

**CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM**

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**§ 2901. Strategic Environmental Research and Development Program**

(a) The Secretary of Defense shall establish a program to be known as the “Strategic Environmental Research and Development Program”.

(b) The purposes of the program are as follows:

(1) To address environmental matters of concern to the Department of Defense and the Department of Energy through support for basic and applied research and development of technologies that can enhance the capabilities of the departments to meet their environmental obligations.

(2) To identify research, technologies, and other information developed by the Department of Defense and the Department of Energy for national defense purposes that would be useful to governmental and private organizations involved in the development of energy technologies and of technologies to address environmental restoration, waste minimization, hazardous waste substitution, and other environmental concerns, and to share such research, technologies, and other information with such governmental and private organizations.

(3) To furnish other governmental organizations and private organizations with data, enhanced data collection capabilities, and enhanced analytical capabilities for use by such organizations in the conduct of environmental research, including research concerning global environmental change.

(4) To identify technologies developed by the private sector that are useful for Department of Defense and Department of Energy defense activities concerning environmental restoration, hazardous and solid waste minimization and prevention, hazardous material substitution, and provide for the use of such technologies in the conduct of such activities.

(Added Pub. L. 101-510, div. A, title XVIII, § 1801(a)(1), Nov. 5, 1990, 104 Stat. 1751.)

**§ 2902. Strategic Environmental Research and Development Program Council**

(a) There is a Strategic Environmental Research and Development Program Council (hereinafter in this chapter referred to as the “Council”).

(b) The Council is composed of 12 members as follows:

(1) The official within the Office of the Under Secretary of Defense for Research and Engineering who is responsible for science and technology.

(2) The Vice Chairman of the Joint Chiefs of Staff.

(3) The official within the Office of the Under Secretary of Defense for Acquisition

and Sustainment who is responsible for environmental security.

(4) The Assistant Secretary of Energy for Defense programs.

(5) The Assistant Secretary of Energy responsible for environmental restoration and waste management.

(6) The Director of the Department of Energy Office of Science.

(7) The Administrator of the Environmental Protection Agency.

(8) One representative from each of the Army, Navy, Air Force, and Coast Guard.

(9) The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

(c) The Secretary of Defense shall designate a member of the Council as chairman for each odd numbered fiscal year. The Secretary of Energy shall designate a member of the Council as chairman for each even-numbered fiscal year.

(d) The Council shall have the following responsibilities:

(1) To prescribe policies and procedures to implement the Strategic Environmental Research and Development Program.

(2) To enter into contracts, grants, and other financial arrangements, in accordance with other applicable law, to carry out the purposes of the Strategic Environmental Research and Development Program.

(3) To prepare an annual report that contains the following:

(A) A description of activities of the strategic environmental research and development program carried out during the fiscal year before the fiscal year in which the report is prepared.

(B) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

(C) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

(D) A summary of the actions of the Strategic Environmental Research and Development Program Scientific Advisory Board during the year preceding the year in which the report is submitted and any recommendations, including recommendations on program direction and legislation, that the Advisory Board considers appropriate regarding the program.

(4) To promote the maximum exchange of information, and to minimize duplication, regarding environmentally related research, development, and demonstration activities through close coordination with the military departments and Defense Agencies, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, other departments and agencies of the Federal Government or any State and local governments, including the National Science and Technology Council, and other organizations engaged in such activities.

(5) To ensure that research and development activities under the Strategic Environmental Research and Development Program do not duplicate other ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, or any other department or agency of the Federal Government.

(6) To ensure that the research and development programs identified for support pursuant to policies and procedures prescribed by the council utilize, to the maximum extent possible, the talents, skills, and abilities residing at the Federal laboratories, including the Department of Energy multiprogram and defense laboratories, the Department of Defense laboratories, and Federal contract research centers. To utilize the research capabilities of institutions of higher education and private industry to the extent practicable.

