

## AMENDMENTS

2003—Subsec. (b)(2). Pub. L. 108-136, §3141(g)(6)(D), inserted “, the predecessor provision to section 2584 of this title” before period at end.

**§ 2586. Defense waste cleanup technology program**

**(a) Establishment of program**

The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

**(b) Coordination of research activities**

(1) In order to ensure nonduplication of research activities by the Department of Energy regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies relating to the same matter.

(2) To the extent that funds are otherwise available for obligation, the Secretary may enter into cooperative agreements with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies for the conduct of research for the development of technologies referred to in subsection (a).

**(c) Definitions**

As used in this section:

(1) The term “defense waste” means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term “inactive defense waste disposal site” means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

(Pub. L. 107-314, div. D, title XLIV, §4406, formerly Pub. L. 101-189, div. C, title XXXI, §3141, Nov. 29, 1989, 103 Stat. 1679; Pub. L. 105-85, div. C, title XXXI, §3152(g), Nov. 18, 1997, 111 Stat. 2042; renumbered Pub. L. 107-314, div. D, title XLIV, §4406, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(7), Nov. 24, 2003, 117 Stat. 1765.)

## CODIFICATION

Section was formerly classified to section 7274a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

## AMENDMENTS

2003—Pub. L. 108-136, §3141(g)(7)(D), made technical amendment to section catchline.

1997—Subsecs. (c), (d). Pub. L. 105-85 redesignated subsec. (d) as (c) and struck out former subsec. (c) which required Secretary of Energy to submit to Congress not later than Apr. 1 each year a report on research activities of Department of Energy for development of technologies referred to in subsec. (a).

**§ 2587. Report on environmental restoration expenditures**

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Energy shall submit to Congress a report on how the environmental restoration and waste management funds for defense activities of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

(Pub. L. 107-314, div. D, title XLIV, §4407, formerly Pub. L. 101-510, div. C, title XXXI, §3134, Nov. 5, 1990, 104 Stat. 1833; renumbered Pub. L. 107-314, div. D, title XLIV, §4407, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(8), Nov. 24, 2003, 117 Stat. 1765.)

## CODIFICATION

Section was formerly classified to section 7274c of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

## AMENDMENTS

2003—Pub. L. 108-136, §3141(g)(8)(D), made technical amendment to section catchline.

**§ 2588. Public participation in planning for environmental restoration and waste management at defense nuclear facilities**

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for environmental restoration and waste management at Department of Energy defense nuclear facilities.

(Pub. L. 107-314, div. D, title XLIV, §4408, formerly Pub. L. 103-337, div. C, title XXXI, §3160(e), Oct. 5, 1994, 108 Stat. 3095; renumbered Pub. L. 107-314, div. D, title XLIV, §4408, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(9), Nov. 24, 2003, 117 Stat. 1765.)

## CODIFICATION

Section was formerly set out as a note under section 7274g of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

## AMENDMENTS

2003—Pub. L. 108-136, §3141(g)(9)(C), substituted “Public participation in planning for environmental restoration and waste management at defense nuclear facilities” for “Public participation in planning” in section catchline.

**§ 2589. Policy of Department of Energy regarding future defense environmental management matters**

**(a) Policy required**

(1) Commencing not later than October 1, 2005, the Secretary of Energy shall have in effect a

policy for carrying out future defense environmental management matters of the Department of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.

(2) In paragraph (1), the term “future defense environmental management matter” means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after November 24, 2003. However, such term does not include any such project or activity the responsibility for which has been assigned, as of November 24, 2003, to the Environmental Management program of the Department.

**(b) Reflection in budget**

For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) reflect the policy required by subsection (a).

**(c) Consultation**

The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.

**(d) Report**

The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

(Pub. L. 108-136, div. C, title XXXI, §3132, Nov. 24, 2003, 117 Stat. 1750.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Atomic Energy Defense Act which comprises this chapter.

PART B—CLOSURE OF FACILITIES

**§ 2601. Projects to accelerate closure activities at defense nuclear facilities**

**(a) In general**

The Secretary of Energy shall select and carry out closure-acceleration projects in accordance with this section.

**(b) Purpose**

The purpose of a closure-acceleration project shall be, within a fixed period of time, to clean up or decommission a Department of Energy defense nuclear facility or portion thereof and to make the facility safe by stabilizing, consolidating, treating, or removing nuclear materials from the facility in order to reduce significantly or eliminate future costs at the facility.

**(c) Eligible projects**

(1) The Secretary of Energy may establish a closure-acceleration project as eligible for selection under subsection (e) by—

(A) developing a plan for the project that meets the criteria under paragraph (2); and

(B) determining that the project will achieve significant long-term cost savings to the Federal Government from the baseline cost estimate made by the Department of Energy for the project.

(2) A plan for a closure-acceleration project under this section shall—

(A) define a clear, delineated scope of work for completion of the project;

(B) demonstrate that, with respect to the site of the proposed project, there is a regulatory agreement between the Department of Energy and other appropriate authorities for the implementation of environmental remediation requirements that would allow for successful completion of the project;

(C) demonstrate, to the maximum extent possible, the support of State and local elected officials and the public for the project;

(D) contain performance-based provisions to be included in the contract for the project, including—

(i) clearly stated and results-oriented performance criteria and measures;

(ii) appropriate incentives for the contractor to meet and exceed the performance criteria effectively and efficiently;

(iii) appropriate criteria and incentives for the contractor to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services;

(iv) specific incentives for cost savings;

(v) financial accountability; and

(vi) when appropriate, reduction of fee for failure to meet minimum performance criteria and standards;

(E) demonstrate that the project will use new and innovative cleanup and waste management technology with potential for application to other locations and facilities without requiring the development of new technologies; and

(F) demonstrate that the project can be completed within 10 years from the date of its selection.

**(d) Program administration**

The Secretary of Energy, acting through the Assistant Secretary for Environmental Management, shall implement a program to carry out the provisions of this section.

**(e) Selection of projects**

(1) The Secretary of Energy shall select closure-acceleration projects to be carried out under this section from among those projects established as eligible under subsection (c) that will result in the most significant long-term cost savings to the Government and the most significant reduction of imminent risk.

(2) For each project selected, the Secretary shall submit to Congress a report setting forth