Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

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.

Statutory Notes and Related Subsidiaries

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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 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_6) and uranium oxide (UO_2), 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) Suspension Agreement

The term ''Suspension Agreement'' has the meaning given that term in section 2297h(13) of this title.

(8) Uranium-235

The term ''uranium-235'' means the isotope ^{235}U.

(b) Statement of policy

It is the policy of the United States—

(1) 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;

(2) to reduce reliance on uranium imports in order to protect essential national security interests;

(3) to revive and strengthen the supply chain for nuclear fuel produced and used in the United States; and

(4) to expand production of nuclear fuel in the United States.

(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 contracts 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;

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

(viii) in calendar year 2021, 596,682 kilograms;

(ix) in calendar year 2022, 489,617 kilograms; and

(x) in calendar year 2023, 578,877 kilograms.

(B) Administration

(i) In general

The Secretary of Commerce shall administer the import limitations described in subparagraph (A) in accordance with the provisions of the Suspension Agreement, including—

(I) the limitations on sales of enriched uranium product and separative work units plus conversion, in amounts determined in accordance with Section IV.B.1 of the Suspension Agreement (as amended by the amendment published in the Federal Register on October 9, 2020 (85 Fed. Reg. 64112));

(II) the export limit allocations set forth in Appendix 5 of the Suspension Agreement (as so amended);

(III) the requirements for natural uranium returned feed associated with imports of low-enriched uranium, including pursuant to sales of enrichment, with or without conversion, from the Russian Federation, as set forth in Section IV.B.1 of the Suspension Agreement (as so amended);

(IV) any other provisions of the Suspension Agreement (as so amended); and

(V) any related administrative guidance issued by the Department of Commerce.

(ii) Effect of termination of Suspension Agreement

Clause (i) shall remain in effect if the Suspension Agreement is terminated.

(C) 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 (9).

(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 for processing and to be certified for reexportation and not for consumption in the United States.

(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) Authority for additional adjustment

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.

(6) 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.

(7) 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)(C), subject to verification under paragraph (9), 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)(C), 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).

(8) Termination of import restrictions

The provisions of this subsection shall terminate on the date described in subsection (d)(1).

(9) 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)(C) and (7).

(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.

(10) 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.

(11) 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 or the Suspension 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.

(d) Prohibition on imports of low-enriched uranium

(1) Prohibition

Beginning on the date that is 90 days after May 13, 2024, and subject to paragraphs (2) and (3), the following may not be imported into the United States:

(A) Unirradiated low-enriched uranium that is produced in the Russian Federation or by a Russian entity.

(B) Unirradiated low-enriched uranium that is determined to have been exchanged with, swapped for, or otherwise obtained in lieu of unirradiated low-enriched uranium described in subparagraph (A) in a manner designed to circumvent the restrictions under this section.

(2) Waiver

(A) In general

Subject to subparagraphs (B) and (C), the Secretary of Energy, in consultation with the Secretary of State and the Secretary of Commerce, may waive the application of paragraph (1) to authorize the importation of low-enriched uranium described in that paragraph if the Secretary of Energy determines that—

(i) no alternative viable source of low-enriched uranium is available to sustain the continued operation of a nuclear reactor or a United States nuclear energy company; or

(ii) importation of low-enriched uranium described in paragraph (1) is in the national interest.

(B) Limitation on amounts of imports of low-enriched uranium

(i) In general

The importation into the United States of low-enriched uranium described in paragraph (1), including low-enriched uranium obtained under contracts for separative

work units, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

(I) in calendar year 2024, 476,536 kilograms;

(II) in calendar year 2025, 470,376 kilograms;

(III) in calendar year 2026, 464,183 kilograms; and

(IV) in calendar year 2027, 459,083 kilograms.

(ii) Administration

The Secretary of Commerce shall—

(I) administer the import limitations described in clause (i) in accordance with the provisions of the Suspension Agreement, including the provisions described in subsection (c)(2)(B)(i);

(II) be responsible for enforcing the import limitations described in clause (i); and

(III) enforce the import limitations described in clause (i) in a manner that imposes a minimal burden on the commercial nuclear industry.

(C) Termination

Any waiver issued under subparagraph (A) shall terminate not later than January 1, 2028.

(D) Notification to Congress

(i) In general

Upon issuing a waiver under subparagraph (A), the Secretary of Energy shall submit to the committees specified in clause (ii) a notification that a waiver has been issued, which shall include identification of the recipient of the waiver.

(ii) Committees specified

The committees specified in this clause are—

(I) the Committee on Energy and Natural Resources and the Committee on Finance of the Senate; and

(II) the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives.

(3) Applicability

This subsection does not apply to imports—

(A) by or under contract to the Department of Energy for national security or nonproliferation purposes; or

(B) of non-uranium isotopes.

(4) Termination

The provisions of this subsection shall terminate on December 31, 2040.

(5) Russian entity defined

In this subsection, the term ''Russian entity'' means an entity organized under the laws of or otherwise subject to the jurisdiction of the Government of the Russian Federation.

(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; amended Pub. L. 116–260, div. Z, title II, §2007(a), Dec. 27, 2020, 134 Stat. 2472; Pub. L. 118–62, §2(a), (b)(1), May 13, 2024, 138 Stat. 1022, 1023.)

Editorial Notes

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

2024—Subsec. (c)(2)(A)(xi) to (xxvii). Pub. L. 118–62, §2(b)(1)(A)(i), struck out cls. (xi) to (xxvii) which provided limitations on importation of Russian low-enriched uranium for calendar years 2024 to 2040.

