

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, §2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§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.

AMENDMENTS

2004—Subsecs. (c), (e), (f). Pub. L. 108-375 inserted “(42 U.S.C. 9604(i))” after “CERCLA”.

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

§ 2705. Notice of environmental restoration activities

(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.

(C) Chapter 10 of title 5 shall not apply to a restoration advisory board established 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 for an installation, restoration advisory board for an installation, community concerned with respect to an installation, or individual member of such community, 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 from covered sources technical assistance for the committee, advisory board, community, or individual (as the case may be) to interpret 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, restoration advisory board, community, or individual only if the technical assistance—

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

(B) is a service described in paragraph (3).

(3) A service described in this paragraph is a service to improve public participation in, or assist in the navigation of, environmental restoration activities at an installation by the community concerned or an individual member of such community, including with respect to the following:

(A) The interpretation of site-related documents, including documents concerning the nature of a release or threatened release at the installation, monitoring, testing plans, and reports associated with site assessment and characterization at the installation.

(B) The interpretation of health-related information.

(C) The interpretation of documents, plans, proposed actions, and final decisions relating to—

- (i) an interim remedial action;
- (ii) a remedial investigation or feasibility study;
- (iii) a record of decision;
- (iv) a remedial design;
- (v) the selection and construction of remedial action;
- (vi) operation and maintenance;
- (vii) a five-year review at the installation; or
- (viii) a removal action at the installation.

(D) Assistance with the preparation of public comments.

(E) The development of outreach materials to improve public participation.

(F) The provision of advice and guidance regarding additional technical assistance for which the community or individual, as the case may be, may be eligible.

(4) In this subsection, the term “covered source” means a private sector source, a Federal department or agency other than the Department of Defense (pursuant to a Federal inter-agency agreement), or a nonprofit entity (pursuant to a cooperative agreement entered into with such entity).

(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 Depart-

ment of Defense Base Closure Account 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).

(Added Pub. L. 99-499, title II, § 211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 103-337, div. A, title III, § 326(a)-(c), Oct. 5, 1994, 108 Stat. 2712, 2713; Pub. L. 104-106, div. A, title III, § 324(a)-(d)(1), (e), Feb. 10, 1996, 110 Stat. 252-254; Pub. L. 104-201, div. A, title III, § 322(c), Sept. 23, 1996, 110 Stat. 2479; Pub. L. 108-136, div. A, title III, § 317(b), title X, § 1043(c)(5), Nov. 24, 2003, 117 Stat. 1432, 1612; Pub. L. 112-239, div. B, title XXVII, § 2711(c)(4)(C), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 117-286, § 4(a)(53), Dec. 27, 2022, 136 Stat. 4811; Pub. L. 118-31, div. A, title III, § 313, Dec. 22, 2023, 137 Stat. 215.)

Editorial Notes

AMENDMENTS

2023—Subsec. (e)(1). Pub. L. 118-31, § 313(1), substituted “upon the request of the technical review committee for an installation, restoration advisory board for an installation, community concerned with respect to an installation, or individual member of such community” for “upon the request of the technical review committee or restoration advisory board for an installation” and “to obtain from covered sources technical assistance for the committee, advisory board, community, or individual (as the case may be) to interpret” for “to obtain for the committee or advisory board, as the case may be, from private sector sources technical assistance for interpreting”.

Subsec. (e)(2). Pub. L. 118-31, § 313(2), substituted “technical review committee, restoration advisory board, community, or individual only if the technical assistance—” and subpars. (A) and (B) for “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.”

Subsec. (e)(3), (4). Pub. L. 118-31, § 313(3), added pars. (3) and (4).

2022—Subsec. (d)(2)(C). Pub. L. 117-286 substituted “Chapter 10 of title 5” for “The Federal Advisory Committee Act (5 U.S.C. App.)”.

2013—Subsec. (g)(2). Pub. L. 112-239 substituted “Closure Account” for “Closure Account 1990”.

