ADDENDUM TO RESPONDENTS’ BRIEF

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and enacting provisions set out as notes under sections 2013 and 2210 of this title may be cited as the 'Price-Anderson Amendments Act of 1988.'

SHORT TITLE OF 1994 AMENDMENT
Pub. L. 103-322, §1, Aug. 26, 1994, 78 Stat. 607, provided that: 'This Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2223, and 2234 of this title and repealing section 2072 of this title, and enacting provisions set out as notes under sections 2012 and 2072 of this title] may be cited as the 'Private Ownership of Special Nuclear Materials Act.'"

SHORT TITLE OF 1958 AMENDMENT
Pub. L. 85-446, §1, Aug. 26, 1958, 72 Stat. 1084, provided: "That this Act [enacting this chapter and amending sections 1031(d) and 1032 of former Title 5, Ex-Servicemen's Readjustment Act of 1944] may be cited as the 'EURATOM Cooperation Act of 1958.'"

SHORT TITLE
Section 291 of title I of act Aug. 1, 1946, as added by act Aug. 30, 1954, §1; renumbered title I, Oct. 24, 1992, Pub. L. 102-486, title IX, §902(a)(8), 106 Stat. 2944, provided that: "This Act [enacting this chapter and amending sections 1031(d) and 1032 of former Title 5, Executive Departments and Government Officers and Employees, and enacting provision set out as a note under section 2221 of this title] may be cited as the 'Atomic Energy Act of 1954.'"

SEPARABILITY
Section 291 of title I of act Aug. 1, 1946, as added by act Aug. 30, 1954, §1; renumbered title I, Oct. 24, 1992, Pub. L. 102-486, title IX, §902(a)(8), 106 Stat. 2944, provided that: 'If any provision of this Act [enacting this chapter] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.'

TRANSFER OF FUNCTIONS
Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§ 2012. Congressional findings
The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.


(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.


CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS
Section 20 of Pub. L. 88-489 provided that: "Nothing in this Act [amending this section and sections 2013, 2073 to 2078, 2135, 2153, 2201, 2223 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under this section and section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives.'"
§ 2014

TITLE 42—THE PUBLIC HEALTH AND WELFARE

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.


PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1954—Subsec. (c). Pub. L. 88-489 inserted "whether owned by the Government or others" and "and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons".

§ 2014. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term "agreement for cooperation" means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term "byproduct material" means—

(1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(3) (A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(B) any material that—

(i) has been made radioactive by use of a particle accelerator; and

(ii) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source material, that—

(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(B) before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

(f) The term "Commission" means the Atomic Energy Commission.

(g) The term "common defense and security" means the common defense and security of the United States.

(h) The term "defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.
mission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title.


AMENDMENTS
1961—Pub. L. 87-206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

§2189. Federally financed research

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States.


§2190. Saving clause for prior patent applications

Any patent application on which a patent was denied by the United States Patent and Trademark Office under sections 1811(a)(1), 1811(a)(2), or 1811(b)¹ of this title, and which is not prohibited by section 2181 or 2185 of this title or section 2187 of this title, may be reinstated upon application to the Commissioner of Patents and Trademarks within one year after August 30, 1954 and shall then be deemed to have been continuously pending since its original filing date: Provided, however, That no patent issued upon any patent application so reinstated shall in any way furnish a basis of claim against the Government of the United States.


REFERENCES IN TEXT
Sections 1811(a)(1), 1811(a)(2), and 1811(b) of this title, referred to in text, were omitted from the Code in the general amendment and renumbering of act Aug. 1, 1946 (which was classified to section 1801 et seq. of this title) by act Aug. 30, 1954, ch. 1073, 68 Stat. 919.

CHANGE OF NAME

SUBCHAPTER XIII—GENERAL AUTHORITY OF COMMISSION

§2201. General duties of Commission

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards

establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of such such board;

(b) Standards governing use and possession of material

establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to protect the common defense and security or to protect health or to minimize danger to life or property; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation’s common defense and security with regard to control, ownership, or possession of any equipment or device, or any important component part especially designated for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;

(c) Studies and investigations

make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(d) Employment of personnel

appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: Provided, however, That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule) whose position would be subject to chapter 51 and subchapter III of chapter 53 of title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the

¹See References in Text note below.
§2201

Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

(e) Acquisition of material, property, etc.; negotiation of commercial leases

acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title. Provided, however, That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

(f) Utilization of other Federal agencies

with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(g) Acquisition of real and personal property

acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to all leases, grants, and dispose of such real and personal property as provided in this chapter;

(h) Consideration of license applications

consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensees to incorporate by reference pertinent information already filed with the Commission;

(i) Regulations governing Restricted Data

prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and restrictions established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property, and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 2133 or 2134(b) of this title, including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this chapter that has control over any fund for the decommissioning of the facility;

(j) Disposition of surplus materials

without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act, or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: Provided, however, That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

(k) Carrying of firearms; authority to make arrests without warrant

authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of the property under its jurisdiction of the United States located at facilities owned by or contracted to the United

1 See in original.

2 See References in Text note below.
States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable ground to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the Commission of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;


(m) Agreements regarding production

enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: Provided, however, That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: And provided further, That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Commission for the furnishing of such material or services and will not discourage the development of sources of supply independent of the Commission;

(n) Delegation of functions

delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(d) of this title and subsection (a) of this section;

(o) Reports

require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2113, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and

(p) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way

The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines; and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: Provided. That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: Provided further, That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: And provided further, That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services

Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to
§ 2201  services are available to persons licensed
ation of reactors; services related to or required by the oper-
purchase or acquisition of reactor services or
or desirable, but not to exceed five years from
the contract. Any appropriation available
of funds to estimated annual deliveries and
the unamortized balance of such amounts due for special facilities as the par-
the construction or acquisition of special fa-
the vendors or suppliers thereof; (iii) the amortization chargeable to the Com-
the cost of contract performance, excluding
cost of materials; and (iv) the contract for
such period is more advantageous to the Gov-
ment than a similar contract not executed
under the authority of this subsection. Such
contracts shall be entered into for periods not
to exceed five years each from the date of ini-
tial delivery of such supplies, equipment, ma-
terials, or services or ten years from the date
de the execution of the contracts excluding periods
of renewal under option.
(B) In entering into such contracts the Com-
mission shall be guided by the following prin-
ciples: (i) the percentage of the total cost of
special facilities devoted to contract perform-
ance and chargeable to the Commission should
not exceed the ratio between the period of con-
tract deliveries and the anticipated useful life of
such special facilities; (ii) the desirability of obtaining options to renew the contract for
reasonable periods at prices not to include
charges for special facilities already amor-
tized; and (iii) the desirability of reserving in
the Commission the right to take title to the
special facilities under appropriate circum-
stances; and
(3) include in contracts made under this sub-
section provisions which limit the obligation
of funds to estimated annual deliveries and
services and the unamortized balance of such amounts due for special facilities as the par-
ties shall agree is chargeable to the per-
formance of the contract. Any appropriation available
at the time of termination or thereafter
made available to the Commission for operating
expenses shall be available for payment of
such costs which may arise from termination
as the contract may provide. The term “spe-
cial facilities” as used in this subsection means any land and any depreciable buildings,
structures, utilities, machinery, equipment,
and fixtures necessary for the production or
furnishing of such supplies, equipment, mate-

tial, or services and not available to the ven-
dors or suppliers for the performance of the
contract.
(v) Support of United States Enrichment Cor-
poration
provide services in support of the United
States Enrichment Corporation, except that
the Secretary of Energy shall annually collect
payments and other charges from the Corpora-
tion sufficient to ensure recovery of the costs
(excluding depreciation and imputed interest
on original plant investments in the Depart-
ment’s gaseous diffusion plants and costs
under section 2297c(2)(d) of this title) incurred by the Department of Energy after October 24, 1992, in performing such services;

(w) License fees for nuclear power reactors

prescribe and collect from any other Government agency, which applies to the Commission for, or is issued by the Commission, a license or certificate, any fee, charge, or price which it may require, in accordance with the provisions of section 9701 of title 31 or any other law.

(x) Standards and instructions for bonding, surety, or other financial arrangements, including performance bonds

Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 2231 of this title, such standards and instructions as the Commission may deem necessary or desirable to ensure—

1. That an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as so defined, and

2. That—

(A) in the case of any such license issued or renewed after November 8, 1978, the need for long-term maintenance and monitoring of such sites, structures and equipment used in conjunction with byproduct material as so defined, and

(B) in the case of each license for such material (whether in effect on November 8, 1978, or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 2014(e)(2) of this title, will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.

\(^3\)See References in Text note below.
a utilization facility designed to produce electrical or heat energy pursuant to section 2131 or 2134(b) of this title, or which operates any facility regulated or certified under section 2297f or 2297f-1 of this title and "section 977a" for "section 2297f" and "section 977a-1" for "section 2297f-1" of this title and "section 501(a)" and "section 501(b)" of this title, or "section 501(c)" or "section 501(d)" of this title, or "section 501(e)" or "section 501(f)" of this title and struck out "of applicants for, or holders of, such licenses or certificates" before period at end.

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1979—Subsec. (c). Pub. L. 91-452 struck out provisions that no person be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but that the immunity provisions of the Compulsory Testimony Act of Pub. L. 1893, apply with respect to any individual who specifically claims such privilege.


Subsec. (v). Pub. L. 91-560, §8, substituted provisions for the establishment of prices on a basis of recovery of the Government's costs over a reasonable period of time for provisions for the establishment of prices on a basis which will provide reasonable compensation to the Government.

1977—Subsec. (n). Pub. L. 90-190 substituted "2077(b)" for "2077(a)(3)".


1962—Subsec. (d). Pub. L. 87-763 substituted "up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "up to a limit of $1,000".

Subsec. (d). Pub. L. 87-456 repealed subsec. (i) which authorized the admittance free of duty into the United States of purchases made abroad of source materials.

Subsec. (n). Pub. L. 87-615 substituted "2165(f) of this title" for "2155(f) of this title".

1961—Subsecs. (i) to (v). Pub. L. 87-306 redesignated subsec. (t) to (v) as (s) to (u), respectively.

1959—Subsec. (m). Pub. L. 86-300 inserted references to sections 2073(a)(4) and 2083(a)(4) of this title.

1958—Subsec. (d). Pub. L. 85-681, §6, authorized the Commission to adopt compensation rates on a retroactive basis as may be authorized by the Classification Act for other Government employees.

Subsecs. (n) to (o). Pub. L. 85-507, redesignated subsecs. (o) to (s) as (n) to (r), respectively. Former subsec. (n), which authorized the Commission to assign employees for instruction, education, or training by public or private agencies, institutions of learning, laboratories, or industrial or commercial organizations, was repealed by Pub. L. 85-507, see section 4101 et seq. of Title 5, Government Organizations and Employees.

Subsec. (t) to (v). Pub. L. 85-681, §7, added subsecs. (t) to (v).

1957—Subsec. (d). Pub. L. 85-287 inserted "up to a limit of $19,000" after "scientific and technical person-".

Subsec. (e). Pub. L. 85-162, §201, inserted "(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant)" after "adjusted terms which".

Subsec. (s). Pub. L. 85-162, §204, added subsec. (s).


EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (o) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and to not affect any immunity to which any individual is entitled to the common defense and security entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 360 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 19, Crimes and Criminal Procedure.
EFFECTIVE DATE OF 1963 AMENDMENTS

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 1, 1962, see section 1008 of Pub. L. 87–793.

