

-CITE-

10 USC CHAPTER 160 - ENVIRONMENTAL RESTORATION

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

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CHAPTER 160 - ENVIRONMENTAL RESTORATION

-MISC1-

Sec.

- 2701. Environmental restoration program.
- 2702. Research, development, and demonstration program.
- 2703. Environmental restoration accounts.
- 2704. Commonly found unregulated hazardous substances.
- 2705. Notice of environmental restoration activities.
- 2706. Annual reports to Congress.
- 2707. Definitions.
- 2708. Contracts for handling hazardous waste from defense facilities.

AMENDMENTS

1996 - Pub. L. 104-201, div. A, title III, Sec. 322(a)(2), Sept. 23, 1996, 110 Stat. 2478, substituted ''accounts'' for ''transfer account'' in item 2703.

1991 - Pub. L. 102-190, div. A, title III, Sec. 331(a)(2), Dec. 5, 1991, 105 Stat. 1340, added item 2708.

Pub. L. 102-25, title VII, Sec. 701(e)(6), Apr. 6, 1991, 105 Stat. 114, substituted ''Annual reports to Congress'' for ''Annual report to Congress'' in item 2706.

1989 - Pub. L. 101-189, div. A, title III, Sec. 357(a)(2)(B), Nov. 29, 1989, 103 Stat. 1427, which directed amendment of the item relating to section 2706 in the table of sections at the beginning of chapter 106 to read ''Annual reports to Congress'', could not be executed because item 2706 is in this chapter and not in chapter 106.

-SECFEF-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2810 of this title.

-CITE-

10 USC Sec. 2701

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2701. Environmental restoration program

-STATUTE-

(a) Environmental Restoration Program. -

(1) In general. - The Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the ''Defense Environmental Restoration Program''.

(2) Application of section 120 of cercla. - Activities of the program described in subsection (b)(1) shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as ''CERCLA'') (42 U.S.C. 9601 et seq.).

(3) Consultation with epa. - The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

(4) Administrative office within osd. - The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

(b) Program Goals. - Goals of the program shall include the following:

(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants.

(2) Correction of other environmental damage (such as detection and disposal of unexploded ordnance) which creates an imminent and substantial endangerment to the public health or welfare or to the environment.

(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

(c) Responsibility for Response Actions. -

(1) Basic responsibility. - The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following:

(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

(B) Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

(C) Each vessel owned or operated by the Department of Defense.

(2) Other responsible parties. - Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 of CERCLA (relating to settlements).

(3) State fees and charges. - The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

(d) Services of Other Agencies. -

(1) In general. - Subject to paragraph (2), the Secretary may enter into agreements on a reimbursable or other basis with any other Federal agency, with any State or local government agency, or with any Indian tribe, to obtain the services of the agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

(2) Limitation on reimbursable agreements. - An agreement with an agency under paragraph (1) may not provide for reimbursement of the agency for regulatory enforcement activities.

(3) Definition. - In this subsection, the term "Indian tribe" has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

(e) Response Action Contractors. - The provisions of section 119 of CERCLA apply to response action contractors (as defined in that section) who carry out response actions under this section.

(f) Use of Appropriated Funds at Former DOD Sites. - Appropriations available to the Department of Defense may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense.

(g) Removal of Unsafe Buildings and Debris Before Release From Federal Control. - In the case of property formerly used by the Department of Defense which is to be released from Federal Government control and at which there are unsafe buildings or debris of the Department of Defense, all actions necessary to comply with regulations of the General Services Administration on the transfer of property in a safe condition shall be completed before the property is released from Federal Government control, except in the case of property to be conveyed to an entity of State or local government or to a native corporation.

(h) Surety-Contractor Relationship. - Any surety which provides a bid, performance, or payment bond in connection with any direct Federal procurement for a response action contract under the Defense Environmental Restoration Program and begins activities to meet its obligations under such bond, shall, in connection with such activities or obligations, be entitled to any indemnification and the same standard of liability to which its principal was entitled under the contract or under any applicable law or regulation.

(i) Surety Bonds. -

(1) Applicability of Miller Act. - If under the Miller Act (40 U.S.C. 270a et seq.) surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program and are not waived pursuant to the Act of April 29, 1941 (40 U.S.C. 270e-270f), the surety bonds shall be issued in accordance with the Miller Act.

(2) Limitation of accrual of rights of action under bonds. - If, under applicable Federal law, surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program, no right of action shall accrue on the performance bond issued on such contract to or for the use of any person other than an obligee

named in the bond.

(3) Liability of sureties under bonds. - If, under applicable Federal law, surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program, unless otherwise provided for by the Secretary in the bond, in the event of a default, the surety's liability on a performance bond shall be only for the cost of completion of the contract work in accordance with the plans and specifications of the contract less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by a breach of the bonded contract.

(4) Nonpreemption. - Nothing in this section shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices, or procedures. Nothing in this section shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgment, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

(j) Applicability. - (1) Subsections (h) and (i) shall not apply to bonds executed before December 5, 1991, or after December 31, 1999.

(2) Subsections (h) and (i) shall not apply to bonds to which section 119(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(g)) applies.

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(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1719; amended Pub. L. 101-510, div. A, title XIV, Sec. 1481(i)(1), Nov. 5, 1990, 104 Stat. 1708; Pub. L. 102-190, div. A, title III, Sec. 336(a), Dec. 5, 1991, 105 Stat. 1342; Pub. L. 102-484, div. A, title III, Sec. 331(b), title X, Sec. 1052(35), Oct. 23, 1992, 106 Stat. 2373, 2501; Pub. L. 103-35, title II, Sec. 201(d)(6), May 31, 1993, 107 Stat. 99; Pub. L. 103-337, div. A, title III, Sec. 322, 323, Oct. 5, 1994, 108 Stat. 2711; Pub. L. 104-106, div. A, title III, Sec. 321(a)(1), title XV, Sec. 1504(a)(1), div. D, title XLIII, Sec. 4321(b)(22), Feb. 10, 1996, 110 Stat. 251, 513, 673; Pub. L. 104-201, div. A, title III, Sec. 329, Sept. 23, 1996, 110 Stat. 2483.)

-REFTEXT-

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsecs. (a)(2), (c)(1), (2), and (e), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (Sec. 9601 et seq.) of Title 42, The Public Health and Welfare. Sections 119, 120, and 122 of that Act are classified to sections 9619, 9620, and 9622, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

The Miller Act, referred to in subsec. (i)(1), is act Aug. 24,

1935, ch. 642, 49 Stat. 793, as amended, which is classified generally to sections 270a to 270d-1 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 270a of Title 40 and Tables.

Act of April 29, 1941, referred to in subsec. (i)(1), is act Apr. 29, 1941, ch. 81, 55 Stat. 147, as amended, which is classified generally to sections 270e and 270f of Title 40. For complete classification of this Act to the Code, see Tables.

-MISC2-

#### PRIOR PROVISIONS

Provisions similar to those in subsecs. (f) and (g) of this section were contained in Pub. L. 101-165, title IX, Sec. 9038, Nov. 21, 1989, 103 Stat. 1137, which was set out below, prior to repeal by Pub. L. 101-510, Sec. 1481(i)(2).

A prior section 2701 was renumbered section 2721 of this title.

#### AMENDMENTS

1996 - Subsec. (d). Pub. L. 104-201 substituted '', with any State or local government agency, or with any Indian tribe,' for '', or with any State or local government agency,' in par. (1) and added par. (3).

Pub. L. 104-106, Sec. 1504(a)(1), made technical correction to directory language of Pub. L. 103-337, Sec. 322(1). See 1994 Amendment note below.

Pub. L. 104-106, Sec. 321(a)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: 'Services of Other Agencies. -

'(1) In general. - The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency or any Indian tribe, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

'(2) Definition. - In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).'

Subsec. (i)(1). Pub. L. 104-106, Sec. 4321(b)(22), substituted 'Miller Act (40 U.S.C. 270a et seq.)' for 'Act of August 24, 1935 (40 U.S.C. 270a-270d), commonly referred to as the 'Miller Act', and 'the Miller Act' for 'such Act of August 24, 1935'.

1994 - Subsec. (d). Pub. L. 103-337, Sec. 322(1), as amended by Pub. L. 104-106, Sec. 1504(a)(1), designated existing provisions as par. (1) and inserted par. (1) heading.

Subsec. (d)(1). Pub. L. 103-337, Sec. 322(2), inserted 'or any Indian tribe' after 'any State or local government agency'.

Subsec. (d)(2). Pub. L. 103-337, Sec. 322(3), added par. (2).

Subsec. (j)(1). Pub. L. 103-337, Sec. 323, substituted 'December 31, 1999' for 'December 31, 1995'.

1993 - Subsec. (j)(2). Pub. L. 103-35 substituted '(42 U.S.C. 9619(g)) applies' for 'applies (42 U.S.C. 9619(g))'.

1992 - Subsec. (j). Pub. L. 102-484, Sec. 1052(35), substituted

'December 5, 1991,' for 'the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993' in par. (1).

Pub. L. 102-484, Sec. 331(b), substituted 'December 31, 1995' for 'December 31, 1992', designated existing provisions as par. (1), and added par. (2).

1991 - Subsecs. (h) to (j). Pub. L. 102-190 added subsecs. (h) to (j).

1990 - Subsecs. (f), (g). Pub. L. 101-510 added subsecs. (f) and (g).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1504(a) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Oct. 5, 1994, and as if included in Pub. L. 103-337 as enacted.

For effective date and applicability of amendment by section 4321(b)(22) of Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 251 of Title 41, Public Contracts.

SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY DEPARTMENT OF DEFENSE  
Pub. L. 105-261, div. A, title III, Sec. 321, Oct. 17, 1998, 112 Stat. 1962, provided that:

'(a) Notice of Negotiations. - The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

'(b) Authorization Required for Use of Funds for Payment of Settlement. - No funds may be used for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law or international agreement, including a treaty.'

#### RECOVERY AND SHARING OF COSTS OF ENVIRONMENTAL RESTORATION AT DEPARTMENT OF DEFENSE SITES

Pub. L. 105-85, div. A, title III, Sec. 348, Nov. 18, 1997, 111 Stat. 1689, provided that:

'(a) Regulations. - Not later than March 1, 1998, the Secretary of Defense shall prescribe regulations containing the guidelines and requirements described in subsections (b) and (c).

'(b) Guidelines. - (1) The regulations prescribed under subsection (a) shall contain uniform guidelines for the military departments and defense agencies concerning the cost-recovery and cost-sharing activities of those departments and agencies.

'(2) The Secretary shall take appropriate actions to ensure the implementation of the guidelines.

'(c) Requirements. - The regulations prescribed under subsection (a) shall contain requirements for the Secretaries of the military departments and the heads of defense agencies to -

'(1) obtain all data that is relevant for purposes of cost-recovery and cost-sharing activities; and

'(2) identify any negligence or other misconduct that may preclude indemnification or reimbursement by the Department of Defense for the costs of environmental restoration at a Department site or justify the recovery or sharing of costs associated with such restoration.