2003—Subsec. (d)(2)(C). Pub. L. 108-136, § 317(b), added subpar. (C).

Subsec. (h). Pub. L. 108-136, § 1043(c)(5), struck out heading and text of subsec. (h). Text read as follows: “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.”

1996—Subsec. (d)(2). Pub. L. 104-106, § 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, §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, §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, §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, §324(e), added subsec. (h). 1994—Subsecs. (d) to (f). Pub. L. 103-337 added subsecs. (d) to (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113-76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112-239, set out as a note under section 2701 of this title.

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.

REQUIREMENTS FOR RESTORATION ADVISORY BOARDS AND EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 108-136, div. A, title III, §317(a), Nov. 24, 2003, 117 Stat. 1432, provided that: “The Secretary of Defense shall amend the regulations required by section 2705(d)(2) of title 10, United States Code, relating to the establishment, characteristics, composition, and funding of restoration advisory boards to ensure that each restoration advisory board complies with the following requirements:

“(1) Each restoration advisory board shall be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

“(2) Unless a closed or partially closed meeting is determined to be proper in accordance with one or more of the exceptions listed in section 552b(c) of title 5, United States Code, each meeting of a restoration advisory board shall be—

“(A) held at a reasonable time and in a manner or place reasonably accessible to the public, including individuals with disabilities; and

“(B) open to the public.

“(3) Timely notice of each meeting of a restoration advisory board shall be published in a local newspaper of general circulation.

“(4) Interested persons may appear before or file statements with a restoration advisory board, subject to such reasonable restrictions as the Secretary may prescribe.

“(5) Subject to section 552 of title 5, United States Code, the records, reports, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to, prepared for, or prepared by each restoration advisory board shall be available for public inspection and copying at a single, publicly accessible location, such as a public library or an appropriate office of the military installation for which the restoration advisory board is established, at least until the restoration advisory board is terminated.

“(6) Detailed minutes of each meeting of each restoration advisory board shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the restoration advisory board. The accuracy of the minutes of a restoration advisory board shall be certified by the chairperson of the board.”

IMPLEMENTATION REQUIREMENTS FOR RESTORATION ADVISORY BOARDS

Pub. L. 103-337, div. A, title III, §326(d), Oct. 5, 1994, 108 Stat. 2713, 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

Pub. L. 103-337, div. A, title III, §326(e), Oct. 5, 1994, 108 Stat. 2713, 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

Pub. L. 104-106, div. A, title III, §324(d)(2), Feb. 10, 1996, 110 Stat. 254, 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).”

[§ 2706. Repealed. Pub. L. 112-81, div. A, title X, § 1061(22)(A), Dec. 31, 2011, 125 Stat. 1584]

Section, added Pub. L. 99-499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 101-189, div. A, title III, §357(a)(1), (2)(A), Nov. 29, 1989, 103 Stat. 1426, 1427; Pub. L. 101-510, div. A, title III, §§341, 342(a), Nov. 5, 1990, 104 Stat. 1536, 1537; Pub. L. 103-160, div. A, title X, §1001(a)-(d), Nov. 30, 1993, 107 Stat. 1742-1744; Pub. L. 103-337, div. A, title X, §1070(b)(9), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 104-106, div. A, title III, §324(f), Feb. 10, 1996, 110 Stat. 254; Pub. L. 104-201, div. A, title III, §321, Sept. 23, 1996, 110 Stat. 2477; Pub. L. 105-85, div. A, title III, §§344(a), 345, Nov. 18, 1997, 111 Stat. 1688; Pub. L. 105-261, div. A, title III, §325, Oct. 17, 1998, 112 Stat. 1965; Pub. L. 106-65, div. A, title III, §§322, 323(e)(1), Oct. 5, 1999, 113 Stat. 560, 563; Pub. L. 107-107, div. A, title III, §315, Dec. 28, 2001, 115 Stat. 1053; Pub. L. 109-163, div. A,