§ 2071. Determination of other material as special nuclear material; Presidential assent; effective date

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear 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 for 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, §51, 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; amended Pub. L. 103-437, §15(f)(2), Nov. 2, 1994, 108 Stat. 4592.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(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.

§ 2072. Repealed. Pub. L. 88-489, § 4, Aug. 26, 1964, 78 Stat. 603

Section, act Aug. 1, 1946, ch. 724, §52, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929, related to Government ownership of all special nuclear material and provided for compensation of private owners of such material.

EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

Pub. L. 88-489, § 4, Aug. 26, 1964, 78 Stat. 603, provided in part that: "All rights, title, and interest in and to any special nuclear material vested in the United States solely by virtue of the provisions of the first sentence of such section 52 [this section], and not by any other transaction authorized by the Atomic Energy Act of 1954, as amended [this chapter], or other applicable law, are hereby extinguished."

§ 2073. Domestic distribution of special nuclear material

(a) Licenses

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own,

receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear 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;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this chapter.

(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 special nuclear 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 special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c) Manner of distribution; charges for material sold; agreements; charges for material leased

(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, or grant: *Provided, however,* That unless otherwise authorized by law, the Commission shall not after December 31, 1970, distribute special nuclear material except by sale to any person who possesses or operates a utilization facility under a license issued pursuant to section 2133 or 2134(b) of this title for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

(2) The Commission shall establish reasonable sales prices for the special nuclear material licensed and distributed by sale under this section. Such sales prices shall be established on a nondiscriminatory basis which, in the opinion of the Commission, will provide reasonable compensation to the Government for such special nuclear material.

(3) The Commission is authorized to enter into agreements with licensees for such period of time as the Commission may deem necessary or desirable to distribute to such licensees such quantities of special nuclear material as may be necessary for the conduct of the licensed activity. In such agreements, the Commission may agree to repurchase any special nuclear material licensed and distributed by sale which is not consumed in the course of the licensed activity, or any uranium remaining after irradiation of such special nuclear material, at a repurchase

price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission.

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed and distributed by lease under subsection (a)(3). The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4), considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the special nuclear material will be used.

(d) Determination of charges

In determining the reasonable charge to be made by the Commission for the use of special nuclear material distributed by lease to licensees of utilization or production facilities licensed pursuant to section 2133 or 2134 of this title, in addition to consideration of the cost thereof, the Commission shall take into consideration—

(1) the use to be made of the special nuclear material;

(2) the extent to which the use of the special nuclear material will advance the development of the peaceful uses of atomic energy;

(3) the energy value of the special nuclear material in the particular use for which the license is issued;

(4) whether the special nuclear material is to be used in facilities licensed pursuant to section 2133 or 2134 of this title. In this respect, the Commission shall, insofar as practicable, make uniform, nondiscriminatory charges for the use of special nuclear material distributed to facilities licensed pursuant to section 2133 of this title; and

(5) with respect to special nuclear material consumed in a facility licensed pursuant to section 2133 of this title, the Commission shall make a further charge equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2), and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title.

(e) License conditions

Each license issued pursuant to this section shall contain and be subject to the following conditions—

(1) Repealed. Pub. L. 88-489, § 8, Aug. 26, 1964, 78 Stat. 604.

(2) no right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter;

(4) all special nuclear material shall be subject to the right of recapture or control reserved by section 2138 of this title and to all other provisions of this chapter;

(5) no special nuclear material may be used in any utilization or production facility except in accordance with the provisions of this chapter;

(6) special nuclear material shall be distributed only on terms, as may be established by rule of the Commission, such that no user will be permitted to construct an atomic weapon;

(7) special nuclear material shall be distributed only pursuant to such safety standards as may be established by rule of the Commission to protect health and to minimize danger to life or property; and

(8) except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply, the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

(f) Distribution for independent research and development activities

The Commission is directed to distribute within the United States sufficient special nuclear material to permit the conduct of widespread independent research and development activities to the maximum extent practicable. In the event that applications for special nuclear material exceed the amount available for distribution, preference shall be given to those activities which are most likely, in the opinion of the Commission, to contribute to basic research, to the development of peacetime uses of atomic energy, or to the economic and military strength of the Nation.

(Aug. 1, 1946, ch. 724, title I, § 53, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 930; amended Pub. L. 85-256, § 2, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85-681, §§ 1, 2, Aug. 19, 1958, 72 Stat. 632; Pub. L. 88-489, §§ 5-8, Aug. 26, 1964, 78 Stat. 603, 604; Pub. L. 90-190, §§ 9, 10, Dec. 14, 1967, 81 Stat. 577; renumbered title I and amended Pub. L. 102-486, title IX, § 902(a)(3), (8), Oct. 24, 1992, 106 Stat. 2944.)

REFERENCES IN TEXT

This chapter, referred to in subssecs. (a)(4) and (e)(3) to (5), 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 this section were contained in section 1805(a)(4) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Subsec. (c)(1). Pub. L. 102-486, § 902(a)(3), substituted "or grant" for "grant," and struck out "or through the provision of production or enrichment services" before "": *Provided, however*" and before "to any person".

1967—Subsec. (c)(1). Pub. L. 90-190, § 10, inserted "or through the provision of production or enrichment services" wherever appearing.

Subsec. (f). Pub. L. 90-190, § 9, struck out reference to the limitations on the distribution of special nuclear materials set by the President in determinations made pursuant to section 2061 of this title.

1964—Subsec. (a). Pub. L. 88-489, § 5, substituted "(i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii)" for "to issue licenses for the possession of, to make available for the period of the license, and".

Subsec. (c). Pub. L. 88-489, § 6, designated existing provisions as par. (4), inserted "by lease" wherever appearing and "special nuclear material will be distributed by grant and for the determination of whether", and added pars. (1) to (3).

Subsec. (d). Pub. L. 88-489, § 7, inserted "by lease" in introductory provisions, and in ch. (5) substituted "equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2), and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title" for "based on the cost to the Commission, as estimated by the Commission, or the average fair price paid for the production of such special nuclear material as determined by section 2076 of this title, whichever is lower".

Subsec. (e)(1). Pub. L. 88-489, § 8, struck out par. (1) which provided that title to all special nuclear material shall at all times be in the United States.

1958—Subsec. (a)(4). Pub. L. 85-681, § 1, added par. (4).

Subsec. (c). Pub. L. 85-681, § 2, substituted "subsections (a)(1), (2) or (4)" for "subsection (a)(1) or (a)(2)".

1957—Subsec. (e)(8). Pub. L. 85-256 inserted "except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply,".

§ 2074. Foreign distribution of special nuclear material

(a) Compensation; distribution to International Atomic Energy Agency; procedure for distribution; repurchase of unconserved materials; price; purchase of materials produced outside United States; price

The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value \$10,000 in the case of one nation or \$50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however*, That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the