'(d) Definition. - In this section, the term 'cost-recovery and cost-sharing activities' means activities concerning -

''(1) the recovery of the costs of environmental restoration at Department of Defense sites from contractors of the Department and other private parties that contribute to environmental contamination at such sites; and

''(2) the sharing of the costs of such restoration with such contractors and parties.''

PILOT PROGRAM FOR SALE OF AIR POLLUTION EMISSION REDUCTION  
INCENTIVES

Pub. L. 105-85, div. A, title III, Sec. 351, Nov. 18, 1997, 111 Stat. 1692, provided that:

''(a) Authority. - (1) The Secretary of Defense may, in consultation with the Administrator of General Services, carry out a pilot program to assess the feasibility and advisability of the sale of economic incentives for the reduction of emission of air pollutants attributable to a facility of a military department.

''(2) The Secretary may carry out the pilot program during the period beginning on the date of the enactment of this Act (Nov. 18, 1997) and ending two years after such date.

''(b) Incentives Available for Sale. - (1) Under the pilot program, the Secretary may sell economic incentives for the reduction of emission of air pollutants attributable to a facility of a military department only if such incentives are not otherwise required for the activities or operations of the military department.

''(2) The Secretary may not, under the pilot program, sell economic incentives attributable to the closure or realignment of a military installation under a base closure law.

''(3) If the Secretary determines that additional sales of economic incentives are likely to result in amounts available for allocation under subsection (c)(2) in a fiscal year in excess of the limitation set forth in subparagraph (B) of that subsection, the Secretary shall not carry out such additional sales in that fiscal year.

''(c) Use of Proceeds. - (1) The proceeds of sale of economic incentives attributable to a facility of a military department shall be credited to the funds available to the facility for the costs of identifying, quantifying, or valuing economic incentives for the reduction of emission of air pollutants. The amount credited shall be equal to the cost incurred in identifying, quantifying, or valuing the economic incentives sold.

''(2)(A)(i) If after crediting under paragraph (1) a balance remains, the amount of such balance shall be available to the Department of Defense for allocation by the Secretary to the military departments for programs, projects, and activities necessary for compliance with Federal environmental laws, including the purchase of economic incentives for the reduction of emission of air pollutants.

''(ii) To the extent practicable, amounts allocated to the military departments under this subparagraph shall be made available to the facilities that generated the economic incentives providing the basis for the amounts.

''(B) The total amount allocated under this paragraph in a fiscal year from sales of economic incentives may not equal or exceed \$500,000.

''(3) If after crediting under paragraph (1) a balance remains in excess of an amount equal to the limitation set forth in paragraph (2)(B), the amount of the excess shall be covered over into the

Treasury as miscellaneous receipts.

''(4) Funds credited under paragraph (1) or allocated under paragraph (2) shall be merged with the funds to which credited or allocated, as the case may be, and shall be available for the same purposes and for the same period as the funds with which merged.

''(d) Definitions. - In this section:

''(1) The term 'base closure law' means the following:

''(A) Section 2687 of title 10, United States Code.

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

''(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

''(2) The term 'economic incentives for the reduction of emission of air pollutants' means any transferable economic incentives (including marketable permits and emission rights) necessary or appropriate to meet air quality requirements under the Clean Air Act (42 U.S.C. 7401 et seq.).''

AUTHORITY TO DEVELOP AND IMPLEMENT LAND USE PLANS FOR DEFENSE  
ENVIRONMENTAL RESTORATION PROGRAM

Section 325 of Pub. L. 104-201 provided that:

''(a) Authority. - The Secretary of Defense may, to the extent possible and practical, develop and implement, as part of the Defense Environmental Restoration Program provided for in chapter 160 of title 10, United States Code, a land use plan for any defense site selected by the Secretary under subsection (b).

''(b) Selection of Sites. - The Secretary may select up to 10 defense sites, from among sites where the Secretary is planning or implementing environmental restoration activities, for which land use plans may be developed under this section.

''(c) Requirement To Consult With Review Committee or Advisory Board. - In developing a land use plan under this section, the Secretary shall consult with a technical review committee established pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established pursuant to section 2705(d) of such title, a local land use redevelopment authority, or another appropriate State agency.

''(d) 50-Year Planning Period. - A land use plan developed under this section shall cover a period of at least 50 years.

''(e) Implementation. - For each defense site for which the Secretary develops a land use plan under this section, the Secretary shall take into account the land use plan in selecting and implementing, in accordance with applicable law, environmental restoration activities at the site.

''(f) Deadlines. - For each defense site for which the Secretary intends to develop a land use plan under this section, the Secretary shall develop a draft land use plan by October 1, 1997, and a final land use plan by March 15, 1998.

''(g) Definition of Defense Site. - For purposes of this section, the term 'defense site' means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft under the jurisdiction of the Department of Defense, or (B) any site or area under the jurisdiction of the Department of Defense where a hazardous

substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

''(h) Report. - In the annual report required under section 2706(a) of title 10, United States Code, the Secretary shall include information on the land use plans developed under this section and the effect such plans have had on environmental restoration activities at the defense sites where they have been implemented. The annual report submitted in 1999 shall include recommendations on whether such land use plans should be developed and implemented throughout the Department of Defense.

''(i) Savings Provisions. - (1) Nothing in this section, or in a land use plan developed under this section with respect to a defense site, shall be construed as requiring any modification to a land use plan that was developed before the date of the enactment of this Act (Sept. 23, 1996).

''(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.''

FISCAL YEAR 1996 RESTRICTIONS ON REIMBURSEMENTS UNDER AGREEMENTS  
FOR SERVICES OF OTHER AGENCIES

Section 321(a)(2) of Pub. L. 104-106, as amended by Pub. L. 105-85, div. A, title X, Sec. 1073(d)(1)(A), Nov. 18, 1997, 111 Stat. 1905, provided that:

''(A) Except as provided in subparagraph (B), the total amount of funds available for reimbursements under agreements entered into under section 2701(d) of title 10, United States Code, as amended by paragraph (1), in fiscal year 1996 may not exceed \$10,000,000.

''(B) The Secretary of Defense may pay in fiscal year 1996 an amount for reimbursements under agreements referred to in subparagraph (A) in excess of the amount specified in that subparagraph for that fiscal year if -

''(i) the Secretary certifies to Congress that the payment of the amount under this subparagraph is essential for the management of the Defense Environmental Restoration Program under chapter 160 of title 10, United States Code; and

''(ii) a period of 60 days has expired after the date on which the certification is received by Congress.''

ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM FOR DEFENSE PERSONNEL  
Section 328 of Pub. L. 103-337 provided that:

''(a) Establishment. - The Secretary of Defense shall establish and conduct an education and training program for members of the Armed Forces and civilian employees of the Department of Defense whose responsibilities include planning or executing the environmental mission of the Department. The Secretary shall conduct the program to ensure that such members and employees obtain and maintain the knowledge and skill required to comply with existing environmental laws and regulations.

''(b) Identification of Military Facilities With Environmental Training Expertise. - As part of the program, the Secretary may identify military facilities that have existing expertise (or the capacity to develop such expertise) in conducting education and

training activities in various environmental disciplines. In the case of a military facility identified under this subsection, the Secretary should encourage the use of the facility by members and employees referred to in subsection (a) who are not under the jurisdiction of the military department operating the facility.'

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE EDUCATION AND TRAINING IN ENVIRONMENTAL RESTORATION TO DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS

Pub. L. 103-160, div. A, title XIII, Sec. 1333, Nov. 30, 1993, 107 Stat. 1798, as amended by Pub. L. 103-337, div. A, title X, Sec. 1070(b)(11), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105-244, title I, Sec. 102(a)(2)(D), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 105-277, div. A, Sec. 101(f) (title VIII, Sec. 405(d)(8), (f)(7)), Oct. 21, 1998, 112 Stat. 2681-337, 2681-420, 2681-430, provided that:

''(a) Grant Program Authorized. - (1) The Secretary of Defense may establish a program to provide demonstration grants to institutions of higher education to assist such institutions in providing education and training in environmental restoration and hazardous waste management to eligible dislocated defense workers and young adults described in subsection (d). The Secretary shall award the grants pursuant to a merit-based selection process.

''(2) A grant provided under this subsection may cover a period of not more than three fiscal years, except that the payments under the grant for the second and third fiscal year shall be subject to the approval of the Secretary and to the availability of appropriations to carry out this section in that fiscal year.

''(b) Application. - To be eligible for a grant under subsection (a), an institution of higher education shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require. The application shall include the following:

''(1) An assurance by the institution of higher education that it will use the grant to supplement and not supplant non-Federal funds that would otherwise be available for the education and training activities funded by the grant.

''(2) A proposal by the institution of higher education to provide expertise, training, and education in hazardous materials and waste management and other environmental fields applicable to defense manufacturing sites and Department of Defense and Department of Energy defense facilities.

''(c) Use of Grant Funds. - (1) An institution of higher education receiving a grant under subsection (a) shall use the grant to establish a consortium consisting of the institution and one or more of each of the entities described in paragraph (2) for the purpose of establishing and conducting a program to provide education and training in environmental restoration and waste management to eligible individuals described in subsection (d). To the extent practicable, the Secretary shall authorize the consortium to use a military installation closed or selected to be closed under a base closure law in providing on-site basic skills training to participants in the program.

''(2) The entities referred to in paragraph (1) are the following:

''(A) Appropriate State and local agencies.

''(B) Private industry councils as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512) or local

workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832).

''(C) Community-based organizations (as defined in section 4(5) of such Act (29 U.S.C. 1503(5))).

''(D) Businesses.

''(E) Organized labor.

''(F) Other appropriate educational institutions.

''(d) Eligible Individuals. - A program established or conducted using funds provided under subsection (a) may provide education and training in environmental restoration and waste management to -

''(1) individuals who have been terminated or laid off from employment (or have received notice of termination or lay off) as a consequence of reductions in expenditures by the United States for defense, the cancellation, termination, or completion of a defense contract, or the closure or realignment of a military installation under a base closure law, as determined in accordance with regulations prescribed by the Secretary; or

''(2) individuals who have attained the age of 16 but not the age of 25.

''(e) Elements of Education and Training Program. - In establishing or conducting an education and training program using funds provided under subsection (a), the institution of higher education shall meet the following requirements:

''(1) The institution of higher education shall establish and provide a work-based learning system consisting of education and training in environmental restoration -

''(A) which may include basic educational courses, on-site basic skills training, and mentor assistance to individuals described in subsection (d) who are participating in the program; and

''(B) which may lead to the awarding of a certificate or degree at the institution of higher education.

''(2) The institution of higher education shall undertake outreach and recruitment efforts to encourage participation by eligible individuals in the education and training program.

''(3) The institution of higher education shall select participants for the education and training program from among eligible individuals described in paragraph (1) or (2) of subsection (d).

''(4) To the extent practicable, in the selection of young adults described in subsection (d)(2) to participate in the education and training program, the institution of higher education shall give priority to those young adults who -

''(A) have not attended and are otherwise unlikely to be able to attend an institution of higher education; or

''(B) have, or are members of families who have, received a total family income that, in relation to family size, is not in excess of the higher of -

''(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))); or

''(ii) 70 percent of the lower living standard income level.

''(5) To the extent practicable, the institution of higher education shall select instructors for the education and training program from institutions of higher education, appropriate

community programs, and industry and labor.