(e) In carrying out subsection (d)(1), the Council shall prescribe policies and procedures that—

(1) provide for appropriate access by Federal Government personnel, State and local government personnel, college and university personnel, industry personnel, and the general public to data under the control of, or otherwise available to, the Department of Defense that is relevant to environmental matters by—

- (A) identifying the sources of such data;
- (B) publicizing the availability and sources of such data by appropriately-targeted dissemination of information to such personnel and the general public, and by other means; and
- (C) providing for review of classified data relevant to environmental matters with a view to declassifying or preparing unclassified summaries of such data;

(2) provide governmental and nongovernmental entities with analytic assistance, consistent with national defense missions, including access to military platforms for sensor deployment and access to computer capabilities, in order to facilitate environmental research;

(3) provide for the identification of energy technologies developed for national defense purposes (including electricity generation systems, energy storage systems, alternative fuels, biomass energy technology, and applied materials technology) that might have environmentally sound, energy efficient applications for other programs of the Department of Defense and the Department of Energy national security programs;

(4) provide for the identification and support of programs of basic and applied research, development, and demonstration in technologies useful—

- (A) to facilitate environmental compliance, remediation, and restoration activities of the Department of Defense and at Department of Energy defense facilities;
- (B) to minimize waste generation, including reduction at the source, by such departments; or

(C) to substitute use of nonhazardous, nontoxic, nonpolluting, and other environmentally sound materials and substances for use of hazardous, toxic, and polluting materials and substances by such departments;

(5) provide for the identification and support of research, development, and application of other technologies developed for national defense purposes which not only are directly useful for programs, projects, and activities of such departments, but also have useful applications for solutions to such national and international environmental problems as climate change and ozone depletion;

(6) provide for the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, in cooperation with other Federal and State agencies, as appropriate, to conduct joint research, development, and demonstration projects relating to innovative technologies, management practices, and other approaches for purposes of—

- (A) preventing pollution from all sources;
- (B) minimizing hazardous and solid waste, including recycling; and
- (C) treating hazardous and solid waste, including the use of thermal, chemical, and biological treatment technologies;

(7) encourage transfer of technologies referred to in clauses (2) through (6) to the private sector under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other applicable laws;

(8) provide for the identification of, and planning for the demonstration and use of, existing environmentally sound, energy-efficient technologies developed by the private sector that could be used directly by the Department of Defense;

(9) provide for the identification of military specifications that prevent or limit the use of environmentally beneficial technologies, materials, and substances in the performance of Department of Defense contracts and recommend changes to such specifications; and

(10) to ensure that the research and development programs identified for support pursuant to the policies and procedures prescribed by the Council are closely coordinated with, and do not duplicate, ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, or other Federal agencies.

(f) The Council shall be subject to the authority, direction, and control of the Secretary of Defense in prescribing policies and procedures under subsection (d)(1).

(g) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense the annual report prepared pursuant to subsection (d)(3).

(Added Pub. L. 101-510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1751; amended Pub. L. 102-190, div. A, title II, §257(a), title X, §1061(a)(19), Dec. 5, 1991, 105 Stat. 1331, 1473; Pub.

L. 102-484, div. A, title X, §1052(38), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 103-160, div. A, title II, §265(a), Nov. 30, 1993, 107 Stat. 1611; Pub. L. 104-106, div. A, title II, §203(a)-(b)(2), (c), Feb. 10, 1996, 110 Stat. 217, 218; Pub. L. 105-245, title III, §309(b)(2)(B), Oct. 7, 1998, 112 Stat. 1853; Pub. L. 106-65, div. A, title III, §324, Oct. 5, 1999, 113 Stat. 563; Pub. L. 106-398, §1 [[div. A], title III, §313(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-55; Pub. L. 108-136, div. A, title X, §1031(a)(52), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 111-383, div. A, title IX, §901(j)(5), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 116-92, div. A, title IX, §902(80), Dec. 20, 2019, 133 Stat. 1553.)

### Editorial Notes

#### REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (e)(7), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 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 3701 of Title 15 and Tables.

#### AMENDMENTS

2019—Subsec. (b)(1). Pub. L. 116-92, §902(80)(A), substituted “Office of the Under Secretary of Defense for Research and Engineering” for “Office of the Assistant Secretary of Defense for Research and Engineering”.

Subsec. (b)(3). Pub. L. 116-92, §902(80)(B), substituted “Office of the Under Secretary of Defense for Acquisition and Sustainment” for “Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics”.

2011—Subsec. (b)(1). Pub. L. 111-383, §901(j)(5)(A), substituted “official within the Office of the Assistant Secretary of Defense for Research and Engineering who is responsible for science and technology” for “Deputy Under Secretary of Defense for Science and Technology”.

Subsec. (b)(3). Pub. L. 111-383, §901(j)(5)(B), substituted “official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics who is” for “Deputy Under Secretary of Defense”.

