

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.

(e) AUTHORITY FOR NATIONAL GUARD PROJECTS.—

(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).

(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.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2021—Subsec. (e). Pub. L. 116-283 designated existing provisions as par. (1), inserted “where military activi-

ties 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