Repeal of subsec. (i) effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–507, see section 21(a) of Pub. L. 85–507.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 315(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 (title I, § 1810(c)(1)) of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

ORGANIZATIONAL CONFLICTS OF INTEREST

Pub. L. 86–209, § 7, Dec. 13, 1977, 91 Stat. 1483, provided that: “The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor’s judgment or otherwise give the contractor an unfair competitive advantage.”

APPLICABILITY TO FUNCTIONS TRANSFERRED BY DEPARTMENT OF ENERGY ORGANIZATION ACT

Pub. L. 85–91, title VII, § 709(c)(2), Aug. 4, 1977, 91 Stat. 608, provided that: “Section 161(c) of the Atomic Energy Act of 1954 [subsec. (d) of this section] shall not apply to functions transferred by this Act [see Short Title note set out under section 7101 of this title].”

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, set out as a note under section 770 of Title 5, Government Organization and Employees.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Members of the Nuclear Regulatory Commission, see Parts 1, 2, and 21 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5196 of this title.

PRINCIPAL OFFICE BUILDING FOR ATOMIC ENERGY COMMISSION

Act May 6, 1955, ch. 34, 69 Stat. 47, as amended by Pub. L. 85–107, July 17, 1957, 71 Stat. 507, authorized Atomic Energy Commission to acquire a suitable site in or near District of Columbia and, notwithstanding any other provision of law, to provide for construction on such site, in accordance with plans and specifications prepared by or under direction of Commission, of a modern office building to serve as principal office of Commission at a total cost of not to exceed $13,300,000 and authorized to be appropriated such sums as were necessary.

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Section 203 of Pub. L. 85–162 directed Atomic Energy Commission, Federal Housing Administration, and Housing and Home Finance Agency to report to Joint Committee by Jan. 31, 1956, with respect to renegotiations, reappraisals, and sales proceedings authorized under sections 201 and 202 of Pub. L. 85–162 [amending subsec. (e) of this section and enacting section 2232(e) of this title].

§ 2201a. Use of firearms by security personnel

(a) Definitions

In this section, the terms “handgun”, “rifle”, “shotgun”, “firearm”, “ammunition”, “machinegun”, “short-barreled shotgun”, and “short-barreled rifle” have the meanings given the terms in section 921(a) of title 18.

(b) Authorization

Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (o) of section 922 of title 18, section 925(d)(3) of title 18, section 5844 of title 26, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

(2) the security personnel—

(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

(C) are engaged in the protection of—

(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission,
dent, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section.

(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(e) General Counsel

(1) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe.

(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-58, §1006(a), added subsec. (b) and struck out former subsec. (b) which read as follows: "There shall be in the Department an Under Secretary and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The Under Secretary shall bear primary responsibility for energy conservation. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5."

Subsecs. (d) and (e). Pub. L. 109-58, §1006(c)(1), added subsec. (d) and (e).


TERM OF OFFICE OF PERSON FIRST APPOINTED AS UNDER SECRETARY FOR NUCLEAR SECURITY OF THE DEPARTMENT OF ENERGY


"(a) LENGTH OF TERM.—The term of office as Under Secretary for Nuclear Security of the Department of Energy of the person first appointed to that position shall be three years.

"(b) EXCLUSIVE REASONS FOR REMOVAL.—The exclusive reasons for removal from office as Under Secretary for Nuclear Security of the person described in subsection (a) shall be inefficiency, neglect of duty, or malfeasance in office.

"(c) POSITION DESCRIBED.—The position of Under Secretary for Nuclear Security of the Department of Energy referred to in this section is the position established by subsection (c) of section 202 of the Department of Energy Organization Act (42 U.S.C. 7132), as added by section 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 954).


§7133. Assistant Secretaries; appointment and confirmation; identification of responsibilities

(a) There shall be in the Department 7 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate; who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5; and who shall perform, in accordance with applicable law, such of the functions transferred or delegated to, or vested in, the Secretary as he shall prescribe in accordance with the provisions of this chapter. The functions which the Secretary shall assign to the Assistant Secretaries include, but are not limited to, the following:

(1) Energy resource applications, including functions dealing with management of all forms of energy production and utilization, including fuel supply, electric power supply, enriched uranium production, energy technology programs, and the management of energy resource leasing procedures on Federal lands.

(2) Energy research and development functions, including the responsibility for policy and management of research and development for all aspects of—

(A) solar energy resources;

(B) geothermal energy resources;

(C) recycling energy resources;

(D) the fuel cycle for fossil energy resources; and

(E) the fuel cycle for nuclear energy resources.

(3) Environmental responsibilities and functions, including advising the Secretary with respect to the conformance of the Department's activities to environmental protection laws and principles, and conducting a comprehensive program of research and development on the environmental effects of energy technologies and programs.

(4) International programs and international policy functions, including those functions which assist in carrying out the international energy purposes described in section 7112 of this title.


(6) Intergovernmental policies and relations, including responsibilities for assuring that national energy policies are reflective of and responsive to the needs of State and local governments, and for assuring that other components of the Department coordinate their activities with State and local governments, where appropriate, and develop intergovernmental communications with State and local governments.

(7) Competition and consumer affairs, including responsibilities for the promotion of competition in the energy industry and for the protection of the consuming public in the energy policymaking processes, and assisting the Secretary in the formulation and analysis of policies, rules, and regulations relating to competition and consumer affairs.