2003—Subsec. (g). Pub. L. 108-136 struck out designation for par. (1) before “Not later than February” and struck out par. (2) which read as follows: “Not later than March 15 of each year, the Secretary of Defense shall submit such annual report to Congress, along with such comments as the Secretary considers appropriate.”

2000—Subsec. (d)(3)(D). Pub. L. 106-398 added subpar. (D).

1999—Subsec. (b)(1). Pub. L. 106-65 substituted “Deputy Under Secretary of Defense for Science and Technology” for “Director of Defense Research and Engineering”.

1998—Subsec. (b)(6). Pub. L. 105-245 substituted “Science” for “Energy Research”.

1996—Subsec. (b). Pub. L. 104-106, §203(a)(1), substituted “12” for “thirteen” in introductory provisions.

Subsec. (b)(3) to (7). Pub. L. 104-106, §203(a)(2), (3), redesignated pars. (4) to (8) as (3) to (7), respectively, and struck out former par. (3) which read as follows: “The Assistant Secretary of the Air Force responsible for matters relating to space.”

Subsec. (b)(8). Pub. L. 104-106, §203(a)(3), (4), redesignated par. (9) as (8) and struck out “, who shall be non-voting members” after “Coast Guard”. Former par. (8) redesignated (7).

Subsec. (b)(9), (10). Pub. L. 104-106, §203(a)(3), redesignated pars. (9) and (10) as (8) and (9), respectively.

Subsec. (d)(3). Pub. L. 104-106, §203(b)(1)(A), added par. (3) and struck out former par. (3) which read as follows:

“To prepare an annual five-year strategic environmental research and development plan that shall cover the fiscal year in which the plan is prepared and the four fiscal years following such fiscal year.”

Subsec. (d)(4). Pub. L. 104-106, §203(b)(1)(B), substituted “National Science and Technology Council” for “Federal Coordinating Council on Science, Engineering, and Technology”.

Subsec. (e)(3). Pub. L. 104-106, §203(c), substituted “national security programs” for “national security programs, particularly technologies that have the potential for industrial, commercial, and other governmental applications, and to support programs of research in and development of such applications”.

Subsecs. (f), (g). Pub. L. 104-106, §203(b)(2), added subsec. (g), redesignated former subsec. (g) as (f), and struck out former subsec. (f) which authorized Secretaries of Defense and Energy to submit to the Council proposals for conducting environmental research under this chapter.

Subsec. (h). Pub. L. 104-106, §203(b)(2)(A), struck out subsec. (h) which required Council to submit to Secretary of Defense and to Congress an annual report on annual five-year strategic environmental research and development plan.

1993—Subsec. (b)(1) to (4). Pub. L. 103-160, §265(a)(1)-(3), redesignated pars. (2) to (4) as (1) to (3), respectively, added par. (4), and struck out former par. (1) which read as follows: “The Assistant Secretary of Defense responsible for matters relating to production and logistics.”

Subsec. (b)(6). Pub. L. 103-160, §265(a)(4), added par. (6) and struck out former par. (6) which read as follows: “The Director of the Department of Energy Office of Environmental Restoration and Waste Management.”

1992—Subsec. (b)(9). Pub. L. 102-484 substituted “nonvoting” for “non-voting”.

1991—Subsec. (b). Pub. L. 102-190, §257(a)(1), substituted “thirteen” for “nine” in introductory provisions.

Subsec. (b)(9), (10). Pub. L. 102-190, §257(a)(2), (3), added par. (9) and redesignated former par. (9) as (10).

Subsec. (f)(2)(A). Pub. L. 102-190, §1061(a)(19), substituted “department’s” for “Department’s”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title II, §203(b)(3), Feb. 10, 1996, 110 Stat. 218, provided that: “The amendments made by this subsection [amending this section] shall apply with respect to the annual report prepared during fiscal year 1997 and each fiscal year thereafter.”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### FIRST ANNUAL REPORT OF STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM COUNCIL

Pub. L. 101-510, div. A, title XVIII, §1801(c), Nov. 5, 1990, 104 Stat. 1758, provided that the first annual report required by former subsec. (h) of this section be submitted to Secretary of Defense, Secretary of Energy, and Administrator of the Environmental Protection Agency not later than Feb. 1, 1992, that the Strategic Environmental Research and Development Program

Council conduct and include as part of report an assessment of advisability of, and various alternatives to, charging fees for information released, as required pursuant to section 2901(b)(3) of this title and subsecs. (e)(1), (2), and (g)(2)(I) [now (f)(2)(I)] of this section, to private sector entities operating for a profit, and that Secretary of Defense, Secretary of Energy, and Administrator of the Environmental Protection Agency submit to Congress any recommendations for changes in structure or personnel of Council that Secretaries and Administrator consider necessary to carry out environmental activities of strategic environmental research and development program.

