



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600

GENERAL COUNSEL

MAY 29 2009

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515

Dear Madam Speaker:

The Department of Defense requests that the Congress enact the enclosed legislative proposal as part of the National Defense Authorization Bill for Fiscal Year 2010.

The purpose of this proposal is stated in the accompanying section-by-section analysis.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presenting of this legislative proposal for your consideration and the consideration of the Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeh Charles Johnson", written over a large, circular scribble.

Jeh Charles Johnson

Enclosure:
As stated





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GENERAL COUNSEL

The Honorable Joseph Biden
President of the Senate
Washington, DC 20510

Dear Mr. President:

The Department of Defense requests that the Congress enact the enclosed legislative proposal as part of the National Defense Authorization Bill for Fiscal Year 2010.

The purpose of this proposal is stated in the accompanying section-by-section analysis.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presenting of this legislative proposal for your consideration and the consideration of the Congress.

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**SEC. __. AUTHORIZATION FOR ACTIONS TO CORRECT THE INDUSTRIAL
RESOURCE SHORTFALL FOR HIGH-PURITY BERYLLIUM METAL
IN AMOUNTS NOT IN EXCESS OF \$85,000,000.**

1 With respect to actions by the President under section 303 of the Defense Production Act
2 of 1950 (50 U.S.C. App. 2093) to correct the industrial resource shortfall for high-purity
3 beryllium metal, the limitation in subsection (a)(6)(C) of such section shall be applied by
4 substituting “\$85,000,000” for “\$50,000,000”.

Section-by-Section Analysis

This proposal would authorize action or actions to be taken to correct the industrial resource shortfall for High-Purity Beryllium Metal in amounts not to exceed \$85,000,000. Subsection 303(a)(6)(C) of the Defense Production Act of 1950 requires a specific authorization for any action or actions taken under section 303, to correct an industrial resource shortfall, that would cause the aggregate outstanding amount of all such actions to exceed \$50,000,000.

A Title III Determination was signed in October 2005 initiating a multi-year Title III project to re-establish a domestic industrial capability to produce high-purity beryllium metal that was permanently closed in 2000. The original design/build estimate for the plant, developed in the 2002-2003 timeframe, was \$40 to \$45 million.

The engineering design phase, completed at the end of 2007 produced a cost estimate of ~\$88.5 million, including contractor cost share, to build the plant. The cost growth for the beryllium project is driven principally by world economic forces, as well as the rapid rise in petroleum and commodity prices, which have driven up the cost of materials such as copper, nickel, stainless steel, synthetic liners and other materials that are used in chemical plants. The cost of nickel and copper, for example, has risen by 400% – 500%.

The current estimate to correct the industrial resource shortfall for High-Purity Beryllium Metal is \$75 million in government funding. However, authority to take action up to \$85 million is being requested to provide additional authorization in the event economic conditions cause additional unanticipated growth in the cost of the project.