(8) Nuclear waste management responsibilities, including—

(A) the establishment of control over existing Government facilities for the treatment and storage of nuclear wastes, including all containers, casks, buildings, vehicles, equipment, and all other materials associated with such facilities;

(B) the establishment of control over all existing nuclear waste in the possession or control of the Government and all commerci-
cional nuclear waste presently stored on other than the site of a licensed nuclear power electric generating facility, except that nothing in this paragraph shall alter or effect title to such waste;

(C) the establishment of temporary and permanent facilities for storage, management, and ultimate disposal of nuclear wastes;

(D) the establishment of facilities for the treatment of nuclear wastes;

(E) the establishment of programs for the treatment, management, storage, and disposal of nuclear wastes;

(F) the establishment of fees or user charges for nuclear waste treatment or storage facilities, including fees to be charged Government agencies; and

(G) the promulgation of such rules and regulations to implement the authority described in this paragraph,

except that nothing in this section shall be construed as granting to the Department regulatory functions presently within the Nuclear Regulatory Commission, or any additional functions than those already conferred by law.

(9) Energy conservation functions, including the development of comprehensive energy conservation strategies for the Nation, the planning and implementation of major research and demonstration programs for the development of technologies and processes to reduce total energy consumption, the administration of voluntary and mandatory energy conservation programs, and the dissemination to the public of all available information on energy conservation programs and measures.

(10) Power marketing functions, including responsibility for marketing and transmission of Federal power.

(11) Public and congressional relations functions, including responsibilities for providing a continuing liaison between the Department and the Congress and the Department and the public.

(a) At the time the name of any individual is submitted for confirmation to the position of Assistant Secretary, the President shall identify with particularity the function or functions described in subsection (a) of this section (or any portion thereof) for which such individual will be responsible.


FEDERAL POWER MARKETING ADMINISTRATION EMPLOYMENT LEVELS

Pub. L. 101-514, title V, §510, Nov. 5, 1990, 104 Stat. 2098, provided that no funds appropriated or made available were to be used by the executive branch to change employment levels determined by Administrators of the Federal Power Marketing Administrations to be necessary to carry out their responsibilities under this chapter and related laws, or to change employment levels of other Department of Energy programs to compensate for employment levels of the Federal Power Marketing Administrations, prior to repeal by Pub. L. 104-46, title V, §503, Nov. 13, 1995, 109 Stat. 418.

MARKETING AND EXCHANGE OF SURPLUS ELECTRICITY FROM NAVAJO GENERATING STATION

Pub. L. 98-381, title I, §107, Aug. 17, 1984, 98 Stat. 1339, provided that:

"(a) Subject to the provisions of any existing layoff contracts, electrical capacity and energy associated with the United States' interest in the Navajo Generating Station which is in excess of the pumping requirements of the Central Arizona Project and any such needs for desalting and protective pumping facilities as may be required under section 101(g)(2)(D) of the Colorado River Basin Salinity Control Act of 1974, as amended [43 U.S.C. 1571(b)(2)(B)] (hereinafter in this Act referred to as Navajo surplus) shall be marketed and exchanged by the Secretary of Energy pursuant to this section.

(b) Navajo surplus shall be marketed by the Secretary of Energy pursuant to this plan and approved under subsection (c) of this section, directly to, with or through the Arizona Power Authority and/or other entities having the status of preference entities under the reclamation law in accordance with the preference provisions of section 9(b) of the Reclamation Project Act of 1939 [43 U.S.C. 485h(c)] and as provided in part IV, section A of the Criteria.

(c) In the marketing and exchanging of Navajo surplus, the Secretary of the Interior shall adopt the plan deemed most acceptable, after consultation with the Secretary of Energy, the Governor of Arizona, and the Central Arizona Water Conservation District (or its successor in interest to the repayment obligation for the Central Arizona project), for the purposes of optimizing the availability of Navajo surplus and Navajo surplus quality, financial assistance in the timely construction and repayment of construction costs of authorized features of the Central Arizona project. The Secretary of the Interior, in concert with the Secretary of Energy, in accordance with section 14 of the Reclamation Project Act of 1939 [43 U.S.C. 389], shall grant electrical power and energy exchange rights with Arizona entities as necessary to implement the adopted plan: Provided, however, That if exchange rights with Arizona entities are not required to implement the adopted plan, exchange rights may be offered to other entities.

(d) For the purposes provided in subsection (c) of this section, the Secretaries of Energy, or the marketing entity or entities under the adopted plan, are authorized to establish and collect or cause to be established and collected, rate components, in addition to those currently authorized, and to deposit the revenues received in the Lower Colorado River Basin Development Fund to be available for such purposes and if required under the adopted plan, to credit, utilize, pay over directly or assign revenues from such additional rate components to make repayment and establish reserves for repayment of funds, including interest incurred, to entities which have advance funds for the purpose of implementing the adopted plan: Provided, however, That rates shall not exceed levels that allow for an appropriate saving for the contractor.

AMENDMENTS


Pub. L. 106-65, §3294(b), struck out par. (5) which read as follows: "National security functions, including those transferred to the Department from the Energy Research and Development Administration which relate to management of the nuclear weapons program and other national security functions involving nuclear weapons research and development."

AMENDMENTS


Subsec. (a)(5). Pub. L. 106-65, §3294(b), struck out par. (5) which read as follows: "National security functions, including those transferred to the Department from the Energy Research and Development Administration which relate to management of the nuclear weapons program and other national security functions involving nuclear weapons research and development."
“(e) To the extent that this section may be in conflict with any other provision of law relating to the marketing and exchange of Navajo surplus, or to the disposition of any revenues therefrom, this section shall control.”

§ 7134. Federal Energy Regulatory Commission; compensation of Chairmen and members

There shall be within the Department, a Federal Energy Regulatory Commission established by subchapter IV of this chapter (hereinafter referred to in this chapter as the "Commission"). The Chairman shall be compensated at the rate provided for level III of the Executive Schedule under section 5315 of title 5. The other members of the Commission shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5. The Chairman and members of the Commission shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy.


