

(d) Excessive imports; investigation by United States International Trade Commission

The Secretary or¹ Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 2251² of title 19.

(e) Excessive imports for contracts or options as threatening national security; investigation by Secretary of Commerce; recommendation for further investigation

(1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 1862 of title 19 an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

(Aug. 1, 1946, ch. 724, title I, § 170B, as added Pub. L. 97-415, § 23(b)(1), Jan. 4, 1983, 96 Stat. 2081; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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

² See References in Text note below.

REFERENCES IN TEXT

Section 2251 of title 19, referred to in subsec. (d), was amended generally by Pub. L. 100-418, title I, § 1401(a), Aug. 23, 1988, 102 Stat. 1225, and as so amended does not relate to investigations. See section 2252 of Title 19, Customs Duties.

REVIEW OF STATUS OF DOMESTIC URANIUM MINING AND MILLING INDUSTRY; AVAILABILITY TO CONGRESSIONAL COMMITTEES; SCOPE OF REVIEW

Pub. L. 97-415, § 23(a), Jan. 4, 1983, 96 Stat. 2080, directed the President to prepare and submit to Congress a comprehensive review of the status of the domestic uranium mining and milling industry by no later than 12 months after Jan. 4, 1983.

§ 2210c. Elimination of pension offset for certain rehired Federal retirees

(a) In general

The Commission may waive the application of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant—

(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(2) when a temporary emergency hiring need exists.

(b) Procedures

The Commission shall prescribe procedures for the exercise of authority under this section, including—

(1) criteria for any exercise of authority; and

(2) procedures for a delegation of authority.

(c) Effect of waiver

An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5.

(Aug. 1, 1946, ch. 724, title I, § 170C, as added Pub. L. 109-58, title VI, § 624(a), Aug. 8, 2005, 119 Stat. 783.)

§ 2210d. Security evaluations

(a) Security response evaluations

Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

(b) Force-on-force exercises

(1) The security evaluations shall include force-on-force exercises.

(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

(c) Action by licensees

The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

(d) Facilities under heightened threat levels

The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

(e) Report

Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

(Aug. 1, 1946, ch. 724, title I, §170D, as added Pub. L. 109-58, title VI, §651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

§ 2210e. Design basis threat rulemaking**(a) Rulemaking**

The Commission shall—

(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

(b) Factors

When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

- (1) the events of September 11, 2001;
- (2) an assessment of physical, cyber, biochemical, and other terrorist threats;
- (3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;
- (4) the potential for assistance in an attack from several persons employed at the facility;
- (5) the potential for suicide attacks;
- (6) the potential for water-based and air-based threats;
- (7) the potential use of explosive devices of considerable size and other modern weaponry;
- (8) the potential for attacks by persons with a sophisticated knowledge of facility operations;
- (9) the potential for fires, especially fires of long duration;
- (10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;
- (11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and
- (12) the potential for theft and diversion of nuclear materials from such facilities.

(Aug. 1, 1946, ch. 724, title I, §170E, as added Pub. L. 109-58, title VI, §651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 109-58, which was approved August 8, 2005.

§ 2210f. Recruitment tools

The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.

(Aug. 1, 1946, ch. 724, title I, §170F, as added Pub. L. 109-58, title VI, §651(c)(2), Aug. 8, 2005, 119 Stat. 801.)

§ 2210g. Expenses authorized to be paid by the Commission

The Commission may—

(1) pay transportation, lodging, and subsistence expenses of employees who—

(A) assist scientific, professional, administrative, or technical employees of the Commission; and

(B) are students in good standing at an institution of higher education (as defined in section 1002 of title 20) pursuing courses related to the field in which the students are employed by the Commission; and

(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.

(Aug. 1, 1946, ch. 724, title I, §170G, as added Pub. L. 109-58, title VI, §651(c)(3), Aug. 8, 2005, 119 Stat. 801.)

§ 2210h. Radiation source protection**(a) Definitions**

In this section:

(1) Code of conduct

The term “Code of Conduct” means the code entitled the “Code of Conduct on the Safety and Security of Radioactive Sources”, approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

(2) Radiation source

The term “radiation source” means—

(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

(b) Commission approval

Not later than 180 days after August 8, 2005, the Commission shall issue regulations prohibiting a person from—

(1) exporting a radiation source, unless the Commission has specifically determined under section 2077 or 2112 of this title, consistent with the Code of Conduct, with respect to the exportation, that—

(A) the recipient of the radiation source may receive and possess the radiation source