

Department of Energy

§ 765.2

the lease. Failure of DOE to exercise its right to cancel shall not be deemed a waiver thereof.

(t) *Form of lease.* Leases will be issued on forms prescribed by DOE.

(u) *Noncompetitive leases.* Under special circumstances, where DOE believes it to be in the best interest of the Government, DOE at its discretion may award or extend leases on the basis of negotiation.

(v) *DOE decisions.* All matters connected with the issuance and administration of leases will be determined by DOE whose decisions shall be final and conclusive.

(w) *Definitions.* DOE as used in this section means the United States Department of Energy or its duly authorized representative or representatives.

(x) *Multiple use of land.* Leases issued under this section shall provide that operations under them will be conducted so as not to interfere with the lawful operations of any third party having a lease, permit, easement, or other right or interest in the premises.

(y) *Compliance with State and Federal regulations.* Every lease shall provide that the lessee is required to comply with all applicable State and Federal statutes and regulations.

(Secs. 66, 161, 68 Stat. 933, 948, as amended; 42 U.S.C. 2096, 2201)

[41 FR 56783, Dec. 30, 1976]

PART 765—REIMBURSEMENT FOR COSTS OF REMEDIAL ACTION AT ACTIVE URANIUM AND THORIUM PROCESSING SITES

Subpart A—General

Sec.

765.1 Purpose.

765.2 Scope and applicability.

765.3 Definitions.

Subpart B—Reimbursement Criteria

765.10 Eligibility for reimbursement.

765.11 Reimbursable costs.

765.12 Inflation index adjustment procedures.

Subpart C—Procedures for Submitting and Processing Reimbursement Claims

765.20 Procedures for submitting reimbursement claims.

765.21 Procedures for processing reimbursement claims.

765.22 Appeals procedures.

765.23 Annual report.

Subpart D—Additional Reimbursement Procedures

765.30 Reimbursement of costs incurred in accordance with a plan for subsequent remedial action.

765.31 Designation of funds available for subsequent remedial action.

765.32 Reimbursement of excess funds.

AUTHORITY: 42 U.S.C. 2296a *et seq.*

SOURCE: 59 FR 26726, May 23, 1994, unless otherwise noted.

Subpart A—General

§ 765.1 Purpose.

The provisions of this part establish regulatory requirements governing reimbursement for certain costs of remedial action at active uranium or thorium processing sites as specified by Subtitle A of Title X of the Energy Policy Act of 1992. These regulations are authorized by section 1002 of the Act (42 U.S.C. 2296a-1), which requires the Secretary to issue regulations governing the reimbursements.

§ 765.2 Scope and applicability.

(a) This part establishes policies, criteria, and procedures governing reimbursement of certain costs of remedial action incurred by licensees at active uranium or thorium processing sites as a result of byproduct material generated as an incident of sales to the United States.

(b) Costs of remedial action at active uranium or thorium processing sites are borne by persons licensed under section 62 or 81 of the Atomic Energy Act (42 U.S.C. 2092, 2111), either by NRC or an Agreement State pursuant to a counterpart to section 62 or 81 of the Atomic Energy Act, under State law, subject to the exceptions and limitations specified in this part.

(c) The Department shall, subject to the provisions specified in this part, reimburse a licensee, of an active uranium or thorium processing site for the portion of the costs of remedial action as are determined by the Department to be attributable to byproduct material generated as an incident of sales to

§ 765.3

10 CFR Ch. III (1–11 Edition)

the United States and either incurred by the licensee not later than December 31, 2007, or incurred by the licensee in accordance with a plan for subsequent remedial action approved by the Department.

(d) Costs of remedial action are reimbursable under Title X for decontamination, decommissioning, reclamation, and other remedial action, provided that claims for reimbursement are supported by reasonable documentation as specified in subpart C of this part.

(e) Except as authorized by § 765.32, the total amount of reimbursement paid to any licensee of an active uranium processing site shall not exceed \$6.25 multiplied by the number of Federal-related dry short tons of byproduct material. This total amount shall be adjusted for inflation pursuant to section 765.12.

(f) The total amount of reimbursement paid to all active uranium processing site licensees shall not exceed \$350 million. This total amount shall be adjusted for inflation by applying the CPI-U, as provided by § 765.12.

(g) The total amount of reimbursement paid to the licensee of the active thorium processing site shall not exceed \$365 million, as adjusted for inflation by applying the CPI-U as provided by § 765.12.

(h) Reimbursement of licensees for costs of remedial action will only be made for costs that are supported by reasonable documentation as required by § 765.20 and claimed for reimbursement by a licensee in accordance with the procedures established by subpart C of this part.

(i) The \$715 million aggregate amount authorized to be appropriated under section 1003(a) of the Act (42 U.S.C. 2296a-2(a)) shall be adjusted for inflation by applying the CPI-U as provided by § 765.12, and shall be provided from the Fund.

[59 FR 26726, May 23, 1994, as amended at 68 FR 32957, June 3, 2003]

§ 765.3 Definitions.

For the purposes of this part, the following terms are defined as follows:

Active uranium or thorium processing site or *active processing site* means:

(1) Any uranium or thorium processing site, including the mill, containing byproduct material for which a license, issued either by NRC or by an Agreement State, for the production at a site of any uranium or thorium derived from ore—

(i) Was in effect on January 1, 1978;

(ii) Was issued or renewed after January 1, 1978; or

(iii) For which an application for renewal or issuance was pending on, or after January 1, 1978; and

(2) Any other real property or improvement on such real property that is determined by the Secretary or by an Agreement State to be:

(i) In the vicinity of such site; and

(ii) Contaminated with residual byproduct material.

Agreement State means a State that is or has been a party to a discontinuance agreement with NRC under section 274 of the Atomic Energy Act (42 U.S.C. 2021) and thereafter issues licenses and establishes remedial action requirements pursuant to a counterpart to section 62 or 81 of the Atomic Energy Act under state law.

Atomic Energy Act means the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2011 *et seq.*).

Byproduct material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Claim for reimbursement means the submission of an application for reimbursement in accordance with the requirements established in subpart C of this part.

Costs of remedial action means costs incurred by a licensee prior to or after enactment of UMTRCA to perform decontamination, decommissioning, reclamation, and other remedial action. These costs may include but are not necessarily limited to expenditures for work necessary to comply with applicable requirements to conduct groundwater remediation, treatment or containment of contaminated soil, disposal of process wastes, removal actions, air pollution abatement measures, mill and equipment decommissioning, site monitoring, administrative activities, expenditures required