

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

**(d) Inventory sales**

(1) In addition to the transfers authorized under subsections (c) and (e) of this section, the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e) of this section, no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

**(e) Government transfers**

Notwithstanding subsection (d)(2) of this section, the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

**(f) Savings provision**

Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

(Pub. L. 104-134, title III, §3112, Apr. 26, 1996, 110 Stat. 1321-344.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department

of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 2297h-10a. Incentives for additional downblending of highly enriched uranium by the Russian Federation**

**(a) Definitions**

In this section:

**(1) Completion of the Russian HEU Agreement**

The term “completion of the Russian HEU Agreement” means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

**(2) Downblending**

The term “downblending” means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

**(3) Highly enriched uranium**

The term “highly enriched uranium” has the meaning given that term in section 2297h(4) of this title.

**(4) Highly enriched uranium of weapons origin**

The term “highly enriched uranium of weapons origin” means highly enriched uranium that—

(A) contains 90 percent or more uranium-235; and

(B) is verified by the Secretary of Energy to be of weapons origin.

**(5) Low-enriched uranium**

The term “low-enriched uranium” means a uranium product in any form, including uranium hexafluoride (UF<sub>6</sub>) and uranium oxide (UO<sub>2</sub>), in which the uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

**(6) Russian HEU Agreement**

The term “Russian HEU Agreement” has the meaning given that term in section 2297h(11) of this title.

**(7) Uranium-235**

The term “uranium-235” means the isotope <sup>235</sup>U.

**(b) Statement of policy**

It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

**(c) Promotion of downblending of Russian highly enriched uranium**

**(1) Completion of the Russian HEU Agreement**

Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under con-

tracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.

(B) In calendar year 2012, 24,839 kilograms.

(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

**(2) Incentives to continue downblending Russian highly enriched uranium after the completion of the Russian HEU Agreement**

**(A) In general**

After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

(i) in calendar year 2014, 485,279 kilograms;

(ii) in calendar year 2015, 455,142 kilograms;

(iii) in calendar year 2016, 480,146 kilograms;

(iv) in calendar year 2017, 490,710 kilograms;

(v) in calendar year 2018, 492,731 kilograms;

(vi) in calendar year 2019, 509,058 kilograms; and

(vii) in calendar year 2020, 514,754 kilograms.

**(B) Additional imports in exchange for a commitment to downblend an additional 300 metric tons of highly enriched uranium**

**(i) In general**

In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation enters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and including low-enriched uranium obtained under contracts for separative work units, may be imported in a calendar year for every 1 kilogram of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

**(ii) Maximum annual imports**

Not more than 120,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

**(3) Exceptions**

The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States—

(A) for use in the initial core of a new nuclear reactor;

(B) for processing and to be certified for reexportation and not for consumption in the United States; or

(C) to be added to the inventory of the Department of Energy.

**(4) Limited waiver authority**

**(A) In general**

Notwithstanding paragraph (1)(C), if the completion of the Russian HEU Agreement does not occur before December 31, 2013, the import limitations under paragraph (1)(C) shall be waived, and low-enriched uranium may be imported into the United States in the quantities specified in paragraph (2) in a calendar year after 2013, if—

(i) the Secretary of Energy and the Secretary of State jointly determine that—

(I) the failure of the completion of the Russian HEU Agreement arises from causes beyond the control and without the fault or negligence of the Government of the Russian Federation; and

(II) the Government of the Russian Federation has made reasonable efforts to avoid and mitigate the effects of the failure of the completion of the Russian HEU Agreement; and

(ii) the Secretary of Energy and the Secretary of State jointly notify Congress of, and publish in the Federal Register, the determination under clause (i) and the reasons for the determination.

**(B) Notice and wait**

A waiver under subparagraph (A) may not take effect until the date that is 180 days after the date on which Secretary of Energy and the Secretary of State notify Congress under subparagraph (A)(ii).

**(C) Termination**

A waiver under subparagraph (A) shall terminate on December 31 of the calendar year with respect to which the Secretary makes the determination under subparagraph (A)(i).

**(5) Adjustments to import limitations**

**(A) In general**

The import limitations described in paragraph (2)(A) are based on the reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019, the Secretary of Commerce shall review the projected demand for uranium for nuclear reactors in the United States and adjust the import limitations described in paragraph (2)(A) to account for changes in such demand in years after the year in which that report or a subsequent report is published.

**(B) Incentive adjustment**

Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2)(B) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

**(C) Publication of adjustments**

As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustments under subparagraph (B).

**(6) Authority for additional adjustment**

In addition to the adjustment under paragraph (5)(A), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

**(7) Equivalent quantities of low-enriched uranium imports****(A) In general**

The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

**(B) Adjustment for other uranium**

Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

**(8) Downblending of other highly enriched uranium****(A) In general**

The downblending of highly enriched uranium not of weapons origin may be counted

for purposes of paragraph (2)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

**(B) Equivalent quantities of highly enriched uranium**

For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

**(9) Termination of import restrictions**

The provisions of this subsection shall terminate on December 31, 2020.

**(10) Technical verifications by Secretary of Energy****(A) In general**

The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B) and (8).

**(B) Methods of verification**

In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

**(11) Enforcement of import limitations**

The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

**(12) Effect on other agreements****(A) Russian HEU Agreement**

Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

**(B) Other agreements**

If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the

provision of the agreement to the extent of the conflict.

(Pub. L. 104-134, title III, §3112A, as added Pub. L. 110-329, div. C, title VIII, §8118(2), Sept. 30, 2008, 122 Stat. 3647.)

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

### § 2297h-11. Low-level waste

#### (a) Responsibility of DOE

(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 2073, 2093, and 2243 of this title.

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(4) In the event that a licensee requests the Secretary to accept for disposal depleted uranium pursuant to this subsection, the Secretary shall be required to take title to and possession of such depleted uranium at an existing DUF6 storage facility.

#### (b) Agreements with other persons

The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) of this section with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

#### (c) State or interstate compacts

Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

(Pub. L. 104-134, title III, §3113, Apr. 26, 1996, 110 Stat. 1321-347; Pub. L. 108-447, div. C, title III, §311, Dec. 8, 2004, 118 Stat. 2959.)

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

#### AMENDMENTS

2004—Subsec. (a)(4). Pub. L. 108-447, §311, which directed the addition of par. (4) to subsec. (a) of section 3113 of Public Law 102-486 (42 U.S.C. 2297h-11), was executed by adding par. (4) to subsec. (a) of this section, which is section 3113 of Pub. L. 104-134, to reflect the probable intent of Congress.

### § 2297h-12. AVLIS

#### (a) Exclusive right to commercialize

The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

#### (b) Transfer of related property to Corporation

##### (1) In general

To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

##### (2) Exception

Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

##### (3) Expiration of transfer authority

The President's authority to transfer property under this subsection shall expire upon the privatization date.

#### (c) Liability for patent and related claims

With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b) of this section, the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

(Pub. L. 104-134, title III, §3114, Apr. 26, 1996, 110 Stat. 1321-348.)