''(6) To the extent practicable, the institution of higher education shall consult with appropriate Federal, State, and local agencies carrying out environmental restoration programs for the purpose of achieving coordination between such programs and the education and training program conducted by the consortium.

''(f) Selection of Grant Recipients. - To the extent practicable, the Secretary shall provide grants to institutions of higher education under subsection (a) in a manner which will equitably distribute such grants among the various regions of the United States.

''(g) Limitation on Amount of Grant to a Single Recipient. - The amount of a grant under subsection (a) that may be made to a single institution of higher education in a fiscal year may not exceed 1/3 of the amount made available to provide grants under such subsection for that fiscal year.

''(h) Reporting Requirements. - (1) The Secretary may provide a grant to an institution of higher education under subsection (a) only if the institution agrees to submit to the Secretary, in each fiscal year in which the Secretary makes payments under the grant to the institution, a report containing -

''(A) a description and evaluation of the education and training program established by the consortium formed by the institution under subsection (c); and

''(B) such other information as the Secretary may reasonably require.

''(2) Not later than 18 months after the date of the enactment of this Act (Nov. 30, 1993), the Secretary shall submit to the President and Congress an interim report containing -

''(A) a compilation of the information contained in the reports received by the Secretary from each institution of higher education under paragraph (1); and

''(B) an evaluation of the effectiveness of the demonstration grant program authorized by this section.

''(3) Not later than January 1, 1997, the Secretary shall submit to the President and Congress a final report containing -

''(A) a compilation of the information described in the interim report; and

''(B) a final evaluation of the effectiveness of the demonstration grant program authorized by this section, including a recommendation as to the feasibility of continuing the program.

''(i) Definitions. - For purposes of this section:

''(1) Base closure law. - The term 'base closure law' means the following:

''(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

''(C) Section 2687 of title 10, United States Code.

''(D) Any other similar law enacted after the date of the enactment of this Act (Nov. 30, 1993).

''(2) Environmental restoration. - The term 'environmental restoration' means actions taken consistent with a permanent remedy to prevent or minimize the release of hazardous substances

into the environment so that such substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

''(3) Institution of higher education. - The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(4) Secretary. - The term 'Secretary' means the Secretary of Defense.

''(j) Conforming Repeal. - Section 4452 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 2701 note) is repealed.''

(Pub. L. 105-277, div. A, Sec. 101(f) (title VIII, Sec. 405(f)(7), (g)(2)(B)), Oct. 21, 1998, 112 Stat. 2681-337, 2681-430, 2681-435, provided that, effective July 1, 2000, section 1333(c)(2)(B) of Pub. L. 103-160 is amended by substituting ''local'' for ''Private industry councils as described in section 102 of the Job Training Partnership Act or local''.)

#### ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM

Pub. L. 103-160, div. A, title XIII, Sec. 1334, Nov. 30, 1993, 107 Stat. 1801, as amended by Pub. L. 105-244, title I, Sec. 102(a)(2)(E), Oct. 7, 1998, 112 Stat. 1617, provided that:

''(a) Authority. - The Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, may establish a scholarship program in order to enable eligible individuals described in subsection (d) to undertake the educational training or activities relating to environmental engineering, environmental sciences, or environmental project management in fields related to hazardous waste management and cleanup described in subsection (b) at the institutions of higher education described in subsection (c).

''(b) Educational Training or Activities. - (1) The program established under subsection (a) shall be limited to educational training or activities related to -

''(A) site remediation;

''(B) site characterization;

''(C) hazardous waste management;

''(D) hazardous waste reduction;

''(E) recycling;

''(F) process and materials engineering;

''(G) training for positions related to environmental engineering, environmental sciences, or environmental project management (including training for management positions); and

''(H) environmental engineering with respect to the construction of facilities to address the items described in subparagraphs (A) through (G).

''(2) The program established under subsection (a) shall be limited to educational training or activities designed to enable individuals to achieve specialization in the following fields:

''(A) Earth sciences.

''(B) Chemistry.

''(C) Chemical Engineering.

''(D) Environmental engineering.

''(E) Statistics.

''(F) Toxicology.

''(G) Industrial hygiene.

''(H) Health physics.

''(I) Environmental project management.

''(c) Eligible Institutions of Higher Education. - Scholarship funds awarded under this section shall be used by individuals awarded scholarships to enable such individuals to attend institutions of higher education associated with hazardous substance research centers to enable such individuals to undertake a program of educational training or activities described in subsection (b) that leads to an undergraduate degree, a graduate degree, or a degree or certificate that is supplemental to an academic degree.

''(d) Eligible Individuals. - Individuals eligible for scholarships under the program established under subsection (a) are the following:

''(1) Any member of the Armed Forces who -

''(A) was on active duty or full-time National Guard duty on September 30, 1990;

''(B) during the 5-year period beginning on that date -

''(i) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

''(ii) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title; and

''(C) is not entitled to retired or retainer pay incident to that separation.

''(2) Any civilian employee of the Department of Energy or the Department of Defense (other than an employee referred to in paragraph (3)) who -

''(A) is terminated or laid off from such employment during the five-year period beginning on September 30, 1990, as a result of reductions in defense-related spending (as determined by the appropriate Secretary); and

''(B) is not entitled to retired or retainer pay incident to that termination or lay off.

''(3) Any civilian employee of the Department of Defense whose employment at a military installation approved for closure or realignment under a base closure law is terminated as a result of such closure or realignment.

''(e) Award of Scholarship. - (1)(A) The Secretary of Defense shall award scholarships under this section to such eligible individuals as the Secretary determines appropriate pursuant to regulations or policies promulgated by the Secretary.

''(B) In awarding a scholarship under this section, the Secretary shall -

''(i) take into consideration the extent to which the qualifications and experience of the individual applying for the scholarship prepared such individual for the educational training or activities to be undertaken; and

''(ii) award a scholarship only to an eligible individual who has been accepted for enrollment in the institution of higher education described in subsection (c) and providing the educational training or activities for which the scholarship assistance is sought.

''(2) The Secretary of Defense shall determine the amount of the scholarships awarded under this section, except that the amount of

scholarship assistance awarded to any individual under this section may not exceed -

''(A) \$10,000 in any 12-month period; and

''(B) a total of \$20,000.

''(f) Application; Period for Submission. - (1) Each individual desiring a scholarship under this section shall submit an application to the Secretary of Defense in such manner and containing or accompanied by such information as the Secretary may reasonably require.

''(2) A member of the Armed Forces described in subsection (d)(1) who desires to apply for a scholarship under this section shall submit an application under this subsection not later than 180 days after the date of the separation of the member. In the case of members described in subsection (d)(1) who were separated before the date of the enactment of this Act (Nov. 30, 1993), the Secretary shall accept applications from these members submitted during the 180-day period beginning on the date of the enactment of this Act.

''(3) A civilian employee described in paragraph (2) or (3) of subsection (d) who desires to apply for a scholarship under this section, but who receives no prior notice of such termination or lay off, may submit an application under this subsection at any time after such termination or lay off. A civilian employee described in paragraph (1) or (2) of subsection (d) who receives a notice of termination or lay off shall submit an application not later than 180 days before the effective date of the termination or lay off. In the case of employees described in such paragraphs who were terminated or laid off before the date of the enactment of this Act (Nov. 30, 1993), the Secretary shall accept applications from these employees submitted during the 180-day period beginning on the date of the enactment of this Act.

''(g) Repayment. - (1) Any individual receiving scholarship assistance from the Secretary of Defense under this section shall enter into an agreement with the Secretary under which the individual agrees to pay to the United States the total amount of the scholarship assistance provided to the individual by the Secretary under this section, plus interest at the rate prescribed in paragraph (4), if the individual does not complete the educational training or activities for which such assistance is provided.

''(2) If an individual fails to pay to the United States the total amount required pursuant to paragraph (1), including the interest, at the rate prescribed in paragraph (4), the unpaid amount shall be recoverable by the United States from the individual or such individual's estate by -

''(A) in the case of an individual who is an employee of the United States, set off against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the United States; and

''(B) such other method as is provided by law for the recovery of amounts owing to the United States.

''(3) The Secretary of Defense may waive in whole or in part a required repayment under this subsection if the Secretary determines that the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(4) The total amount of scholarship assistance provided to an

individual under this section, for purposes of repayment under this subsection, shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

''(h) Coordination of Benefits. - Any scholarship assistance provided to an individual under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. (and 42 U.S.C. 2751 et seq.)).

''(i) Report to Congress. - Not later than January 1, 1995, the Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall submit to the Congress a report describing the activities undertaken under the program authorized by subsection (a) and containing recommendations for future activities under the program.

''(j) Funding. - (1) To carry out the scholarship program authorized by subsection (a), the Secretary of Defense may use the unobligated balance of funds made available pursuant to section 4451(k) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2701 note) for fiscal year 1993 for environmental scholarship and fellowship programs for the Department of Defense.

''(2) The cost of carrying out the program authorized by subsection (a) may not exceed \$8,000,000 in any fiscal year.

''(k) Definitions. - For purposes of this section:

''(1) The term 'base closure law' means the following:

''(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

''(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

''(2) The term 'hazardous substance research centers' means the hazardous substance research centers described in section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)). Such term includes the Great Plains and Rocky Mountain Hazardous Substance Research Center, the Northeast Hazardous Substance Research Center, the Great Lakes and Mid-Atlantic Hazardous Substance Research Center, the South and Southwest Hazardous Substance Research Center, and the Western Region Hazardous Substance Research Center.

''(3) The term 'institution of higher education' has the same meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''

TRAINING AND EMPLOYMENT OF DEPARTMENT OF DEFENSE EMPLOYEES TO CARRY  
OUT ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS TO BE  
CLOSED

Pub. L. 103-160, div. A, title XIII, Sec. 1335, Nov. 30, 1993, 107 Stat. 1804, provided that:

''(a) Training Program. - The Secretary of Defense may establish a program to provide such training to eligible civilian employees of the Department of Defense as the Secretary considers to be necessary to qualify such employees to carry out environmental assessment, remediation, and restoration activities (including asbestos abatement) at military installations closed or to be closed.

''(b) Employment of Graduates. - In the case of eligible civilian employees of the Department of Defense who successfully complete the training program established pursuant to subsection (a), the Secretary may -

''(1) employ such employees to carry out environmental assessment, remediation, and restoration activities at military installations referred to in subsection (a); or

''(2) require, as a condition of a contract for the private performance of such activities at such an installation, the contractor to be engaged in carrying out such activities to employ such employees.

''(c) Eligible Employees. - Eligibility for selection to participate in the training program under subsection (a) shall be limited to those civilian employees of the Department of Defense whose employment would be terminated by reason of the closure of a military installation if not for the selection of the employees to participate in the training program.

''(d) Priority in Training and Employment. - The Secretary shall give priority in providing training and employment under this section to eligible civilian employees employed at a military installation the closure of which will directly result in the termination of the employment of at least 1,000 civilian employees of the Department of Defense.

''(e) Effect on Other Environmental Requirements. - Nothing in this section shall be construed to revise or modify any requirement established under Federal or State law relating to environmental assessment, remediation, or restoration activities at military installations closed or to be closed.''

