

committees not later than 30 days after determining that—

(1) the total cost for a project referred to in paragraph (1), (2), or (3) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and

(2) in the case of a stockpile life extension project referred to in subsection (a)(1), the cost for any warhead in the project will exceed an amount that is equal to 200 percent of the cost baseline established under subsection (a)(1)(B) for each warhead in that project.

**(c) Notification of determination with respect to termination or continuation of projects**

Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—

(1) notify the congressional defense committees with respect to whether the project will be terminated or continued; and

(2) if the project will be continued, certify to the congressional defense committees that—

(A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension project referred to in subparagraph (A) or (B) of subsection (a)(1), a revised estimate of the cost for each warhead in the project has been made;

(B) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and

(C) a management structure is in place adequate to manage and control the cost and schedule of the project.

**(d) Applicability of requirements to revised cost and schedule baselines**

A revised cost and schedule baseline established under subsection (c) shall—

(1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2); and

(2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).

(Pub. L. 107-314, div. D, title XLVII, §4713, as added Pub. L. 111-383, div. C, title XXXI, §3114(a), Jan. 7, 2011, 124 Stat. 4510; amended Pub. L. 112-239, div. C, title XXXI, §3131(t), Jan. 2, 2013, 126 Stat. 2184.)

AMENDMENTS

2013—Subsec. (a)(1)(A). Pub. L. 112-239 struck out “for Nuclear Security” after “Administrator” and struck out “National Nuclear Security” after “life extension project of the”.

PART B—PENALTIES

**§ 2761. Restriction on use of funds to pay penalties under environmental laws**

**(a) Restriction**

Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program

or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

**(b) Exception**

Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) the Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

(Pub. L. 107-314, div. D, title XLVII, §4721, formerly Pub. L. 99-661, div. C, title I, §3132, Nov. 14, 1986, 100 Stat. 4063; renumbered Pub. L. 107-314, div. D, title XLVII, §4721, and amended Pub. L. 108-136, div. C, title XXXI, §3141(j)(4), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7273a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2003—Pub. L. 108-136, §3141(j)(4)(D), made technical amendment to section catchline.

**§ 2762. Restriction on use of funds to pay penalties under Clean Air Act**

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540) or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose.

(Pub. L. 107-314, div. D, title XLVII, §4722, formerly Pub. L. 96-540, title II, §211, Dec. 17, 1980, 94 Stat. 3203; renumbered Pub. L. 107-314, div. D, title XLVII, §4722, and amended Pub. L. 108-136, div. C, title XXXI, §3141(j)(5), Nov. 24, 2003, 117 Stat. 1781.)

REFERENCES IN TEXT

The Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, referred to in text, is Pub. L. 96-540, Dec. 17, 1980, 94 Stat. 3197, which insofar as classified to the Code, enacted this section and section 2513 of this title.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.