§ 7135. Energy Information Administration

(a) Establishment; appointment of Administrator; compensation; qualifications; duties

(1) There shall be within the Department an Energy Information Administration to be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for in level IV of the Executive Schedule under section 5315 of title 5. The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

(2) The Administrator shall be responsible for carrying out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer-term future for the Nation’s economic and social needs.

(b) Delegation of functions

The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) any functions vested in him by law relating to gathering, analysis, and dissemination of energy information (as defined in section 796 of title 15) and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of such delegated functions.

(c) Functions of Director of Office of Energy Information and Analysis

In addition to, and not in limitation of the functions delegated to the Administrator pursuant to other subsections of this section, there shall be vested in the Administrator, and he shall perform, the functions assigned to the Director of the Office of Energy Information and Analysis under part B of the Federal Energy Administration Act of 1974 (15 U.S.C. 790 et seq.), and the provisions of sections 53(d) and 59 thereof (15 U.S.C. 790b(d), 790h) shall be applicable to the Administrator in the performance of any function under this chapter.

(d) Collection or analysis of information and preparation of reports without approval

The Administrator shall not be required to obtain the approval of any other officer or employee of the Department in connection with the collection or analysis of any information; nor shall the Administrator be required, prior to publication, to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

(e) Annual audit

The Energy Information Administration shall be subject to an annual professional audit review of performance as described in section 551 of part B of the Federal Energy Administration Act of 1974.

(f) Furnishing information or analysis to any other administration, commission, or office within Department

The Administrator shall, upon request, promptly provide any information or analysis in his possession pursuant to this section to any other administration, commission, or office within the Department which such administration, commission, or office determines relates to the functions of such administration, commission, or office.

(g) Availability of information to public

Information collected by the Energy Information Administration shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title 5. The provisions of section 796(d) of title 15, and section 5916 of this title, shall continue to apply to any information obtained by the Administrator under such provisions.

(h) Identification and designation of "major energy producing companies"; format for financial report; accounting practices; filing of financial report; annual report of Department; definitions; confidentiality

(I)(A) In addition to the acquisition, collection, analysis, and dissemination of energy information pursuant to this section, the Administrator shall identify and designate "major energy-producing companies" which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so that the energy information collected from such major energy-producing companies shall provide a statistically accurate profile of each line of com-

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1 See References in Text note below.
§ 7252 Title 42—The Public Health and Welfare

the Secretary or any officer or employee of the Department may exercise, in carrying out the function so transferred, any authority or part thereof, not otherwise available by law, including appropriation Acts, to the official or agency from which such function was transferred.


Department of Energy Security Management Board


§ 7252. Delegation

Except as otherwise expressly prohibited by law, and except as otherwise provided in this chapter, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions within the Department as he may deem to be necessary or appropriate.


Reorganization of Field Activities and Management of National Security Functions

Pub. L. 104-201, div. C, title XXXI, §3161, Sept. 30, 1996, 110 Stat. 2999, provided that: “None of the funds appropriated by this or any other Act may be used to implement section 3161 of H.R. 3230 as reported by the Committee of Conference on July 30, 1996 [Pub. L. 104-201, set out below] The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy and shall submit such plan to the Congress not later than 120 days after the date of enactment of this Act [Sept. 30, 1996]. The plan will specifically identify all significant functions performed by the Department’s national security operations and area offices and make recommendations as to where those functions should be performed.”


§ 7253. Reorganization

(a) Subject to subsection (b) of this section, the Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this chapter, or to the transfer of functions vested by this chapter in any organizational unit or component.

(b) The authority of the Secretary to establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the National Nuclear Security Administration is governed by the provisions of section 2409 of title 50.

(b) The authority of the Secretary under subsection (a) of this section does not apply to the National Nuclear Security Administration. The corresponding authority that applies to the Administration is set forth in section 2402(e) of title 50.


References in Text


AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398, §1(a)(2) [div. C, title XXXI, §3159(b)(1)], which directed amendment of section (b) relating to authority of Secretary as to National Nuclear Security Administration, was not executed because the words “The Secretary” for “The Secretary under subsection (a) of this section” did not appear after execution of the amendment by Pub. L. 106-377, §1(a)(2) [title III, §314(b)(1)], see below.

Pub. L. 106-377, §1(a)(2) [title III, §314(b)(1)], added existing provisions as subsec. (a) and substituted “Subject to subsection (b) of this section, the Secretary” for “The Secretary”.

Subsec. (b). Pub. L. 106-398, §1 [div. C, title XXXI, §3159(b)(2)], added subsec. (b) relating to nonapplicability of authority of Secretary under subsec. (a) of this section to National Nuclear Security Administration.

Pub. L. 106-377, §1(a)(2) [title III, §314(b)(2)], added subsec. (b) relating to authority of Secretary as to National Nuclear Security Administration.

§ 7254. Rules and regulations

The Secretary is authorized to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.


§ 7255. Subpoena

For the purpose of carrying out the provisions of this chapter, the Secretary, or his duly authorized agent or agents, shall have the same powers and authorities as the Federal Trade Commission under section 49 of title 15 with respect to all functions vested in, or transferred or delegated to, the Secretary or such agents by this chapter. For purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978 [15 U.S.C. 3301 et seq.], the Commission shall have the same powers and authority as the Secretary has under this section.