COOPERATIVE AGREEMENTS AND GRANTS TO IMPLEMENT LEGACY RESOURCE  
MANAGEMENT PROGRAM

Pub. L. 103-139, title II, Nov. 11, 1993, 107 Stat. 1422, provided in part: ''That notwithstanding the provisions of the Federal Cooperative Grant and Agreement Act of 1977 (31 U.S.C. 6303-6308), the Department of Defense may hereafter negotiate and enter into cooperative agreements and grants with public and private agencies, organizations, institutions, individuals or other entities to implement the purposes of the Legacy Resource Management Program''.

PILOT PROGRAM FOR EXPEDITED ENVIRONMENTAL RESPONSE ACTIONS

Section 323 of Pub. L. 102-484 provided that:

''(a) Establishment. - The Secretary of Defense shall establish a pilot program to expedite the performance of on-site environmental restoration at -

''(1) military installations scheduled for closure under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note);

''(2) military installations scheduled for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note); and

''(3) facilities for which the Secretary is responsible under the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

''(b) Selection of Installations and Facilities. - (1) For participation in the pilot program, the Secretary shall select -

''(A) 2 military installations referred to in subsection (a)(1);

''(B) 4 military installations referred to in subsection

(a)(2), consisting of -

''(i) 2 military installations scheduled for closure as of the date of the enactment of this Act (Oct. 23, 1992); and

''(ii) 2 military installations included in the list transmitted by the Secretary no later than April 15, 1993, pursuant to section 2903(c)(1) of the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101-510) (10 U.S.C. 2687 note) and recommended in a report transmitted by the President in that year pursuant to section 2903(e) of such Act and for which a joint resolution disapproving such recommendations is not enacted by the deadline set forth in section 2904(b) of such Act (10 U.S.C. 2687 note); and

''(C) not less than 4 facilities referred to in subsection (a)(3) with respect to each military department.

''(2)(A) Except as provided in subparagraph (B), the selections under paragraph (1) shall be made not later than 60 days after the date of the enactment of this Act.

''(B) The selections under paragraph (1) of military installations described in subparagraph (B)(ii) of such paragraph shall be made not later than 60 days after the date on which the deadline (set forth in section 2904(b) of such Act) for enacting a joint resolution of disapproval with respect to the report transmitted by the President has passed.

''(3) The installations and facilities selected under paragraph (1) shall be representative of -

''(A) a variety of the environmental restoration activities required for facilities under the Defense Environmental Restoration Program and for military installations scheduled for closure under the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) (see Short Title of 1988 Amendment note under 10 U.S.C. 2687) and the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and

''(B) the different sizes of such environmental restoration activities to provide, to the maximum extent practicable, opportunities for the full range of business sizes to enter into environmental restoration contracts with the Department of Defense and with prime contractors to perform activities under the pilot program.

''(c) Execution of Program. - Subject to subsection (d), and to the maximum extent possible, the Secretary shall, in order to eliminate redundant tasks and to accelerate environmental restoration at military installations, use the authorities granted in existing law to carry out the pilot program, including -

''(1) the development and use of innovative contracting techniques;

''(2) the use of all reasonable and appropriate methods to expedite necessary Federal and State administrative decisions, agreements, and concurrences; and

''(3) the use (including any necessary request for the use) of existing authorities to ensure that environmental restoration activities under the pilot program are conducted expeditiously, with particular emphasis on activities that may be conducted in advance of any final plan for environmental restoration.

''(d) Program Principles. - The Secretary shall carry out the pilot program consistent with the following principles:

''(1) Activities of the pilot program shall be carried out

subject to and in accordance with all applicable Federal and State laws and regulations.

''(2) Competitive procedures shall be used to select the contractors.

''(3) The experience and ability of the contractors shall be considered, in addition to cost, as a factor to be evaluated in the selection of the contractors.

''(e) Program Restrictions. - The pilot program established in this section shall not result in the delay of environmental restoration activities at other military installations and former sites of the Department of Defense.''

#### OVERSEAS ENVIRONMENTAL RESTORATION

Section 324 of Pub. L. 102-484 provided that:

''(a) Sense of Congress. - It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

''(b) Report. - The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98-525 (22 U.S.C. 1928 (note)) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.''

#### ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS FOR DEPARTMENT OF DEFENSE

Section 4451 of Pub. L. 102-484, as amended by Pub. L. 105-244, title I, Sec. 102(a)(2)(F), Oct. 7, 1998, 112 Stat. 1617, provided that:

''(a) Establishment. - The Secretary of Defense (hereinafter in this section referred to as the 'Secretary') may conduct scholarship and fellowship programs for the purpose of enabling individuals to qualify for employment in the field of environmental restoration or other environmental programs in the Department of Defense.

''(b) Eligibility. - To be eligible to participate in the scholarship or fellowship program, an individual must -

''(1) be accepted for enrollment or be currently enrolled as a full-time student at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001));

''(2) be pursuing a program of education that leads to an appropriate higher education degree in engineering, biology, chemistry, or another qualifying field related to environmental activities, as determined by the Secretary;

''(3) sign an agreement described in subsection (c);

''(4) be a citizen or national of the United States or be an alien lawfully admitted to the United States for permanent residence; and

''(5) meet any other requirements prescribed by the Secretary.

''(c) Agreement. - An agreement between the Secretary and an individual participating in a scholarship or fellowship established in subsection (a) shall be in writing, shall be signed by the individual, and shall include the following provisions:

''(1) The agreement of the Secretary to provide the individual with educational assistance for a specified number of school

years (not to exceed 5 years) during which the individual is pursuing a course of education in a qualifying field. The assistance may include payment of tuition, fees, books, laboratory expenses, and (in the case of a fellowship) a stipend.

''(2) The agreement of the individual to perform the following:

''(A) Accept such educational assistance.

''(B) Maintain enrollment and attendance in the educational program until completed.

''(C) Maintain, while enrolled in the educational program, satisfactory academic progress as prescribed by the institution of higher education in which the individual is enrolled.

''(D) Serve, upon completion of the educational program and selection by the Secretary under subsection (e), as a full-time employee in an environmental restoration or other environmental position in the Department of Defense for the applicable period of service specified in subsection (d).

''(d) Period of Service. - The period of service required under subsection (c)(2)(D) is as follows:

''(1) For an individual who completes a bachelor's degree under a scholarship program established under subsection (a), a period of 12 months for each school year or part thereof for which the individual is provided a scholarship under the program.

''(2) For an individual who completes a master's degree or other post-graduate degree under a fellowship program established under subsection (a), a period of 24 months for each school year or part thereof for which the individual is provided a fellowship under the program.

''(e) Selection for Service. - The Secretary shall annually review the number and performance under the agreement of individuals who complete educational programs during the preceding year under any scholarship and fellowship programs conducted pursuant to subsection (a). From among such individuals, the Secretary shall select individuals for environmental positions in the Department of Defense, based on the type and availability of such positions.

''(f) Repayment. - (1) Any individual participating in a scholarship or fellowship program under this section shall agree to pay to the United States the total amount of educational assistance provided to the individual under the program, plus interest at the rate prescribed in paragraph (4), if -

''(A) the individual does not complete the educational program as agreed to pursuant to subsection (c)(2)(B), or is selected by the Secretary under subsection (e) but declines to serve, or fails to complete the service, in a position in the Department of Defense as agreed to pursuant to subsection (c)(2)(D); or

''(B) the individual is involuntarily separated for cause from the Department of Defense before the end of the period for which the individual has agreed to continue in the service of the Department of Defense.

''(2) If an individual fails to fulfill the agreement of the individual to pay to the United States the total amount of educational assistance provided under a program established under subsection (a), plus interest at the rate prescribed in paragraph (4), a sum equal to the amount of the educational assistance (plus such interest, if applicable) shall be recoverable by the United States from the individual or his estate by -

''(A) in the case of an individual who is an employee of the

Department of Defense or other Federal agency, set off against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the United States; and

''(B) such other method provided by law for the recovery of amounts owing to the United States.

''(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(4) The total amount of educational assistance provided to an individual under a program established under subsection (a) shall, for purposes of repayment under this section, bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

''(g) Preference. - In evaluating applicants for the award of a scholarship or fellowship under a program established under subsection (a), the Secretary shall give a preference to -

''(1) individuals who are, or have been, employed by the Department of Defense or its contractors and subcontractors who have been engaged in defense-related activities; and

''(2) individuals who are or have been members of the Armed Forces.

''(h) Coordination of Benefits. - A scholarship or fellowship awarded under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

''(i) Award of Scholarships and Fellowships. - The Secretary may award to qualified applicants not more than 100 scholarships (for undergraduate students) and not more than 30 fellowships (for graduate students) in fiscal year 1993.

''(j) Report to Congress. - Not later than January 1, 1994, the Secretary shall submit to the Congress a report on activities undertaken under the programs established under subsection (a) and recommendations for future activities under the programs.

''(k) Funding for Fiscal Year 1993. - Of the amount authorized to be appropriated in section 301(5) (106 Stat. 2360) -

''(1) \$7,000,000 shall be available to carry out the scholarship and fellowship programs established in subsection (a); and

''(2) \$3,000,000 shall be available to provide training to Department of Defense personnel to obtain the skills required to comply with existing environmental statutory and regulatory requirements.''

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE TRAINING IN ENVIRONMENTAL RESTORATION AND HAZARDOUS WASTE MANAGEMENT

Section 4452 of Pub. L. 102-484 authorized the Secretary of Defense to establish a program to assist institutions of higher education, as defined in section 1141(a) of Title 20, Education, to provide education and training in environmental restoration and hazardous waste management and to award grants to such institutions, prior to repeal by Pub. L. 103-160, div. A, title XIII, Sec. 1333(j), Nov. 30, 1993, 107 Stat. 1800. See section 1333 of Pub. L. 103-160, set out above.

POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE

Section 342(b) of Pub. L. 101-510 provided that:

''(1) The Secretary of Defense shall develop a policy for

determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations.

''(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

''(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

''(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

''(5) For purposes of this subsection, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located outside the United States and outside any territory, commonwealth, or possession of the United States.''

#### ENVIRONMENTAL EDUCATION PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL

Section 344 of Pub. L. 101-510 directed Secretary of Defense to establish a program for the purpose of educating Department of Defense personnel in environmental management and, not later than date on which President submits budget for FY 1992 to Congress pursuant to 31 U.S.C. 1105(a), to submit to Congress recommendations regarding whether program should be continued after Sept. 30, 1991.

#### USE OF OZONE DEPLETING SUBSTANCES WITHIN DEPARTMENT OF DEFENSE

Section 325 of Pub. L. 102-484 provided that:

''(a) Evaluation of Use of Class I Substances. - The Director of the Defense Logistics Agency shall evaluate the use of class I substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall -

''(1) determine the quantity of each class I substance that -

''(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

''(B) will be used by each military department and Defense Agency during 1992; and

''(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995;

''(2) determine the quantity of each class I substance in the

inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies;

''(3) determine the type and quantity of class I substances whose use will be critical to the missions of the military departments and Defense Agencies after 1995;

''(4) determine the type and quantity of class I substances that must be stockpiled after 1995 in order to ensure the availability of such substances, including the availability of used, reclaimed, or recycled class I substances for the missions referred to in paragraph (3);

''(5) review the plans, if any, to reclaim, recycle, reuse, and maintain the stockpile referred to in paragraph (4); and

''(6) identify each specific site, facility, or vessel in connection with which the Secretary of Defense will seek an exemption pursuant to section 604(f) of the Clean Air Act (42 U.S.C. 7671c(f)) to permit the continued production or use of class I substances, and the type and quantity of each class I substance that will be produced or used in connection with the site, facility, or vessel.