### § 2903. Executive Director

(a) There shall be an Executive Director of the Council appointed by the Secretary of Defense after consultation with the Secretary of Energy.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Executive Director is responsible for the management of the Strategic Environmental Research and Development Program in accordance with the policies established by the Council.

(c) The Executive Director may enter into contracts using competitive procedures. The Executive Director may enter into other agreements in accordance with applicable law. In either case, the Executive Director shall first obtain the approval of the Council for any contract or agreement in an amount equal to or in excess of \$500,000 or such lesser amount as the Council may prescribe.

(d)(1) The Executive Director, with the concurrence of the Council, may appoint such professional and clerical staff as may be necessary to carry out the responsibilities and policies of the Council.

(2) The Executive Director, with the concurrence of the Council and without regard to the provisions of chapter 51 of title 5 and subchapter III of chapter 53 of such title, may establish the rates of basic pay for professional, scientific, and technical employees appointed pursuant to paragraph (1).

(Added Pub. L. 101-510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1755; amended Pub. L. 102-25, title VII, §701(h)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103-160, div. A, title II, §265(b), Nov. 30, 1993, 107 Stat. 1611; Pub. L. 104-106, div. A, title II, §203(d), (e)(1), Feb. 10, 1996, 110 Stat. 218.)

### Editorial Notes

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-106, §203(d), substituted “contracts using competitive procedures. The Executive Director may enter into” for “contracts or” and “law. In either case,” for “law, except that”.

Subsec. (d)(2). Pub. L. 104-106, §203(e)(1), struck out at end “The authority provided in the preceding sentence shall expire on September 30, 1995.”

1993—Subsec. (d)(2). Pub. L. 103-160 substituted “September 30, 1995” for “November 5, 1992”.

1991—Subsec. (d)(2). Pub. L. 102-25 substituted “on November 5, 1992” for “two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title II, §203(e)(2), Feb. 10, 1996, 110 Stat. 218, provided that: “The amendment made by

paragraph (1) [amending this section] shall take effect as of September 29, 1995.”

### § 2904. Strategic Environmental Research and Development Program Scientific Advisory Board

(a) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall jointly appoint a Strategic Environmental Research and Development Program Scientific Advisory Board (hereafter in this section referred to as the “Advisory Board”) consisting of not less than six and not more than 14 members.

(b)(1) The following persons shall be permanent members of the Advisory Board:

(A) The Science Advisor to the President, or his designee.

(B) The Administrator of the National Oceanic and Atmospheric Administration, or his designee.

(2) Other members of the Advisory Board shall be appointed from among persons eminent in the fields of basic sciences, engineering, ocean and environmental sciences, education, research management, international and security affairs, health physics, health sciences, or social sciences, with due regard given to the equitable representation of scientists and engineers who are women or who represent minority groups. At least one member of the Advisory Board shall be a representative of environmental public interest groups and one member shall be a representative of the interests of State governments.

(3) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall request—

(A) that the head of the National Academy of Sciences, in consultation with the head of the National Academy of Engineering and the head of the Institutes of Medicine of the National Academy of Sciences, nominate persons for appointment to the Advisory Board;

(B) that the Council on Environmental Quality nominate for appointment to the Advisory Board at least one person who is a representative of environmental public interest groups; and

(C) that the National Association of Governors nominate for appointment to the Advisory Board at least one person who is representative of the interests of State governments.

(4) Members of the Advisory Board shall be appointed for terms of not less than two and not more than four years.

(c) A member of the Advisory Board who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of chapter 81 of title 5 (relating to compensation for work-related injuries) and chapter 171 of title 28 (relating to tort claims).

(d) The Advisory Board shall prescribe procedures for carrying out its responsibilities. Such procedures shall define a quorum as a majority of the members, provide for annual election of the Chairman by the members of the Advisory Board, and require at least four meetings of the Advisory Board each year.