

# Rules and Regulations

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## DEPARTMENT OF ENERGY

### 10 CFR Part 765

RIN 1901-AA88

#### Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Final rule; Technical and administrative amendments.

**SUMMARY:** The Department of Energy (DOE) adopts several technical and administrative amendments to its procedural regulations governing the reimbursement of remedial action costs at active uranium and thorium processing sites. Since it was enacted in 1992, the original legislation authorizing the program has been amended four times to increase the amounts authorized for reimbursement and to make technical changes. Today's regulatory amendments reflect the legislative amendments and make other technical corrections that have been identified since the original rule was issued. None of the amendments raise substantive issues or represent changes in policy.

**DATES:** This rule will be effective July 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** David E. Mathes, Office of Environmental Management, EM-30, U.S. Department of Energy, Germantown, Maryland 20874-1290. Telephone: (301) 903-7222. Internet: [david.mathes@em.doe.gov](mailto:david.mathes@em.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Discussion

The Secretary of Energy has approved today's technical and administrative regulatory amendments in order to conform 10 CFR part 765 to legislative amendments to Title X of the Energy

Policy Act of 1992 (sections 1001-1004 of Pub. L. 102-486) and the need to make other corrections to the original rule published on May 23, 1994 (59 FR 26714). Congress has amended the original legislation four times since it was enacted on October 24, 1992. In 1996, Public Law 104-259 amended Title X to increase the authorized reimbursement amounts for uranium and thorium licensees from \$270 million and \$40 million to \$350 million and \$65 million, respectively, for an aggregate authorized reimbursement amount of \$415 million; and to increase the maximum amount that may be reimbursed to uranium licensees per dry short ton of Federal-related byproduct material from \$5.50 to \$6.25. In 1998, Public Law 105-388 further amended Title X to increase the authorized reimbursement amount for the thorium licensee from \$65 million to \$140 million, for an aggregate authorized reimbursement amount to uranium and thorium licensees of \$490 million. In 2000, Public Law 106-317 amended Title X to change the date for determining the availability of excess funds for reimbursement to uranium licensees from July 31, 2005, to December 31, 2008; to change the date after which work must be completed in accordance with an approved plan for subsequent remedial action to be eligible for reimbursement from December 31, 2002, to December 31, 2007; and to eliminate the requirement for the Department to place certain reimbursement funds in escrow. In 2002, Public Law 107-222 amended Title X to increase the authorized reimbursement amount for the thorium licensee from \$140 million to \$365 million, for an aggregate authorized reimbursement amount to uranium and thorium licensees of \$715 million.

Part 765 is amended in several places to reflect these statutory provisions. Other technical corrections to the original rule are discussed in the following paragraphs.

Section 765.21(e) is revised to provide a licensee with an additional opportunity to provide reasonable documentation, as specified in § 765.20, for claims or portions of claims that DOE has denied during the claim year. The revised rule now gives a licensee 45 days after DOE issues a written decision to deny the claim, in which to provide the documentation for DOE

reconsideration of the claim. If a licensee chooses not to submit the documentation, the licensee still has the right to file a formal appeal to the DOE's claim denial in accordance with § 765.22. If a licensee chooses to submit the documentation, DOE will consider whether the documentation results in the DOE's reversal of its initial decision to deny the claim and will inform the licensee of the DOE's subsequent decision. A licensee may also appeal that decision in accordance with § 765.22. By providing this additional opportunity to a licensee, DOE believes that both DOE and the licensee may save time and money by minimizing the number of appeals.

Section 765.23 is amended to indicate the new address for obtaining copies of the DOE status report on the reimbursement program.

Section 765.30(b) presents the procedure for submitting a plan for subsequent remedial action. The original rule indicated that licensees may submit this plan any time after January 1, 2000, but no later than December 31, 2001. Because Congress changed the date after which work must be completed in accordance with an approved plan for subsequent remedial action to be eligible for reimbursement from December 31, 2002, to December 31, 2007, this final rule correspondingly changes the dates for submitting a plan to DOE to any time after January 1, 2005, but no later than December 31, 2006.

Section 765.30(d) outlines the process for resubmitting a revised plan for subsequent remedial action if the original plan is rejected by DOE. The original rule indicated that a licensee may continue to submit revised plans for subsequent remedial action until DOE approves a plan, or September 30, 2002, whichever occurs first. This final rule changes the September 30, 2002, deadline to September 30, 2007, to correspond with the new statutory deadline for making reimbursements in accordance with a subsequent plan for remedial action.

Section 765.30(e) presents the procedures for determining the maximum amounts for which licensees may be eligible for reimbursement for work performed as described in their plans for subsequent remedial action submitted to and approved by DOE. The original rule indicated that a licensee is