

contractor elects to do so, subject to the rights set forth in paragraphs (2), (3), (6), and (7) of subsection (h): *Provided*, That when specifically requested by the Department and three years after issuance of such a patent, the contractor shall submit the report specified in subsection (h)(1) of this section.

**(g) to (i) Repealed. Pub. L. 96-517, § 7(c), Dec. 12, 1980, 94 Stat. 3027**

**(j) Small business status of applicant for waiver or licenses**

The Secretary shall, in granting waivers or licenses, consider the small business status of the applicant.

**(k) Protection of invention, etc., rights by Secretary**

The Secretary is authorized to take all suitable and necessary steps to protect any invention or discovery to which the United States holds title, and to require that contractors or persons who acquire rights to inventions under this section protect such inventions.

**(l) Department as defense agency of United States for purpose of maintaining secrecy of inventions**

The Department shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.

**(m) Definitions**

As used in this section—

(1) the term “person” means any individual, partnership, corporation, association, institution, or other entity;

(2) the term “contract” means any contract, grant, agreement, understanding, or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(3) the term “made”, when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(4) the term “invention” means inventions or discoveries, whether patented or unpatented; and

(5) the term “contractor” means any person having a contract with or on behalf of the Department.

**(n) Report concerning applicability of existing patent policies to energy programs; time for submission to President and appropriate congressional committees**

Within twelve months after December 31, 1974, the Secretary with the participation of the Attorney General, the Secretary of Commerce, and other officials as the President may designate, shall submit to the President and the appropriate congressional committees a report concerning the applicability of existing patent policies affecting the programs under this chapter, along with his recommendations for amendments or additions to the statutory patent policy, including his recommendations on mandatory licensing, which he deems advisable for carrying out the purposes of this chapter.

(Pub. L. 93-577, § 9, Dec. 31, 1974, 88 Stat. 1887; Pub. L. 96-517, § 7(c), Dec. 12, 1980, 94 Stat. 3027; Pub. L. 109-58, title X, § 1009(b)(7), Aug. 8, 2005, 119 Stat. 935.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

#### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory and concluding provisions.

Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in introductory provisions.

Subsec. (b). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in two places.

Subsec. (c). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” wherever appearing in introductory provisions.

Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in two places in introductory provisions.

Subsec. (c)(3). Pub. L. 109-58, § 1009(b)(7)(C), substituted “Department’s” for “Administration’s”.

Subsec. (d). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory provisions and par. (11).

Subsec. (e). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory provisions.

Subsec. (f)(2). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsecs. (j), (k). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator”.

Subsec. (l). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsec. (m)(5). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsec. (n). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary with” for “Administrator with”.

1980—Subsec. (g). Pub. L. 96-517 struck out subsec. (g) which related to licenses for inventions, promulgation of regulations specifying terms and conditions, criteria and procedures for grant of exclusive or partially exclusive licenses, and record of determinations.

Subsec. (h). Pub. L. 96-517 struck out subsec. (h) which related to required terms and conditions in waiver of rights or grant of exclusive or partially exclusive license.

Subsec. (i). Pub. L. 96-517 struck out subsec. (i) which related to publication in the Federal Register by the Administrator of waiver or license termination hearing requirements and availability of records.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-517 effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96-517, set out as a note under section 41 of Title 35, Patents.

#### § 5909. Relationship to antitrust laws

(a) Nothing in this chapter shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term “antitrust law” means—

(1) the Act entitled “An Act to protect trade and commerce against unlawful restraints and

monopolies”, approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub. L. 93-577, §10, Dec. 31, 1974, 88 Stat. 1891.)

#### REFERENCES IN TEXT

Act of July 2, 1890, referred to in subsec. (b)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, referred to in subsec. (b)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended, referred to in subsec. (b)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in subsec. (b)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

#### § 5910. Repealed. Pub. L. 104-66, title II, § 2021(i), Dec. 21, 1995, 109 Stat. 727

Section, Pub. L. 93-577, §11, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; 1977 Reorg. Plan No. 1, §5E, 42 F.R. 56101, 91 Stat. 1634, related to environmental evaluations by Administrator of Environmental Protection Agency.

#### § 5911. Acquisition of essential materials

(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he finds that—

(1) such supplies are scarce, critical, and essential to carry out the purposes of this chapter; and

(2) such supplies cannot reasonably be obtained without exercising the authority granted by this section.

(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5.

(Pub. L. 93-577, §12, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 109-58, title X, §1009(b)(8), Aug. 8, 2005, 119 Stat. 935.)

#### AMENDMENTS

2005—Subsec. (b). Pub. L. 109-58 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The President shall transmit any rule or order proposed under subsection (a) of this section (bearing an identification number) to each House of Congress on the date on which it is proposed. If such proposed rule or order is transmitted to the Congress such proposed rule or order shall take effect at the end of the first period of thirty calendar days of continuous session of Congress after the date on which such proposed rule or order is transmitted to it unless, between the date of transmittal and the end of the thirty day period, either House passes a resolution stating in substance that such House does not favor such a proposed rule or order.”

#### § 5912. Water resource assessments

##### (a) Assessments by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements

The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter, and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, State water laws, and water rights granted pursuant to State and Federal law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process; and

(7) consult with the Council on Environmental Quality.

##### (b) Request by Secretary that Water Resources Council prepare assessment of availability of adequate water resources for proposed demonstration projects; report; publication

For any proposed demonstration project which may involve a significant impact on water resources, the Secretary shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for