1 See References in Text note below.

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Public Law 111–85
111th Congress

An Act

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I
CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

INVESTIGATIONS

For expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $160,000,000, to remain available until expended.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law; for
that appears under the heading “Congressionally Directed Science Projects” in the joint explanatory statement accompanying the conference report on this Act.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended (the “NWPA”), $98,400,000, to remain available until expended, and to be derived from the Nuclear Waste Fund: Provided, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 2.54 percent shall be provided to the Office of the Attorney General of the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the NWPA: Provided further, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPA, 0.51 percent shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of the NWPA: Provided further, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 4.57 percent shall be provided to affected units of local government, as defined in the NWPA, to conduct appropriate activities and participate in licensing activities under Section 116(c) of the NWPA: Provided further, That of the amounts provided to affected units of local government, 7.5 percent of the funds provided for the affected units of local government shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada affected units of local government: Provided further, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 0.25 percent shall be provided to the affected federally-recognized Indian tribes, as defined in the NWPA, solely for expenditures, other than salaries and expenses of tribal employees, to conduct appropriate activities and participate in licensing activities under section 118(b) of the NWPA: Provided further, That notwithstanding the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government: Provided further, That the funds for the State of Nevada shall be made available solely to the Office of the Attorney General by direct payment and to units of local government by direct payment: Provided further, That 4.57 percent of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities shall be provided to Nye County, Nevada, as payment equal to taxes under section 116(c)(3) of the NWPA: Provided further, That within 90 days of the completion of each Federal fiscal year, the Office of the Attorney General of the State of Nevada, each affected federally-recognized Indian tribe, and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the NWPA and this Act: Provided further, That failure to provide such

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certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action, except for normal and recognized executive-legislative communications, on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the NWPA, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: Provided further, That of the funds made available in this Act for Nuclear Waste Disposal, $5,000,000 shall be provided to create a Blue Ribbon Commission to consider all alternatives for nuclear waste disposal: Provided further, That no funds provided in this Act or any previous Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

**TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM**

Such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: Provided, That for necessary administrative expenses to carry out this Loan Guarantee program, $43,000,000 is appropriated, to remain available until expended: Provided further, That $43,000,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2010 appropriations from the general fund estimated at not more than $0: Provided further, That fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

**ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM**

For administrative expenses in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, $20,000,000, to remain available until expended.

**DEPARTMENTAL ADMINISTRATION**

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $30,000, $288,684,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions for lobbying.
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(ii) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(iii) A finding that the application for the license or amendment complies with the requirements of the Act and this chapter.

(2) In the case of a finding under § 52.103(g) of this chapter:

(i) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(ii) A finding that the prescribed inspections, tests, and analyses have been performed, the prescribed acceptance criteria have been met, and that the license complies with the requirements of the Act and this chapter.

(c) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the FEDERAL REGISTER notice of, and will inform the State, local, and Tribal officials specified in § 2.104(e) of any action with respect to an application for construction authorization for a high-level radioactive waste repository at a geologic repository operations area, a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to parts 60 or 63 of this chapter, or an amendment to such license for which a notice of proposed action has been previously published.

(d) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials or tribal governing body specified in § 2.104(e) of any licensing action if an applicant fails to respond to a request for additional information within thirty (30) days from the date of the request, or within such other time as may be specified.

§ 2.108 Denial of application for failure to supply information.

(a) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may deny an application if an applicant fails to respond to a request for additional information within thirty (30) days from the date of the request, or within such other time as may be specified.

(b) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will cause to be published in the FEDERAL REGISTER notice of denial when notice of receipt of the application has previously been published.

(1) The applicant may demand a hearing, and

(2) Any person whose interest may be affected by the proceeding may file a petition for leave to intervene.

I, DAVID K. ZABRANSKY declare as follows:

1. I am the Acting Principal Deputy Director of the Office of Civilian Radioactive Waste Management ("OCRWM") for the Department of Energy ("DOE"). I assumed this position in January of 2010 and report directly to the Under Secretary of Energy. I am responsible for all aspects of DOE’s Civilian Radioactive Waste Management Program, and am personally responsible for the day-to-day operations of OCRWM. My present duties include closing down OCRWM in a responsible and orderly manner to ensure scientific data and program records are properly preserved or dispositioned.

2. OCRWM was established by Section 302 of the Nuclear Waste Policy Act of 1982 (NWPA) to carry out the functions of the DOE under the Act. OCRWM’s mission is to fulfill the federal responsibility to provide for the permanent disposal of high-level radioactive waste and spent nuclear fuel in order to protect public health, safety, and the environment. OCRWM’s duties include developing, licensing,
constructing and operating disposal and related facilities including transportation systems, performing relevant research and development activities, entering into contracts to take high-level radioactive waste and spent nuclear fuel for disposal, and collecting and managing fees to pay for these activities. OCRWM currently works on: (1) issues relating to the Yucca Mountain repository; (2) collecting and managing the waste fee; (3) managing the standard contracts with nuclear utilities; (4) supporting the Department of Justice with respect to the Standard Contract litigation and settlements resulting from DOE’s failure to begin taking spent nuclear fuel by 1998; and (5) performing the administrative tasks to support the preceding activities.

3. In 2009 DOE ceased activities related to the planning for transportation of materials to Yucca Mountain. Those activities included developing a railroad to the site and transportation outreach. All activities related to completing the design and planning for construction and repository site upgrades were terminated. Ongoing science at the site was reduced to the minimal amount to support only the licensing process.

4. Two years ago there were approximately 2,700 employees working for OCRWM. This number decreased dramatically after submittal of the license application to the Nuclear Regulatory Commission and the redirection of work to only licensing activities. Today, there are approximately 620 employees working for OCRWM. Of this number, approximately 230 are federal employees, of whom approximately 175 are employed directly by OCRWM (OCRWM employees), approximately 35 are employed by other offices within the DOE, and approximately 20 are employed...
by the U.S. Geological Survey. The remainder (approximately 400) are contractor employees.

5. On February 1, 2010, the Administration’s Fiscal Year 2011 Budget was announced and stated that “[i]n 2010, the Department [of Energy] will discontinue its application to the Nuclear Regulatory Commission (NRC) for a license to construct a high-level waste geological repository at Yucca Mountain, Nevada.”

