Nov. 5, 1990, 104 Stat. 1834; Pub. L. 103–337, div. C, title XXXI, §3138(b), Oct. 5, 1994, 108 Stat. 3087; renumbered Pub. L. 107–314, div. D, title XLVI, §4644, and amended Pub. L. 108–136, div. C, title XXXI, §3141(i)(15), Nov. 24, 2003, 117 Stat. 1780; Pub. L. 113–66, div. C, title XXXI, §3146(g)(12), Dec. 26, 2013, 127 Stat. 1080.)

Editorial Notes

REFERENCES IN TEXT

Title XXXI of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (a), is title XXXI of div. C of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1824. For complete classification of title XXXI to the Code, see Tables.

AMENDMENTS

2013—Subsec. (c)(2), (3). Pub. L. 113–66, §3146(g)(12)(A), substituted ''Congress'' for ''the Congress''.

Subsec. (c)(4). Pub. L. 113–66, §3146(g)(12)(B), inserted ''and Prevention'' after ''Disease Control''.

2003—Pub. L. 108–136, §3141(i)(15)(D)(i), made technical amendment to section catchline.

Subsec. (a). Pub. L. 108–136, §3141(i)(15)(D)(ii), substituted ''title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)'' for ''this title''.

Subsec. (c)(2). Pub. L. 108–136, §3141(i)(15)(D)(iii)(I), substituted ''May 5, 1991,'' for ''six months after the date of the enactment of this Act,''.

Subsec. (c)(3). Pub. L. 108–136, §3141(i)(15)(D)(iii)(II), substituted ''May 5, 1992,'' for ''18 months after the date of the enactment of this Act,''.

1994—Subsec. (d). Pub. L. 103–337 added subsec. (d).

§ 2735. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management

(a) Nuclear safety at NNSA and DOE facilities

The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.

(b) Adequate protection

The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 2232 of title 42 that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

(c) Facilities specified

Subsection (a) shall apply—

(1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and

(2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy.

(Pub. L. 107–314, div. D, title XLVI, §4645, as added Pub. L. 112–239, div. C, title XXXI, §3161(a), Jan. 2, 2013, 126 Stat. 2203.)

§ 2736. Notification of nuclear criticality and non-nuclear incidents

(a) Notification

The Secretary of Energy or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

(b) Elements of notification

Each notification submitted under subsection (a) shall include the following:

(1) A description of the incident, including the cause of the incident.

(2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.

(3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.

(4) Any corrective action taken in response to the incident.

(c) Database

(1) The Secretary shall maintain a record of incidents described in paragraph (2).

(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

(A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.

(B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

(d) Cooperation

In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

(e) Definitions

In this section:

(1) The term ''appropriate congressional committees'' means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term ''covered facility'' means—

(A) a facility of the nuclear security enterprise; and

(B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.

(3) The term ''covered program'' means—

(A) programs of the Administration; and

(B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.

(Pub. L. 107–314, div. D, title XLVI, §4646, as added Pub. L. 112–239, div. C, title XXXI,

§ 3142(a)(1), Jan. 2, 2013, 126 Stat. 2194; amended Pub. L. 113–66, div. C, title XXXI, § 3146(g)(13), Dec. 26, 2013, 127 Stat. 1080.)

Editorial Notes

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66 substituted ''Energy or'' for ''Energy and''.

SUBCHAPTER VII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

PART A—RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS

§ 2741. Definitions

In this part:

(1) The term ''DOE national security authorization'' means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2)(A) Except as provided by subparagraph (B), the term ''minor construction threshold'' means $30,000,000.

(B) The Administrator may calculate the amount specified in subparagraph (A) based on fiscal year 2022 constant dollars if the Administrator—

(i) submits to the congressional defense committees a report on the method used by the Administrator to calculate the adjustment;

(ii) a period of 30 days elapses following the date of such submission; and

(iii) publishes the adjusted amount in the Federal Register.

(Pub. L. 107–314, div. D, title XLVII, § 4701, formerly div. C, title XXXVI, § 3620, Dec. 2, 2002, 116 Stat. 2756; renumbered div. D, title XLVII, § 4701, by Pub. L. 108–136, div. C, title XXXI, § 3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 111–84, div. C, title XXXI, § 3118(a), (b), Oct. 28, 2009, 123 Stat. 2709; Pub. L. 111–383, div. C, title XXXI, § 3121(a), Jan. 7, 2011, 124 Stat. 4514; Pub. L. 113–66, div. C, title XXXI, § 3146(a)(2)(I), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 115–91, div. C, title XXXI, § 3119, Dec. 12, 2017, 131 Stat. 1892; Pub. L. 117–81, div. C, title XXXI, § 3115(a), Dec. 27, 2021, 135 Stat. 2226; Pub. L. 117–263, div. C, title XXXI, § 3113(a), Dec. 23, 2022, 136 Stat. 3052; Pub. L. 118–31, div. C, title XXXI, § 3120, Dec. 22, 2023, 137 Stat. 791.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 7386 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2023—Par. (2)(A). Pub. L. 118–31, § 3120(1), substituted ''subparagraph (B)'' for ''subparagraphs (B) and (C)''.

Par. (2)(B). Pub. L. 118–31, § 3120(2), substituted ''The'' for ''During the period beginning on December 23, 2022, and ending on November 30, 2025, the'' in introductory provisions.

Par. (2)(C). Pub. L. 118–31, § 3120(3), struck out subpar. (C) which read as follows: ''Beginning on December 1, 2025, the term 'minor construction threshold' means—

''(i) $30,000,000; or

''(ii) if the Administrator calculated a different amount pursuant to subparagraph (B), the last such calculated amount as published in the Federal Register under clause (iii) of such subparagraph.''

2022—Par. (2). Pub. L. 117–263 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'minor construction threshold' means $25,000,000.''

2021—Par. (2). Pub. L. 117–81 substituted ''$25,000,000'' for ''$20,000,000''.

2017—Par. (2). Pub. L. 115–91 substituted ''$20,000,000'' for ''$10,000,000''.

2013—Pars. (2), (3). Pub. L. 113–66 redesignated par. (3) as (2) and struck out former par. (2) which defined ''congressional defense committees''.

2011—Par. (3). Pub. L. 111–383 substituted ''$10,000,000'' for ''$5,000,000''.

2009—Par. (3). Pub. L. 111–84, § 3118(b), substituted ''$5,000,000'' for ''$10,000,000''.

Pub. L. 111–84, § 3118(a), substituted ''$10,000,000'' for ''$5,000,000''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. C, title XXXI, § 3118(b), Oct. 28, 2009, 123 Stat. 2709, provided that the amendment made by section 3118(b) is effective Sept. 30, 2010.

§ 2742. Reprogramming

(a) In general

Except as provided in subsection (b) and in sections 2750 and 2751 of this title, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) $5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) Exception where notice-and-wait given

An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) Report

The report referred to in this subsection is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(d) Computation of days

In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) Limitations

(1) Total amount obligated

In no event may the total amount of funds obligated pursuant to a DOE national security