Subsec. (c)(2)(C)(i). Pub. L. 118–62, §2(b)(1)(A)(ii), substituted ''paragraph (9)'' for ''paragraph (10)''.

Subsec. (c)(3). Pub. L. 118–62, §2(b)(1)(B), substituted ''United States'' for ''United States—'' and struck out subpar. (B) designation before ''for processing'' and subpar. (A) which read as follows: ''for use in the initial core of a new nuclear reactor; or''.

Subsec. (c)(5). Pub. L. 118–62, §2(b)(1)(E), substituted ''The'' for ''In addition to the adjustment under paragraph (5)(A), the'' in introductory provisions.

Pub. L. 118–62, §2(b)(1)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which related to adjustments to import limitations.

Subsec. (c)(6). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (c)(7). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Subsec. (c)(7)(A). Pub. L. 118–62, §2(b)(1)(F), substituted ''paragraph (9)'' for ''paragraph (10)''.

Subsec. (c)(8). Pub. L. 118–62, §2(b)(1)(G), substituted ''the date described in subsection (d)(1)'' for ''December 31, 2040''.

Pub. L. 118–62, §2(b)(1)(D), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Subsec. (c)(9). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Subsec. (c)(9)(A). Pub. L. 118–62, §2(b)(1)(H), substituted ''paragraphs (2)(C) and (7)'' for ''paragraphs (2)(C) and (8)''.

Subsec. (c)(10) to (12). Pub. L. 118–62, §2(b)(1)(D), redesignated pars. (11) and (12) as (10) and (11), respectively. Former par. (10) redesignated (9).

Subsec. (d). Pub. L. 118–62, §2(a), added subsec. (d).

2020—Subsec. (a)(7), (8). Pub. L. 116–260, §2007(a)(1), added par. (7) and redesignated former par. (7) as (8).

Subsec. (b). Pub. L. 116–260, §2007(a)(2), substituted ''United States—'' and ''(1) to support'' for ''United States to support'' and added pars. (2) to (4).

Subsec. (c). Pub. L. 116–260, §2007(a)(3)(F), substituted ''(2)(C)'' for ''(2)(B)'' wherever appearing.

Subsec. (c)(2)(A)(viii) to (xxvi). Pub. L. 116–260, §2007(a)(3)(A)(i), added cls. (viii) to (xxvi).

Subsec. (c)(2)(B), (C). Pub. L. 116–260, §2007(a)(3)(A)(ii), (iii), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(3)(C). Pub. L. 116–260, §2007(a)(3)(B), struck out subpar. (C) which read as follows: ''to be added to the inventory of the Department of Energy''.

Subsec. (c)(5)(A). Pub. L. 116–260, §2007(a)(3)(C)(i), substituted ''lower scenario data in the report of the World Nuclear Association entitled 'The Nuclear Fuel Report: Global Scenarios for Demand and Supply Availability 2019–2040'. In each of calendar years 2023, 2029, and 2035'' for ''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''.

Subsec. (c)(5)(B) to (D). Pub. L. 116–260, §2007(a)(3)(C)(ii)–(iv), added subpar. (B), redesignated former subpars. (B) and (C) as (C) and (D), respectively, and, in subpar. (D), as redesignated, substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (c)(9). Pub. L. 116–260, § 2007(a)(3)(D), substituted ''2040'' for ''2020''.

Subsec. (c)(12)(B). Pub. L. 116–260, § 2007(a)(3)(E), inserted ''or the Suspension Agreement'' after ''the Russian HEU Agreement''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–62, § 2(b)(2), May 13, 2024, 138 Stat. 1024, provided that: ''The amendment to section 3112A(c)(2)(A)(xi) of the USEC Privatization Act (42 U.S.C. 2297h–10a(c)(2)(A)(xi)) made by paragraph (1)(A) of this subsection shall take effect on the date that is 90 days after the date of the enactment of this Act [May 13, 2024].''

APPLICABILITY

Pub. L. 116–260, div. Z, title II, § 2007(b), Dec. 27, 2020, 134 Stat. 2474, provided that: ''The amendments made by subsection (a) [amending this section] apply with respect to uranium imported from the Russian Federation on or after January 1, 2021.''

§ 2297h–10b. Secretarial determinations; congressional notification

(a) Secretarial determinations

In this fiscal year, and in each subsequent fiscal year, any determination (including a determination made prior to December 16, 2014) by the Secretary of Energy under section 2297h–10(d)(2)(B) of this title shall be valid for not more than 2 calendar years subsequent to such determination.

(b) Congressional notification

In this fiscal year, and in each subsequent fiscal year, not less than 30 days prior to the provision of uranium in any form the Secretary of Energy shall notify the Committees on Appropriations of the House of Representatives and the Senate of the following—

(1) the provisions of law (including regulations) authorizing the provision of uranium;

(2) the amount of uranium to be provided;

(3) an estimate by the Secretary of Energy of the gross fair market value of the uranium on the expected date of the provision of the uranium;

(4) the expected date of the provision of the uranium;

(5) the recipient of the uranium;

(6) the value the Secretary of Energy expects to receive in exchange for the uranium, including any adjustments to the gross fair market value of the uranium; and

(7) whether the uranium to be provided is encumbered by any restriction on use under an international agreement or otherwise.

(Pub. L. 113–235, div. D, title III, § 306, Dec. 16, 2014, 128 Stat. 2324.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, 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) 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.)

Editorial Notes

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