6. Given the fact that no money has been requested for OCRWM in FY 2011, DOE has taken several actions to prepare for the orderly shutdown of OCRWM by the end of Fiscal Year (FY) 2010 (September 30, 2010). These include actions to assist OCRWM employees such as: (1) priority consideration for any positions open within DOE; (2) approval from Office of Personnel Management for voluntary early retirement and voluntary separation incentive payments; (3) relocation allowances for OCRWM employees; (4) training for job interviews and the USAJOBS application process; and retirement training. In addition, while not yet finalized or approved, DOE has been developing a plan to terminate OCRWM in an orderly manner by the end of FY 2010. An orderly termination is important so that materials, databases, and documents can be stored properly and thus be available for later use as appropriate. Further delays in engaging in shutdown activities are contrary to the interest in ensuring an orderly shutdown. Additionally, assisting Yucca Mountain employees to remain with the DOE, to the extent successful, can facilitate efforts to reconstitute the Yucca Mountain work force, should the need arise.

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7. With respect to the non-federal work force, approximately 141 individuals work for Sandia National Laboratory and other National Laboratories. DOE’s National Laboratories have been developed and supported by DOE and its predecessors to provide world class research and development on issues that are important to the public and national interest. OCRWM has used the National Laboratories to provide scientific and modeling support for the license application and has designated Sandia National Laboratory as the Lead Lab to coordinate these efforts. DOE’s expectation is that, when funding is no longer provided to the National Laboratories to support the license application for Yucca Mountain, many of the scientists who have been performing work on Yucca Mountain will continue to be employed by the National Laboratories and perform work on other projects. The continued employment of those scientists by the National Laboratories could facilitate establishment of a National Laboratories’ support team if DOE were required to continue with the licensing proceeding.

8. DOE uses a special Management and Operating (M&O) Contract for many of its sites and facilities. OCRWM has an M&O contractor to manage the Yucca Mountain site, including the tunnel and related infrastructure as well as to develop the design for the repository and related facilities and coordinate licensing activities. The present M&O contractor for the Yucca Mountain Project is U.S.A. Repository Services, LLC (“USA-RS”), a subsidiary of Washington Group International, Inc., an Ohio Corporation doing business as the Washington Division of the construction and engineering design firm URS Corporation. Shaw Environmental and Infrastructure Inc. and Areva Federal Services, LLC are fee sharing subcontractors

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to USA-RS. There are 101 employees under the M&O contract for OCRWM. There currently are no plans to terminate this M&O contract although there will be a descoping of all work related to repository licensing when OCRWM closes in September, with only a few administrative tasks remaining. Because the contract would remain in effect, there would be no need to go through the government competitive process to hire a new M&O contractor if DOE were required to resume the licensing proceeding. Thus, DOE could add tasks to the contract to support licensing and other repository related tasks.

9. There are an additional 155 contractor or laboratory employees that are neither M&O contractors nor laboratory employees that will need to be terminated prior to September 30, 2010 for an orderly closure of OCRWM.

10. Even with the full complement of staff, the Yucca Mountain Repository could open no earlier than 2020. Even that date depends on a number of actions, all of which are beyond the control of DOE and could cause significant delays. For example, the U.S. Nuclear Regulatory Commission’s (“NRC”) Licensing Board, has stated in regard to its independent technical review of the license application, that the Staff estimates that review of the five volumes of the Safety Evaluation Report would be completed no earlier than February 2012. Hearings in the proceeding on contested factual issues usually do not occur until after the NRC Staff has completed its review of pertinent sections of the Safety Evaluation Report. Additionally, these hearings must be concluded before the NRC could consider issuing a license for construction of a repository. To open a facility, moreover, DOE would be required to obtain water rights, rights of way from the Bureau of Land Management for utilities and

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access roads, and Clean Water Act § 404 permits for repository construction, as well as all the state and federal approvals necessary for an approximately 300-mile rail line, among many other actions. Moreover, Congress would need to take several actions including permanent land withdrawal of the repository site. Absent such congressional action, it is my understanding that no repository could open at Yucca Mountain, regardless of DOE’s decisions.

11. DOE estimates that each month of delay in moving toward descoping the M&O contractor and other shutdown activities in FY 2010 limits the funds in FY 2010 for shutdown activities by about $9 million a month.
I declare under penalty of perjury, this 22nd day of April 2010, that the foregoing is true and correct to the best of my knowledge and belief.

David K. Zabransky
Acting Principal Deputy Director
Office of Civilian Radioactive Waste Management
INES TRIAY declares as follows:

1. I was appointed by President Obama as DOE Assistant Secretary for Environmental Management and, after confirmation by the Senate, sworn into office in May 2009. In this position I am responsible for all aspects of DOE's Office of Environmental Management, and am personally responsible for the day-to-day operations of this Office. In particular, I have primary responsibility within the Department for the cleanup, management, and storage of DOE radioactive waste, including the radioactive waste currently located at the Hanford and Savannah River Sites. Prior to my appointment to be Assistant Secretary, I served as the cleanup program's Principal Deputy Assistant Secretary, Chief Operations Officer, and Deputy Chief Operations Officer. Prior to these positions in Washington D.C., I served as Manager of the Department's Carlsbad Field Office in New Mexico. During my tenure as the Manager, the number of shipments of contact-handled transuranic
waste accepted at the Waste Isolation Pilot Plant (WIPP) increased from 1-2 per week to 25 per week. In order to sustain these shipments, I implemented a complete re-invention of the United States’ national transuranic waste program.

2. I began my career as a postdoctoral staff member in the Isotope and Nuclear Chemistry Division at Los Alamos National Laboratory, New Mexico. I progressed through many positions to acting deputy director of the Chemical Science and Technology Division and group leader for the Environmental Science and Waste Technology Group. There, I directed multidisciplinary research on decontamination, transuranic waste characterization and treatment, environmental chemistry, contaminant transport and remediation, and isotope chemistry for environmental and nuclear problems. I led the team that was responsible for the first transuranic waste shipment to WIPP, which began operations in March 1999.