''(b) Evaluation of Use of Class II Substances. - The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall -

''(1) determine the quantity of each class II substance that -

''(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

''(B) will be used by each military department and Defense Agency during 1992; and

''(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

''(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

''(c) Report. - (1) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (a) not later than April 1, 1993.

''(2) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993.

''(d) Definitions. - In this section:

''(1) The term 'class I substance' means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

''(2) The term 'class II substance' means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).''  
Section 345 of Pub. L. 101-510 provided that:

''(a) DOD Requirements for Ozone Depleting Chemicals Other Than CFCs. - (1) In addition to the functions of the advisory committee established pursuant to section 356(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Pub. L. 101-189) (10 U.S.C. 2701 note), it shall be the function of the Committee to study (A) the use of methyl chloroform, hydrochlorofluorocarbons (HCFCs), and carbon tetrachloride by the Department of Defense and by contractors in the performance of contracts for the Department

of Defense, and (B) the costs and feasibility of using alternative compounds or technologies for methyl chloroform, HCFCs, and carbon tetrachloride.

''(2) Within 120 days after the date of the enactment of this Act (Nov. 5, 1990), the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of methyl chloroform, HCFCs, or carbon tetrachloride.

''(3) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of methyl chloroform, HCFCs, or carbon tetrachloride but cannot be met without the use of one or more of such substances.

''(b) Requirement. - In preparing the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Pub. L. 101-189, set out below) and the report required by subsection (d) of this section, the Committee shall work closely with the Strategic Environmental Research and Development Program Council and shall provide to such Council such reports.

''(c) Extension of Reporting Deadline for CFCs. - The deadline for submitting to Congress the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 concerning the uses of CFCs is hereby extended to June 30, 1991.

''(d) Reporting Deadline for Methyl Chloroform, HCFCs, and Carbon Tetrachloride. - Not later than September 30, 1991, the Secretary shall submit to Congress a report containing the results of the study by the Committee required by subsection (a)(1) of this section.''

#### REQUIREMENT FOR DEVELOPMENT OF ENVIRONMENTAL DATA BASE

Pub. L. 101-189, div. A, title III, Sec. 352, Nov. 29, 1989, 103 Stat. 1423, provided that:

''(a) Environmental Data Base. - The Secretary of Defense shall develop and maintain a comprehensive data base on environmental activities carried out by the Department of Defense pursuant to, and environmental compliance obligations to which the Department is subject under, chapter 160 of title 10, United States Code, and all other applicable Federal and State environmental laws. At a minimum, the information in the data base shall include all the fines and penalties assessed against the Department of Defense pursuant to environmental laws and paid by the Department, all notices of violations of environmental laws received by the Department, and all obligations of the Department for compliance with environmental laws. The Secretary may include any other information he considers appropriate.

''(b) Report. - Not later than one year after the date of the enactment of this Act (Nov. 29, 1989), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress in development of the data base required under subsection (a). The report shall include a summary of the information collected for the data base with respect to environmental activities during 1989.''

#### FUNDING FOR WASTE MINIMIZATION PROGRAMS FOR CERTAIN INDUSTRIAL-TYPE ACTIVITIES OF DEPARTMENT OF DEFENSE

Pub. L. 101-189, div. A, title III, Sec. 354, Nov. 29, 1989, 103

Stat. 1424, as amended by Pub. L. 102-190, div. A, title III, Sec. 332, Dec. 5, 1991, 105 Stat. 1340, provided that:

''(a) Requirement To Establish Waste Minimization Program. - The Secretary of Defense shall require the Secretary of each military department to establish a program for fiscal years 1992, 1993, and 1994 to reduce the volume of solid and hazardous wastes disposed of, and hazardous materials used by, each industrial-type activity within the department that is a depot maintenance installation and for which a working-capital fund has been established under section 2208 of title 10, United States Code.

''(b) Funding. - Funding for the waste minimization program in each military department shall come out of payments received by the working-capital funds established for industrial-type and commercial-type activities of the department. The level of funding for each of fiscal years 1992, 1993, and 1994 shall be not less than 1/2 of 1 percent of the amount of such payments received during fiscal year 1988 that were used for depot maintenance installation functions at industrial-type activities. The required level of funding for fiscal year 1992 may be reduced by amounts expended for waste minimization during fiscal years 1990 and 1991. In any case in which a military department fails to spend funds at the level required by this subsection for the waste minimization program, the Secretary concerned shall submit to Congress a report explaining the reasons for the failure.

''(c) Notice of Excluded Activities. - Not later than 90 days after the date of the enactment of this Act (Nov. 29, 1989), the Secretary of Defense shall submit to Congress the name of each industrial-type or commercial-type activity of each military department which is not covered by the waste minimization program because the activity does not carry out depot maintenance installation functions.

''(d) Use of Funds. - Funds available for the waste minimization programs established pursuant to this section shall be used to carry out waste minimization projects at depot maintenance installations. The types of expenses for which such funds may be used include the following (if such expense is related to a waste minimization project):

- ''(1) Operating expenses (including salaries).
- ''(2) Equipment purchase expenses.
- ''(3) Facility modification expenses.
- ''(4) Process change expenses.
- ''(5) Product substitution expenses.
- ''(6) Military construction expenses.
- ''(7) Research, development, test, and evaluation expenses.
- ''(8) Expenses for the lease of equipment or facilities.

''(e) Recovery of Costs. - Each project carried out at an industrial-type activity as part of a waste minimization program established pursuant to this section shall be designed to achieve, over the expected useful life of the project, reductions in the cost of the disposal of solid and hazardous wastes generated by the activity in an amount which is not less than the cost of the project. The Secretary of a military department may provide funds for a project that does not meet the requirement of the preceding sentence if the Secretary certifies to Congress that -

- ''(1) the project will result in a reduction of solid or hazardous waste disposed of, or hazardous materials used by, the activity; or

''(2) the project will eliminate or reduce the likelihood of harm to human health or the environment.''

USE OF CHLOROFLUOROCARBONS AND HALONS IN DEPARTMENT OF DEFENSE  
Pub. L. 101-189, div. A, title III, Sec. 356, Nov. 29, 1989, 103 Stat. 1425, as amended by Pub. L. 103-160, div. A, title IX, Sec. 904(f), Nov. 30, 1993, 107 Stat. 1729, provided that:

''(a) Chlorofluorocarbons Emission Reduction. - The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition and Technology, a program to reduce the unnecessary release of chlorofluorocarbons (hereinafter in this section referred to as 'CFCs') and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

''(b) Report. - (1) Not later than 180 days after the date of the enactment of this Act (Nov. 29, 1989), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can be achieved only with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

''(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment.

''(c) DOD Requirements for CFCs. - (1) Not later than 30 days after the date of the enactment of this Act (Nov. 29, 1989), the Secretary shall establish an advisory committee to be known as the 'CFC Advisory Committee' (hereinafter in this section referred to as the 'Committee'). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply the Department of Defense with products or equipment that require the use of CFCs.

''(2) It shall be the function of the Committee to study (A) the use of CFCs by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the cost and feasibility of using alternative compounds for CFCs or using alternative technologies that do not require the use of CFCs.

''(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

''(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

''(d) Report. - Not later than September 30, 1990, the Secretary shall submit to the committees named in subsection (b) a report containing the results of the study by the Committee. The report shall -

''(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

''(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the time necessary for completing the substitution;

''(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available;

''(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

''(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

''(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

''(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the additional costs resulting from modification of Department of Defense contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.''

#### REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

Pub. L. 101-189, div. A, title III, Sec. 358, Nov. 29, 1989, 103 Stat. 1427, directed Secretary of Defense, not later than two years after Nov. 29, 1989, to submit to Congress a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

#### STUDY OF WASTE RECYCLING

Pub. L. 101-189, div. A, title III, Sec. 361, Nov. 29, 1989, 103 Stat. 1429, as amended by Pub. L. 101-510, div. A, title III, Sec. 343, Nov. 5, 1990, 104 Stat. 1538, provided that:

''(a) Study. - The Secretary of Defense shall conduct a study of the following:

''(1) Current practices and future plans for managing postconsumer waste at facilities of the Department of Defense at which such waste is generated, including commissary and exchange stores, cafeterias, and mess halls.

''(2) The feasibility of such Department of Defense facilities participating in programs at military installations or in local communities to recycle the postconsumer waste generated at the facilities.

''(b) Postconsumer Waste Defined. - For purposes of this section, the term 'postconsumer waste' means garbage and refuse, including items that have passed through their end use as consumer items.

''(c) Report. - Not later than March 1, 1991, the Secretary of Defense shall submit to Congress a report describing the findings and conclusions of the Secretary resulting from the study.''

#### USE OF DEPARTMENT OF DEFENSE APPROPRIATIONS FOR REMOVAL OF UNSAFE BUILDINGS OR DEBRIS

Pub. L. 101-165, title IX, Sec. 9038, Nov. 21, 1989, 103 Stat. 1137, which authorized appropriations available to the Department of Defense to be used at sites formerly used by the Department for removal of unsafe buildings or debris of the Department and required that removal be completed before the property is released

from Federal Government control, was repealed and restated in subsecs. (f) and (g) of this section by Pub. L. 101-510, div. A, title XIV, Sec. 1481(i), Nov. 5, 1990, 104 Stat. 1708.

-CITE-

10 USC Sec. 2702

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2702. Research, development, and demonstration program

-STATUTE-

(a) Program. - As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator and the advisory council established under section 311(a)(5) of CERCLA. The program shall include research, development, and demonstration with respect to each of the following:

(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by the Department of Defense.

(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treat hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner and standards as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the office of technology demonstration of the Environmental Protection Agency.

(b) Special Permit. - The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act (42 U.S.C. 6925(g)) to issue a permit for testing and evaluation which receives support under this section.

(c) Contracts and Grants. - The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are

available for that purpose.

(d) Information Collection and Dissemination. -

(1) In general. - The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

(2) Role of epa. - The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information through the office of technology demonstration of the Environmental Protection Agency.

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1721.)

-REFTEXT-

#### REFERENCES IN TEXT

Section 311(a)(5) of CERCLA, referred to in subsec. (a), is classified to section 9660(a)(5) of Title 42, The Public Health and Welfare.

-MISC2-

#### PARTNERSHIPS FOR INVESTMENT IN INNOVATIVE ENVIRONMENTAL TECHNOLOGIES

Pub. L. 105-85, div. A, title III, Sec. 349, Nov. 18, 1997, 111 Stat. 1690, provided that:

''(a) Authority. - Subject to subsection (b), the Secretary of Defense may enter into a partnership with one or more private entities to demonstrate and validate innovative environmental technologies.

