

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.

CODIFICATION

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

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:

Pub. L. 96-164, title II, § 211, Dec. 29, 1979, 93 Stat. 1264.

AMENDMENTS

2003—Pub. L. 108-136, § 3141(j)(5)(C), made technical amendment to section catchline and substituted “the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540) or any other Act” for “this or any other Act” in text.

PART C—OTHER MATTERS

§ 2771. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3131(u)(1), Jan. 2, 2013, 126 Stat. 2184

Section, Pub. L. 107-314, div. D, title XLVII, § 4731, formerly Pub. L. 95-509, title II, § 208, Oct. 24, 1978, 92 Stat. 1779; renumbered Pub. L. 107-314, div. D, title XLVII, § 4731, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(j)(7), Nov. 24, 2003, 117 Stat. 1782, provided that the Secretary was to submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorization of appropriations for common defense and security programs.

§ 2772. Quarterly reports on financial balances for atomic energy defense activities

(a) Reports required

Not later than 15 days after the end of each fiscal year quarter, the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development.

(b) Elements

Each report under subsection (a) shall set forth, for each program covered by such report, the following as of the end of the fiscal year quarter covered by such report:

- (1) The total amount authorized to be appropriated, including amounts authorized to be appropriated in the current fiscal year and amounts authorized to be appropriated for prior fiscal years.
- (2) The amount unobligated.
- (3) The amount unobligated but committed.
- (4) The amount obligated but uncosted.

(c) Presentation

Each report under subsection (a) shall present information as follows:

- (1) For each program, in summary form and by fiscal year.
- (2) With financial balances in connection with funding under recurring DOE national security authorizations (as that term is defined in section 2741(1)) of this title presented separately from balances in connection with funding under any other provisions of law.

(Pub. L. 107-314, div. D, title XLVII, § 4732, as added Pub. L. 112-239, div. C, title XXXI, § 3143(a), Jan. 2, 2013, 126 Stat. 2196.)

SUBCHAPTER VIII—ADMINISTRATIVE MATTERS

PART A—CONTRACTS

§ 2781. Costs not allowed under covered contracts

(a) In general

The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b) Regulations; costs of information provided to Congress or State legislatures and related costs

(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.