3. I have 25 years of professional experience in the field of radioactive waste handling and disposition.

4. My honors include the 2007 Wendell D. Weart Lifetime Achievement Award for my work in radioactive waste management, 2007 Presidential Rank Award, 2004 National Award for Nuclear Science from the Einstein Society of the National Atomic Museum, the American Society of Mechanical Engineers 2003 Dixy Lee Ray Award for environmental protection, the 2003 Woman of Achievement award from the Radiochemistry Society, and two distinguished performance awards from Los Alamos National Laboratory.

5. On February 1, 2010, the Administration’s Fiscal Year 2011 Budget was announced and stated that “[i]n 2010, the Department [of Energy] will discontinue its
application to the Nuclear Regulatory Commission (NRC) for a license to construct a high-level waste geological repository at Yucca Mountain, Nevada.” One of my responsibilities is to address the potential effects, if any, of the unavailability of the proposed Yucca Mountain repository on DOE cleanup activities, including those at the Hanford and Savannah River Sites.

6. The Department is committed to cleaning up its sites where highly radioactive waste is located by removing the waste from underground tanks in which it is currently stored, followed by the processing and treatment of that waste. These processes will result in the generation of very robust waste forms for high-level waste that are protective of human health and the environment. At Hanford and Savannah River, this is a glass waste form.

7. The licensing, construction, and operation of a repository at Yucca Mountain is not on the critical path of events that are necessary for the Department to move forward with the cleanup of DOE sites, including Hanford and Savannah River. For Hanford, these events include the Waste Treatment Plant becoming operational, which is scheduled in 2022. Once operational, the Waste Treatment Plant will process liquid waste currently stored in tanks into a robust glass waste form. At Savannah River, activities include retrieving 36 million gallons of liquid radioactive waste from 49 underground storage tanks and processing the waste destined for a geological repository through the Defense Waste Processing Facility, a plant that vitrifies waste (that is, puts it into a robust glass form that is protective of human health and the environment) and that is currently operating. In other words, the
Administration’s decision to pursue alternatives to the disposal of high-level waste located at those sites will not affect current plans or schedules for cleaning up those sites.

8. As noted above, with respect to Hanford, the decision to withdraw the license application for a repository at Yucca Mountain will have no effect on current plans and schedules to retrieve highly radioactive liquid waste from the waste storage tanks and construct and operate the Waste Treatment Plant. This course of action was decided in a Record of Decision (published at 62 FR 8693), which followed issuance of the Hanford Tank Waste Remediation System Environmental Impact Statement. Likewise, the decision to withdraw will have no effect on the quality of the waste form because the Tri-Party Agreement, which is an enforceable Administrative Order on Consent between the Washington State Department of Ecology, the United States Environmental Protection Agency, and DOE setting forth milestones for the cleanup of the Hanford site, requires DOE to put the waste into the borosilicate glass waste form identified in the current plans. A proposed settlement with the State of Washington would convert this obligation into a judicial consent decree.

9. With respect to Savannah River, the decision to withdraw the license application for a repository at Yucca Mountain will have no effect on current plans to complete removal of highly radioactive waste from the tanks and convert the high-level waste portion into a similar glass waste form.

10. The completion of the process of converting liquid high level waste into glass waste forms will take several decades to accomplish, and DOE and the host states have

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long known that such waste forms would remain on site for a lengthy period of time. At the Hanford site, the Tank Closure and Waste Management Draft EIS (DOE/EIS-0391, October 2009) anticipated the February budget announcement and included analysis of the impacts on Hanford cleanup. As stated in the document summary, “The analyses in this EIS are not affected by recent DOE plans to study alternatives for the disposition of the Nation’s SNF [spent nuclear fuel] and HLW [high level waste] because the EIS analysis shows that vitrified HLW can be stored safely at Hanford for many years until disposition decisions are made and implemented.” (Draft EIS at S-39, n.1.). This EIS also evaluates the potential need for more high level waste storage facilities at Hanford and “expects the impacts to be similar” to those previously found for high level waste storage. Id. at S-118. Finally, the EIS also anticipates the issue of disposition of cesium and strontium and assumes that this material will be added to the treatment process and create the need for additional waste canisters whose storage is also evaluated. Cesium and strontium are radionuclides that were previously removed from the liquid waste and are now stored in capsules.

The Dahl-Crumpler Affidavit speculates that termination of the Yucca Mountain project could cause “construction tear-down and rebuild of the [Waste Treatment Plant]” at Hanford that will vitrify the liquid waste. That is incorrect. The Dahl-Crumpler Affidavit is premised on a fundamental misunderstanding of the basic Hanford high level waste treatment process (vitrification). Vitrification of high level waste into borosilicate glass is not a Yucca-specific process. The use of vitrification is currently the international standard and is being pursued or in use by
several nations such as the United Kingdom, France, Germany, Belgium, Japan, Russia, and China.

Moreover, the choice of borosilicate glass was the culmination of an intense scientific effort which long predated the choice of the Yucca Mountain site. For example, An “Environmental Assessment: Waste Form Selection for SRP High-Level Waste” (July 1982) finds that borosilicate glass was a better choice than various other waste forms considered, in part because, “It is compatible with a full range of repository geologies. . . .” (page 1-1, emphasis added). Thus, material vitrified at Hanford will be suitable for disposal in a permanent repository regardless of the future of the Yucca site.

In sum, although it is true that DOE has paid careful attention to the Yucca Mountain waste acceptance criteria, termination of the Yucca Mountain project presents no valid reason to rebuild the Hanford Waste Treatment Plant, and I see no likelihood whatever that this would occur.
I declare under penalty of perjury, this 23rd day of April 2010, that the foregoing is true and correct to the best of my knowledge and belief.

Ines Triay  
Assistant Secretary  
Office of Environmental Management