''(b) Limitations. - The Secretary of Defense may enter into a partnership with respect to an environmental technology under subsection (a) only if -

''(1) any private entities participating in the partnership are selected through the use of competitive procedures;

''(2) the partnership provides for parties other than the Department of Defense to provide at least 50 percent of the funding required (not including in-kind contributions or preexisting investments); and

''(3) the Secretary determines that -

''(A) the technology has clear potential to be of significant value to the Department of Defense in its environmental remediation activities at a substantial number of Department of Defense sites; and

''(B) the technology would not be developed without the commitment of Department of Defense funds.

''(c) Evaluation Guidelines. - Before entering into a partnership with respect to an environmental technology under subsection (a), the Secretary of Defense shall give consideration to the following:

''(1) The potential for the technology to be used by the Department of Defense for environmental remediation.

''(2) The technical feasibility and maturity of the technology.

''(3) The adequacy of financial and management plans to

demonstrate and validate the technology.

''(4) The costs and benefits to the Department of Defense of developing and using the technology.

''(5) The potential for commercialization of the technology.

''(6) The proposed arrangements for sharing the costs of the partnership through the use of resources outside the Department of Defense.

''(d) Funding. - Under a partnership entered into under subsection (a), the Secretary of Defense may provide funds to the partner or partners from appropriations available to the Department of Defense for environmental activities, for a period of up to five years.

''(e) Report. - In the annual report required under section 2706(a) of title 10, United States Code, the Secretary of Defense shall include the following information with respect to partnerships entered into under this section:

''(1) The number of such partnerships.

''(2) A description of the nature of the technology involved in each such partnership.

''(3) A list of all partners in such partnerships.

''(f) Coordination. - The Secretary of Defense shall ensure that the Department of Defense coordinates with the Administrator of the Environmental Protection Agency in any verification sponsored by the Department of technologies demonstrated and validated by a partnership entered into under this section.

''(g) Procedures. - The Secretary of Defense shall develop appropriate procedures to ensure that all Department of Defense funds committed to a partnership entered into under this section are expended for the purpose authorized in the partnership agreement. The Secretary may not enter into a partnership under this section until 30 days after the date on which a copy of such procedures is provided to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives (now Committee on Armed Services of the House of Representatives).

''(h) Termination of Authority. - The authority to enter into agreements under subsection (a) shall terminate three years after the date of the enactment of this Act (Nov. 18, 1997).''

AGREEMENTS FOR SERVICES OF OTHER AGENCIES IN SUPPORT OF ENVIRONMENTAL TECHNOLOGY CERTIFICATION

Pub. L. 105-85, div. A, title III, Sec. 342(d), Nov. 18, 1997, 111 Stat. 1686, provided that: ''Not later than 90 days after the date of enactment of this Act (Nov. 18, 1997), the Secretary of Defense shall submit to Congress a report setting forth the guidelines established by the Secretary for reimbursement of State and local governments, and for cost-sharing between the Department of Defense, such governments, and vendors, under cooperative agreements entered into under such section 327 (section 327 of Pub. L. 104-201, set out below).''

Pub. L. 104-201, div. A, title III, Sec. 327, Sept. 23, 1996, 110 Stat. 2483, as amended by Pub. L. 105-85, div. A, title III, Sec. 342(a)-(c), Nov. 18, 1997, 111 Stat. 1686, provided that:

''(a) Authority. - Subject to subsection (b), the Secretary of Defense may enter into a cooperative agreement with an agency of a State or local government, or with an Indian tribe, to obtain assistance in certifying environmental technologies.

''(b) Limitations. - The Secretary of Defense may enter into a

cooperative agreement with respect to an environmental technology under subsection (a) only if the Secretary determines -

''(1) that the technology has clear potential to be of significant value to the Department of Defense; and

''(2) that there is no reasonably available market in the private sector for the technology without a certification by the Department of Defense, the Environmental Protection Agency, or a State environmental agency.

''(c) Types of Assistance. - The types of assistance that may be obtained under subsection (a) include the following:

''(1) Data collection and analysis.

''(2) Technical assistance in conducting a demonstration of an environmental technology, including the implementation of quality assurance and quality control programs.

''(d) Report. - In the annual report required under section 2706(a) of title 10, United States Code, the Secretary of Defense shall include the following information with respect to cooperative agreements entered into under this section:

''(1) The number of such agreements.

''(2) The number of States in which such agreements have been entered into.

''(3) A description of the nature of the technology involved in each such agreement.

''(4) The amount of funds obligated or expended by the Department of Defense for each such agreement during the year covered by the report.

''(5) A statement of the funding that will be required to meet commitments made to State and local governments and Indian tribes under such agreements entered into during the fiscal year preceding the fiscal year in which the report is submitted.

''(6) A description of any cost-sharing arrangement under any such agreements.

''(e) Definition. - In this section, the term 'Indian tribe' has the meaning given that term by section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

''(f) Termination of Authority. - The authority provided under subsection (a) shall terminate five years after the date of the enactment of this Act (Sept. 23, 1996).''

(Pub. L. 105-85, div. A, title III, Sec. 342(e), Nov. 18, 1997, 111 Stat. 1686, provided that: ''The amendments made by this section (amending section 327 of Pub. L. 104-201, set out above) shall take effect 30 days after the date on which the report required by subsection (d) (set out above) is submitted to Congress.'')

-CITE-

10 USC Sec. 2703

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2703. Environmental restoration accounts

-STATUTE-

(a) Establishment of Accounts. - There are hereby established in the Department of Defense the following accounts:

(1) An account to be known as the ''Environmental Restoration Account, Defense''.

(2) An account to be known as the ''Environmental Restoration Account, Army''.

(3) An account to be known as the ''Environmental Restoration Account, Navy''.

(4) An account to be known as the ''Environmental Restoration Account, Air Force''.

(b) Obligation of Authorized Amounts. - Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

(c) Budget Reports. - In proposing the budget for any fiscal year pursuant to section 1105 of title 31, United States Code, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

(d) Credit of Amounts Recovered. - The following amounts shall be credited to the appropriate environmental restoration account:

(1) Amounts recovered under CERCLA for response actions.

(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

(e) Payments of Fines and Penalties. - None of the funds appropriated to the Environmental Restoration Account, Defense, for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1722; amended Pub. L. 103-337, div. A, title III, Sec. 321, Oct. 5, 1994, 108 Stat. 2710; Pub. L. 104-106, div. A, title III, Sec. 322, Feb. 10, 1996, 110 Stat. 252; Pub. L. 104-201, div. A, title III, Sec. 322(a)(1), Sept. 23, 1996, 110 Stat. 2477.)

-REFTEXT-

REFERENCES IN TEXT

CERCLA, referred to in subsec. (d)(1), means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (Sec. 9601 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 9601 of Title 42 and Tables.

-MISC2-

#### AMENDMENTS

1996 - Pub. L. 104-201 substituted 'accounts' for 'transfer account' in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (f) establishing the Defense Environmental Restoration Account and providing for deposits into and withdrawals from the Account.

Subsec. (e). Pub. L. 104-106 amended subsec. (e) generally, substituting

'(e) Amounts Recovered. - The following amounts shall be credited to the transfer account:

'(1) Amounts recovered under CERCLA for response actions of the Secretary.

'(2) Any other amounts recovered by the Secretary or the Secretary of the military department concerned from a contractor, insurer, surety, or other person to reimburse the Department of Defense for any expenditure for environmental response activities.' for

'(e) Amounts Recovered Under CERCLA. - Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.'

1994 - Subsec. (f). Pub. L. 103-337 added subsec. (f).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 322(e) of Pub. L. 104-201 provided that: 'The amendments made by this section (amending this section and section 2705 of this title) shall take effect on the later of -

'(1) October 1, 1996; or

'(2) the date of the enactment of this Act (Sept. 23, 1996).'

#### EFFECTIVE DATE

Section 211(c) of Pub. L. 99-499 provided that: 'Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986.'

#### REFERENCES TO DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT

Section 322(b) of Pub. L. 104-201 provided that: 'Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).'

#### UNOBLIGATED BALANCES IN DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT

Section 322(d) of Pub. L. 104-201 provided that: 'Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) (Oct. 1, 1996) shall be transferred on such date to the Environmental Restoration Account, Defense, established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).'

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2705 of this title.

-CITE-

10 USC Sec. 2704

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2704. Commonly found unregulated hazardous substances

-STATUTE-

(a) Notice to HHS. -

(1) In general. - The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under the Secretary's jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

(2) Definition. - In this subsection, the term "unregulated hazardous substance" means a hazardous substance -

(A) for which no standard, requirement, criteria, or limitation is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

(b) Toxicological Profiles. - The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

(c) DOD Support. - The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary

(1) for the preparation of toxicological profiles under subsection (b) or (2) for other health related activities under section 104(i) of CERCLA. The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out,

including the manner for transferring funds and personnel and for coordination of activities under this section.

(d) EPA Health Advisories. -

(1) Preparation. - At the request of the Secretary of Defense, the Administrator shall, in a timely manner, prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance -

(A) for which no advisory exists;

(B) which is found to threaten drinking water; and

(C) which is emanating from a facility under the jurisdiction of the Secretary.

(2) Content of health advisories. - Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where available toxicological data exist.

(3) DOD support for health advisories. - The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

(e) Cross Reference. - Section 104(i) of CERCLA applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section.

(f) Functions of HHS To Be Carried Out Through ATSDR. - The functions of the Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 104(i) of CERCLA.

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1722; amended Pub. L. 102-25, title VII, Sec. 701(j)(10), Apr. 6, 1991, 105 Stat. 116.)

-REFTEXT-

#### REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (a)(2)(A), is Pub. L. 94-469, Oct. 11, 1976, 90 Stat. 2003, as amended, which is classified generally to chapter 53 (Sec. 2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (a)(2)(A), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, Sec. 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (Sec. 300f et seq.) of chapter 6A 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 201 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (a)(2)(A), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 15B (Sec. 1857 et seq.) of Title 42. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (Sec. 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Clean Water Act, referred to in subsec. (a)(2), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 104(i) of CERCLA, referred to in subsecs. (c), (e), and (f), is classified to section 9604(i) of Title 42, The Public Health and Welfare.

-MISC2-

AMENDMENTS

1991 - Subsec. (f). Pub. L. 102-25 substituted 'Agency for Toxic Substances' for 'Agency of Toxic Substances'.

-CITE-

10 USC Sec. 2705

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2705. Notice of environmental restoration activities

-STATUTE-

(a) Expedited Notice. - The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

(1) The discovery of releases or threatened releases of hazardous substances at the facility.

(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

(b) Comment by EPA and State and Local Authorities. -

(1) Release notices. - The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate

opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

(2) Proposals for response actions. - The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

(c) Technical Review Committee. - Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of any such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

(d) Restoration Advisory Board. - (1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

(2)(A) The Secretary shall prescribe regulations regarding the establishment, characteristics, composition, and funding of restoration advisory boards pursuant to this subsection.

(B) The issuance of regulations under subparagraph (A) shall not be a precondition to the establishment of restoration advisory boards under this subsection.

(3) The Secretary may authorize the commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to pay routine administrative expenses of a restoration advisory board established for that installation. Such payments shall be made from funds available under subsection (g).

