

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(c)(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,

title III, §311, Jan. 6, 2006, 119 Stat. 3190, related to annual reports by the Secretary of Defense to Congress regarding environmental restoration activities, environmental quality programs and other environmental activities, and the Department of Defense's environmental technology program.

§ 2707. Environmental restoration projects for environmental responses

(a) ENVIRONMENTAL RESTORATION PROJECTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

(b) TREATMENT OF PROJECT.—Any construction, development, conversion, or extension of a structure, and any installation of equipment, that is included in an environmental restoration project under this section may not be considered military construction (as that term is defined in section 2801(a) of this title).

(c) SOURCE OF FUNDS.—Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

(d) ENVIRONMENTAL RESTORATION PROJECT DEFINED.—In this section, the term “environmental restoration project” includes any construction, development, conversion, or extension of a structure, or installation of equipment, in direct support of a response.

(Added Pub. L. 107–314, div. A, title III, §313(a)(2), Dec. 2, 2002, 116 Stat. 2507; amended Pub. L. 116–92, div. A, title III, §316(a), Dec. 20, 2019, 133 Stat. 1304; Pub. L. 116–283, div. A, title III, §314(a), Jan. 1, 2021, 134 Stat. 3514; Pub. L. 118–31, div. A, title III, §312(f)(1), Dec. 22, 2023, 137 Stat. 215.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2707 was renumbered section 2700 of this title.

AMENDMENTS

2023—Subsec. (e). Pub. L. 118–31 struck out subsec. (e). Text read as follows:

“(1) Notwithstanding subsection (a) of this section and section 2701(c)(1) of this title, the Secretary concerned may use funds described in subsection (c) to carry out an environmental restoration project at a facility where military activities are conducted by the National Guard of a State under title 32 in response to perfluorooctanoic acid or perfluorooctane sulfonate contamination under this chapter or CERCLA.

“(2) The Secretary concerned may use the authority under section 2701(d) of this title to carry out environmental restoration projects under paragraph (1).”

2021—Subsec. (e). Pub. L. 116–283 designated existing provisions as par. (1), inserted “where military activities are conducted by the National Guard of a State under title 32” after “facility”, and added par. (2).

2019—Subsec. (e). Pub. L. 116–92 added subsec. (e).

Statutory Notes and Related Subsidiaries

SAVINGS CLAUSE

Nothing in amendment by section 316 of Pub. L. 116–92 to affect any requirement or authority under the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), see section 316(d) of Pub. L. 116–92, set out as a note under section 2700 of this title.

§ 2708. Contracts for handling hazardous waste from defense facilities

(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).