(Pub. L. 107–314, div. D, title XLVII, § 4718, as added Pub. L. 117–81, div. C, title XXXI, § 3112(a), Dec. 27, 2021, 135 Stat. 2220.)

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(2) Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.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; Pub. L. 113–66, div. C, title XXXI, § 3146(h)(5), Dec. 26, 2013, 127 Stat. 1081.)

Editorial Notes

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

2013—Subsec. (b)(2). Pub. L. 113–66 substituted ''Congress'' for ''the Congress''.

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; 94 Stat. 3197) 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 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; Pub. L. 113–66, div. C, title XXXI, § 3146(h)(6), Dec. 26, 2013, 127 Stat. 1081; Pub. L. 113–291, div. C, title XXXI, § 3142(r), Dec. 19, 2014, 128 Stat. 3901.)

Editorial Notes

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, 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

2014—Pub. L. 113–291 substituted ''Department of Energy if—'' for ''Department of Energy if'' before par. (1) designation and ''; or'' for '', or'' at end of par. (1) and realigned margins of pars. (1) and (2).

2013—Pub. L. 113–66 inserted ''; 94 Stat. 3197'' after ''Public Law 96–540'' and substituted ''Congress'' for ''the Congress''.

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. Reports on financial balances for atomic energy defense activities

(a) Reports required

(1) In general

Concurrent with the submission of the budget justification materials submitted to Congress in support of the budget of the President for a fiscal year (submitted to Congress pursuant to section 1105(a) of title 31), the Secretary of Energy shall submit to the congressional

defense committees a report on the financial balances for each atomic energy defense program.

(2) Presentation of information

In each report required by paragraph (1), the Secretary shall—

(A) present information 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; and

(B) present financial balances in connection with funding under recurring DOE national security authorizations (as defined in section 2741 of this title) separately from balances in connection with funding under any other provision of law.

(b) Elements

(1) Format

Each report required by subsection (a) shall—

(A) be divided into two parts, as specified in paragraphs (2) and (3); and

(B) set forth the information required by those paragraphs in summary form and by fiscal year.

(2) Part 1

The first part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information, as of the end of the most recently completed fiscal year:

(A) The balance of any unobligated funds and an explanation for why those funds are unobligated.

(B) The total funds available to cost.

(C) The total balance of costed funds.

(D) The total balance of uncosted funds.

(E) The threshold for the balance of uncosted funds, stated in dollars.

(F) The amount of any balance of uncosted funds that is over or under that threshold and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(G) The total balance of encumbered, uncosted funds.

(H) The total balance of unencumbered, uncosted funds.

(I) The amount of any balance of unencumbered, uncosted funds that is over or under the threshold described in subparagraph (E) and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(3) Part 2

The second part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information:

(A) The balance of any unobligated funds, as of the end of the first quarter of the current fiscal year.

(B) The total balance of uncosted funds, as of the end of the first quarter of the current fiscal year.

(C) Unalloted budget authority.

(c) Definitions

In this section:

(1) Costed

The term ''costed'', with respect to funds, means the funds have been obligated to a contract and goods or services have been received from the contractor in exchange for the funds.

(2) Encumbered

The term ''encumbered'', with respect to funds, means the funds have been obligated to a contract and are being held for a specific known purpose by the contractor.

(3) Uncosted

The term ''uncosted'', with respect to funds, means the funds have been obligated to a contract and goods or services have not been received from the contractor in exchange for the funds.

(4) Unencumbered

The term ''unencumbered'', with respect to funds, means the funds have been obligated to a contract and are not being held for a specific known purpose by the contractor.

(5) Threshold

The term ''threshold'' means a benchmark over which a balance carried over at the end of a fiscal year should be given greater scrutiny by Congress.

(6) Total funds available to cost

The term ''total funds available to cost'' means the sum of—

(A) total uncosted obligations from prior fiscal years;

(B) current fiscal year obligations; and

(C) current fiscal year deobligations.

(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; amended Pub. L. 116–283, div. C, title XXXI, § 3151(a), Jan. 1, 2021, 134 Stat. 4389; Pub. L. 117–81, div. C, title XXXI, § 3132, Dec. 27, 2021, 135 Stat. 2230.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 amended section generally. Prior to amendment, section related to quarterly reports on financial balances for atomic energy defense activities.

Subsec. (b)(2)(G). Pub. L. 117–81, § 3132(1)(A), substituted ''encumbered'' for ''committed''.

Subsec. (b)(2)(H), (I). Pub. L. 117–81, § 3132(1)(B), (C), substituted ''unencumbered'' for ''uncommitted''.

Subsec. (c). Pub. L. 117–81, § 3132(2), struck out pars. (1) and (3), which defined ''committed'' and ''uncommitted'', respectively; redesignated former pars. (2) and (4) as (1) and (3), respectively; substituted ''from the contractor'' for ''by the contractor'' in pars. (1) and (3); and added pars. (2) and (4).

§ 2773. Independent acquisition project reviews of capital assets acquisition projects

(a) Reviews

The appropriate head shall ensure that an independent entity conducts reviews of each capital assets acquisition project as the project moves toward the approval of each of critical decision 0, critical decision 1, and critical decision 2 in the acquisition process.