(e) Technical Assistance. - (1) The Secretary may, upon the request of the technical review committee or restoration advisory board for an installation, authorize the commander of the installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to obtain for the committee or advisory board, as the case may be, from private sector sources technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted, at the installation. The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) shall use funds made available under subsection (g) for obtaining assistance under this paragraph.

(2) The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) may obtain technical assistance under paragraph (1) for a technical review committee or restoration advisory board only if -

(A) the technical review committee or restoration advisory board demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation, and available Department of Defense personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

(B) the technical assistance -

(i) is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

(ii) is likely to contribute to community acceptance of environmental restoration activities at the installation.

(f) Involvement in Defense Environmental Restoration Program. - If a technical review committee or restoration advisory board is established with respect to an installation (or group of installations), the Secretary shall consult with and seek the advice of the committee or board on the following issues:

(1) Identifying environmental restoration activities and projects at the installation or installations.

(2) Monitoring progress on these activities and projects.

(3) Collecting information regarding restoration priorities for the installation or installations.

(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation or installations.

(5) Developing environmental restoration strategies for the installation or installations.

(g) Funding. - The Secretary shall, to the extent provided in appropriations Acts, make funds available for administrative expenses and technical assistance under this section using funds in the following accounts:

(1) In the case of a military installation not approved for closure pursuant to a base closure law, the environmental restoration account concerned under section 2703(a) of this title.

(2) In the case of an installation approved for closure pursuant to such a law, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(h) Definition. - In this section, the term 'base closure law' means the following:

(1) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(3) Section 2687 of this title.

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 103-337, div. A, title III, Sec. 326(a)-(c), Oct. 5, 1994, 108 Stat. 2712, 2713; Pub. L. 104-106, div. A, title III, Sec. 324(a)-(d)(1), (e), Feb. 10, 1996, 110 Stat. 252-254; Pub. L. 104-201, div. A, title III, Sec. 322(c), Sept. 23, 1996, 110 Stat. 2479.)

AMENDMENTS

1996 - Subsec. (d)(2). Pub. L. 104-106, Sec. 324(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall prescribe regulations regarding the characteristics, composition, funding, and establishment of restoration advisory boards pursuant to this subsection. However, the issuance of regulations shall not be a precondition to the establishment of a restoration advisory board or affect the existence or operation of a restoration advisory board established before the date of the enactment of this section.''

Subsec. (d)(3). Pub. L. 104-106, Sec. 324(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(3).''

Subsec. (e). Pub. L. 104-106, Sec. 324(c), added subsec. (e) and struck out former subsec. (e) which authorized Secretary to make technical assistance grants under section 9617(e) of title 42 in connection with installations containing facilities listed on the National Priorities List and to make funds available to facilitate participation on technical review committees and restoration advisory boards relating to environmental restoration activities at other installations.

Subsec. (g). Pub. L. 104-106, Sec. 324(d)(1), added subsec. (g).

Subsec. (g)(1). Pub. L. 104-201 substituted ''the environmental restoration account concerned'' for ''the Defense Environmental Restoration Account established''.

Subsec. (h). Pub. L. 104-106, Sec. 324(e), added subsec. (h).

1994 - Subsecs. (d) to (f). Pub. L. 103-337 added subsecs. (d) to (f).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 322(e) of Pub. L. 104-201, set out as a note under section 2703 of this title.

IMPLEMENTATION REQUIREMENTS FOR RESTORATION ADVISORY BOARDS

Section 326(d) of Pub. L. 103-337 provided that: ''Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish restoration advisory boards, the Secretary shall -

''(1) prescribe the regulations required under subsection (d)(2) of section 2705 of title 10, United States Code, as added by subsection (a); and

''(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as added by subsection (b).''

REPORT ON RESTORATION ADVISORY BOARDS AND ASSISTANCE FOR CITIZEN PARTICIPATION ON COMMITTEES AND BOARDS

Section 326(e) of Pub. L. 103-337 directed Secretary of Defense to submit, not later than May 1, 1996, report regarding establishment of restoration advisory boards under subsections (d) and (e) of this section and the expenditure of funds for assistance for citizen participation on technical review committees under subsection (e) of this section.

RESTRICTIONS ON ADMINISTRATIVE AND TECHNICAL ASSISTANCE FUNDING

Section 324(d)(2) of Pub. L. 104-106 provided that:

''(2)(A) Subject to subparagraph (B), the total amount of funds made available under section 2705(g) of title 10, United States Code, as added by paragraph (1), for fiscal year 1996 may not exceed \$6,000,000.

''(B) Amounts may not be made available under subsection (g) of such section 2705 after September 15, 1996, unless the Secretary of Defense publishes proposed final or interim final regulations required under subsection (d) of such section, as amended by subsection (a).''

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2706 of this title.

-CITE-

10 USC Sec. 2706

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2706. Annual reports to Congress

-STATUTE-

(a) Report on Environmental Restoration Activities. - (1) The Secretary of Defense shall submit to the Congress each year, not later than 45 days after the date on which the President submits to the Congress the budget for a fiscal year, a report on the progress made by the Secretary in carrying out environmental restoration activities at military installations.

(2) Each such report shall include, with respect to environmental restoration activities for each military installation, the following:

(A) A statement of the number of sites at which a hazardous substance has been identified.

(B) A statement of the status of response actions proposed for or initiated at the military installation.

(C) A statement of the total cost estimated for such response actions.

(D) A statement of the amount of funds obligated by the Secretary for such response actions, and the progress made in implementing the response actions during the fiscal year preceding the year in which the report is submitted, including an explanation of -

(i) any cost overruns for such response actions, if the amount of funds obligated for those response actions exceeds the estimated cost for those response actions by the greater of 15 percent of the estimated cost or \$10,000,000; and

(ii) any deviation in the schedule (including a milestone schedule specified in an agreement, order, or mandate) for such response actions of more than 180 days.

(E) A statement of the amount of funds allocated by the

Secretary for, and the anticipated progress in implementing, such response actions during the fiscal year in which the report is submitted.

(F) A statement of the amount of funds requested for such response actions for the five fiscal years following the fiscal year in which the report is submitted, and the anticipated progress in implementing such response actions for the fiscal year for which the budget is submitted.

(G) A statement of the total costs incurred for such response actions as of the date of the submission of the report.

(H) A statement of the estimated cost of completing all environmental restoration activities required with respect to the military installation, including, where relevant, the estimated cost of such activities in each of the five fiscal years following the fiscal year in which the report is submitted.

(I) A statement of the estimated schedule for completing all environmental restoration activities at the military installation.

(J) A statement of the activities, if any, including expenditures for administrative expenses and technical assistance under section 2705 of this title, of the technical review committee or restoration advisory board established for the installation under such section during the preceding fiscal year.

(b) Report on Environmental Compliance Activities. - (1) The Secretary of Defense shall submit to the Congress each year, not later than 45 days after the date on which the President submits to the Congress the budget for a fiscal year, a report on the progress made by the Secretary in carrying out environmental compliance activities at military installations.

(2) Each such report shall include the following:

(A) A statement of the funding levels and full-time personnel required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted, setting forth separately the funding levels and personnel required for the Department of Defense as a whole and for each military installation.

(B) A statement of the funding levels and full-time personnel requested for such purposes in the budget submitted by the President at the same time as the report, including -

(i) an explanation of any differences between the funding level and personnel requirements and the funding level and personnel requests in the budget; and

(ii) a statement setting forth separately the funding levels and full-time personnel requested for the Department of Defense as a whole and for each military installation.

(C) A projection of the funding levels and the number of full-time personnel that will be required over the five fiscal years following the fiscal year in which the report is submitted for the Department of Defense to comply with applicable environmental laws, setting forth separately such projections for the Department of Defense as a whole and for each military installation.

(D) An analysis of the effect that compliance with such environmental laws may have on the operations and mission capabilities of the Department of Defense as a whole and of each military installation.

(E) A statement of the funding levels requested in the budget

submitted by the President at the same time as the report for carrying out research, development, testing, and evaluation for environmental purposes or environmental activities of the Department of Defense. The statement shall set forth separately the funding levels requested for the Department of Defense as a whole and for each military department and Defense Agency.

(F) A description of the number and duties of all current full-time civilian and military personnel who carry out environmental activities (including research) for the Department of Defense, including a description of the organizational structure of such personnel from the Secretary of Defense down to the military installation level.

(G) A statement of the funding levels and personnel required for the Department of Defense to comply with applicable environmental requirements for military installations located outside the United States during the fiscal year for which the budget is submitted.

(H) A statement of the fines and penalties imposed or assessed against the Department of Defense under Federal, State, or local environmental law during the fiscal year preceding the fiscal year in which the report is submitted, setting forth each Federal environmental statute under which a fine or penalty was imposed or assessed during the fiscal year, and, with respect to each such statute -

(i) the aggregate amount of fines and penalties imposed or assessed during the fiscal year;

(ii) the aggregate amount of fines and penalties paid during the fiscal year;

(iii) the total amount required for environmental projects to be carried out by the Department of Defense in lieu of the payment of fines or penalties; and

(iv) the number of fines and penalties imposed or assessed during the fiscal year that were -

(I) \$100,000 or less; and

(II) more than \$100,000.

(c) Report on Contractor Reimbursement Costs. - (1) The Secretary of Defense shall submit to the Congress each year, not later than 45 days after the date on which the President submits to the Congress the budget for a fiscal year, a report on payments made by the Secretary to defense contractors for the costs of environmental response actions.

(2) Each such report shall include, for the fiscal year preceding the year in which the report is submitted, the following:

(A) An estimate of the payments made by the Secretary to any defense contractor (other than a response action contractor) for the costs of environmental response actions at facilities owned or operated by the defense contractor or at which the defense contractor is liable in whole or in part for the environmental response action.

(B) A statement of the amount and current status of any pending requests by any defense contractor (other than a response action contractor) for payment of the costs of environmental response actions at facilities owned or operated by the defense contractor or at which the defense contractor is liable in whole or in part for the environmental response action.

(d) Report on Environmental Activities Overseas. - (1) The Secretary of Defense shall submit to Congress each year, not later

than 45 days after the date on which the President submits to Congress the budget for a fiscal year, a report on the environmental activities of the Department of Defense overseas.

(2) Each such report shall include a statement of the funding levels during such fiscal year for each of the following categories:

(A) Compliance by the Department of Defense with requirements under a treaty, law, contract, or other agreement for environmental restoration or compliance activities.

(B) Performance by the Department of Defense of other environmental restoration and compliance activities overseas.

(C) Performance by the Department of Defense of any other overseas activities related to the environment, including conferences, meetings, and studies for pilot programs, and travel related to such activities.

(e) Definitions. - In this section:

(1) The term "defense contractor" -

(A) means an entity (other than an entity referred to in subparagraph (B)) that is one of the top 20 entities receiving the largest dollar volume of prime contract awards by the Department of Defense during the fiscal year covered by the report; and

(B) does not include small business concerns, commercial companies (or segments of commercial companies) providing commercial items to the Department of Defense.

(2) The term "military installation" has the meaning given such term in section 2687(e) of this title, except that such term does not include a homeport facility for any ship and includes -

(A) each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense;

(B) each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances; and

(C) each facility or site at which the Secretary is conducting environmental restoration activities.

