

and be responsible for the molybdenum-99 created by the irradiation, processing, or purification of uranium leased under this section.

**(3) Duties**

**(A) Secretary**

The lease contracts shall require the Secretary—

(i) to retain responsibility for the final disposition of spent nuclear fuel created by the irradiation, processing, or purification of uranium leased under this section for the production of medical isotopes; and

(ii) to take title to and be responsible for the final disposition of radioactive waste created by the irradiation, processing, or purification of uranium leased under this section for which the Secretary determines the producer does not have access to a disposal path.

**(B) Producer**

The producer of the spent nuclear fuel and radioactive waste shall accurately characterize, appropriately package, and transport the spent nuclear fuel and radioactive waste prior to acceptance by the Department.

**(4) Compensation**

**(A) In general**

Subject to subparagraph (B), the lease contracts shall provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for—

(i) the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); and

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

**(B) Discount rate**

The discount rate used to determine the net present value of costs described in subparagraph (A)(ii) shall be not greater than the average interest rate on marketable Treasury securities.

**(5) Authorized use of funds**

Subject to the availability of appropriations, the Secretary may obligate and expend funds received under leases entered into under this subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this subtitle, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

**(6) Exchange of uranium for services**

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

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

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

**(d) Coordination of environmental reviews**

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

**(e) Operational date**

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

**(f) Radioactive waste**

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

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

REFERENCES IN TEXT

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

CODIFICATION

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

DEFINITIONS

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

“(1) DEPARTMENT.—The term ‘Department’ means the Department of Energy.

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

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

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.”

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

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

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the inter-

est of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Energy Committees, after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, § 51, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103-437, § 15(f)(2), Nov. 2, 1994, 108 Stat. 4592.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1994—Pub. L. 103-437 substituted "Energy Committees" for "Joint Committee" in two places.

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

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

#### EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

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

#### § 2073. Domestic distribution of special nuclear material

##### (a) Licenses

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for co-operation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title;

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

##### (b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

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

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

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

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

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

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

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed and distributed by lease under subsection (a)(3). The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear material licensed