(3) The term "response action contractor" has the meaning given such term in section 119(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)).

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 101-189, div. A, title III, Sec. 357(a)(1), (2)(A), Nov. 29, 1989, 103 Stat. 1426, 1427; Pub. L. 101-510, div. A, title III, Sec. 341, 342(a), Nov. 5, 1990, 104 Stat. 1536, 1537; Pub. L. 103-160, div. A, title X, Sec. 1001(a)-(d), Nov. 30, 1993, 107 Stat. 1742-1744; Pub. L. 103-337, div. A, title X, Sec. 1070(b)(9), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 104-106, div. A, title III, Sec. 324(f), Feb. 10, 1996, 110 Stat. 254; Pub. L. 104-201, div. A, title III, Sec. 321, Sept. 23, 1996, 110 Stat. 2477; Pub. L. 105-85, div. A, title III, Sec. 344(a), 345, Nov. 18, 1997, 111 Stat. 1688; Pub. L. 105-261, div. A, title III, Sec. 325, Oct. 17, 1998, 112 Stat. 1965.)

-MISC1-

#### AMENDMENTS

1998 - Subsecs. (a)(1), (b)(1), (c)(1), (d)(1). Pub. L. 105-261 substituted 'not later than 45 days' for 'not later than 30 days'.

1997 - Subsec. (b)(2)(H). Pub. L. 105-85, Sec. 344(a), added subpar. (H).

Subsecs. (d), (e). Pub. L. 105-85, Sec. 345, added subsec. (d) and redesignated former subsec. (d) as (e).

1996 - Subsec. (a)(2)(J). Pub. L. 104-106 added subpar. (J).

Subsec. (d)(1)(A). Pub. L. 104-201 substituted '20 entities' for '100 entities'.

1994 - Subsec. (a). Pub. L. 103-337 made technical correction to Pub. L. 103-160, Sec. 1001(a). See 1993 Amendment note below.

1993 - Subsec. (a). Pub. L. 103-160, Sec. 1001(a), as amended by Pub. L. 103-337, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

'(1) Report on Progress in Implementation. - The Secretary of Defense shall submit to Congress a report each fiscal year describing the progress made by the Secretary during the preceding fiscal year in implementing the requirements of this chapter.

'(2) Each such report shall include the following:

'(A) A statement for each installation under the jurisdiction of the Secretary of the number of individual facilities at which a hazardous substance has been identified.

'(B) The status of response actions contemplated or undertaken at each such facility.

'(C) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each such facility.

'(D) A report on progress on conducting response actions at facilities other than facilities on the National Priorities List.'

Subsec. (b). Pub. L. 103-160, Sec. 1001(b), inserted 'Activities' in heading and amended text generally, restating substance of former par. (1) in pars. (1) and (2) and deleting substance of former par. (2) which defined 'military installation'.

Subsecs. (c), (d). Pub. L. 103-160, Sec. 1001(c), (d), added subsecs. (c) and (d).

1990 - Subsec. (b). Pub. L. 101-510, Sec. 342(a), added subpar. (G) at end of par. (1).

Pub. L. 101-510, Sec. 341, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: 'Environmental Budget Report. - (1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report on -

'(A) the funding levels required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted; and

'(B) the funding levels requested for such purposes in the budget as submitted by the President.

'(2) The Secretary shall include in the report an explanation of any differences in the funding level requirements and the funding level requests in the budget.'

1989 - Pub. L. 101-189 substituted 'reports' for 'report' in section catchline, designated subsec. (a) as subsec. (a)(1), struck

out subsec. (b) heading 'Matters To Be Included', redesignated subsec. (b) as subsec. (a)(2) and pars. (1) to (4) as subpars. (A) to (D), respectively, and added subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1070(b) of Pub. L. 103-337 provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, as enacted.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 357(b) of Pub. L. 101-189 provided that: 'The first environmental budget report under subsection (b) of section 2706 of such title (10 U.S.C. 2706(b)) (as added by subsection (a)) shall be submitted at the same time the President submits the budget for fiscal year 1992.'

REPORT IN FISCAL YEAR 1998

Section 344(b) of Pub. L. 105-85 provided that: 'The statement submitted by the Secretary of Defense under subparagraph (H) of section 2706(b)(2) of title 10, United States Code, as added by subsection (a), in 1998 shall, to the maximum extent practicable, include the information required by that subparagraph for each of fiscal years 1994 through 1997.'

COMPLIANCE WITH ANNEX V TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Section 324(b), (c) of Pub. L. 104-201, as amended by Pub. L. 105-85, div. A, title X, Sec. 1073(c)(1), Nov. 18, 1997, 111 Stat. 1904, provided that:

'(b) Sense of Congress. - (1) It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy's development of ships that are environmentally sound.

'(2) In this subsection and subsection (c), the terms 'Convention' and 'ship' have the meanings given such terms in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

'(c) Report on Compliance With Annex V to the Convention. - The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(b) of title 10, United States Code, the following information:

'(1) A list of the ship types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(c)(2)(C)), as amended by subsection (a)(2) of this section.

'(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

'(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) of such section 3(c), as so amended.

'(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

'(5) The amount and nature of the discharges in special areas, not otherwise authorized under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), during the preceding year from ships referred to in section 3(b)(1)(A) of such Act owned or operated by the Department of the Navy.'

REPORT ON SERVICES OBTAINED PURSUANT TO REIMBURSEMENT AGREEMENTS  
DURING FISCAL YEAR 1996

Section 321(b) of Pub. L. 104-106 provided that: ''The Secretary of Defense shall include in the report submitted to Congress with respect to fiscal year 1998 under section 2706(a) of title 10, United States Code, information on the services, if any, obtained by the Secretary during fiscal year 1996 pursuant to each agreement on a reimbursable basis entered into with a State or local government agency under section 2701(d) of title 10, United States Code, as amended by subsection (a). The information shall include a description of the services obtained under each agreement and the amount of the reimbursement provided for the services.''

TIME OF SUBMISSION OF REPORTS

Section 1001(e) of Pub. L. 103-160 provided that:

''(1) A report submitted in 1994 under subsection (a) of section 2706 of title 10, United States Code, as amended by subsection (a), and under subsection (b) of such section, as amended by subsection (b), shall be submitted not later than March 31, 1994.

''(2) A report under subsection (c) of section 2706 of such title, as added by subsection (c), shall be submitted for fiscal years beginning with fiscal year 1993. Any such report that is submitted for fiscal year 1993 or fiscal year 1994 shall be submitted not later than February 1, 1995.''

-CITE-

10 USC Sec. 2707

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2707. Definitions

-STATUTE-

In this chapter:

(1) The terms ''environment'', ''facility'', ''hazardous substance'', ''person'', ''release'', ''removal'', ''response'', ''disposal'', and ''hazardous waste'' have the meanings given those terms in section 101 of CERCLA (42 U.S.C. 9601).

(2) The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

-SOURCE-

(Added Pub. L. 99-499, title II, Sec. 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1725.)

-CITE-

10 USC Sec. 2708

01/05/99

-EXPCITE-

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law  
PART IV - SERVICE, SUPPLY, AND PROCUREMENT  
CHAPTER 160 - ENVIRONMENTAL RESTORATION

-HEAD-

Sec. 2708. Contracts for handling hazardous waste from defense facilities

-STATUTE-

(a) Reimbursement Requirement. - (1) Each contract or subcontract to which this section applies shall provide that, upon receipt of hazardous wastes properly characterized pursuant to applicable laws and regulations, the contractor or subcontractor will reimburse the Federal Government for all liabilities incurred by, penalties assessed against, costs incurred by, and damages suffered by, the Government that are caused by -

(A) the contractor's or subcontractor's breach of any term or provision of the contract or subcontract; and

(B) any negligent or willful act or omission of the contractor or subcontractor, or the employees of the contractor or subcontractor, in the performance of the contract or subcontract.

(2) Not later than 30 days after such a contract or subcontract is awarded, the contractor or subcontractor shall demonstrate that the contractor or subcontractor will reimburse the Federal Government as provided in paragraph (1).

(b) Applicability. - (1) Except as provided in paragraph (2), this section applies to each contract entered into by the Secretary of Defense or the Secretary of a military department, and any subcontract under any such contract, with an owner or operator of a hazardous waste treatment or disposal facility during fiscal years 1992 through 1996 for the offsite treatment or disposal of hazardous wastes from a facility under the jurisdiction of the Secretary of Defense.

(2) This section does not apply to -

(A) any contract or subcontract to perform remedial action or corrective action under the Defense Environmental Restoration Program, other programs or activities of the Department of Defense, or authorized State hazardous waste programs;

(B) any contract or subcontract under which the generation of the hazardous waste to be disposed of is incidental to the performance of the contract; or

(C) any contract or subcontract to dispose of ammunition or solid rocket motors.

(c) Exception to Reimbursement Requirement. - Notwithstanding subsection (a), in the case of any contract to which this section applies, if the Secretary of Defense or the Secretary of the military department concerned determines that -

(1) there is only one responsible offeror or there is no responsible offeror willing to provide the reimbursement required by subsection (a) for such contract; or

(2) failure to award the contract would place the facility concerned in violation of any requirement of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), then the contract may be awarded without including the reimbursement provision required by subsection (a).

(d) Definitions. - In this section:

(1) The term "hazardous waste" has the meaning given that term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls.

(2) The term ''remedial action'' has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(3) The term ''corrective action'' has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

(4) The term ''polychlorinated biphenyls'' has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) Effect on Liability. - Nothing in this section shall affect the liability of the Federal Government under any Federal or State law or under common law.

-SOURCE-

(Added Pub. L. 102-190, div. A, title III, Sec. 331(a)(1), Dec. 5, 1991, 105 Stat. 1339; amended Pub. L. 102-484, div. A, title III, Sec. 321, title X, Sec. 1052(36), Oct. 23, 1992, 106 Stat. 2365, 2501; Pub. L. 103-160, div. A, title X, Sec. 1004, Nov. 30, 1993, 107 Stat. 1748.)

-REFTEXT-

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c)(2), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, Sec. 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (Sec. 6901 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 6901 of Title 42 and Tables.

-MISC2-

AMENDMENTS

1993 - Subsec. (b)(1). Pub. L. 103-160 substituted ''fiscal years 1992 through 1996'' for ''fiscal years 1992 and 1993''.

1992 - Subsec. (b)(1). Pub. L. 102-484, Sec. 1052(36)(A), substituted ''each contract'' for ''all contracts'' and ''any subcontract under any such contract'' for ''all subcontracts under such contracts''.

Pub. L. 102-484, Sec. 321, substituted ''fiscal years 1992 and 1993'' for ''fiscal year 1992''.

Subsec. (d). Pub. L. 102-484, Sec. 1052(36)(B), substituted ''In'' for ''For purposes of'' in introductory provisions.

EFFECTIVE DATE

Section 331(b) of Pub. L. 102-190 provided that: ''Section 2708 of title 10, United States Code, shall apply with respect to contracts entered into after the expiration of the 60-day period beginning on the date of the enactment of this Act (Dec. 5, 1991).''

-CITE-