

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

(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.

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

Editorial Notes

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, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§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.

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, §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, §321, substituted “fiscal years 1992 and 1993” for “fiscal year 1992”.

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 102-190, div. A, title III, §331(b), Dec. 5, 1991, 105 Stat. 1340, 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].”

§ 2709. Investment control process for environmental technologies

(a) INVESTMENT CONTROL PROCESS.—The Secretary of Defense shall ensure that the tech-

nology planning process developed to implement section 4811 of this title and section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2469) provides for an investment control process for the selection, prioritization, management, and evaluation of environmental technologies by the Department of Defense, the military departments, and the Defense Agencies.

(b) PLANNING AND EVALUATION.—The environmental technology investment control process required by subsection (a) shall provide, at a minimum, for the following:

(1) The active participation by end-users of environmental technology, including the officials responsible for the environmental security programs of the Department of Defense and the military departments, in the selection and prioritization of environmental technologies.

(2) The development of measurable performance goals and objectives for the management and development of environmental technologies and specific mechanisms for assuring the achievement of the goals and objectives.

(3) Annual performance reviews to determine whether the goals and objectives have been achieved and to take appropriate action in the event that they are not achieved.

(Added Pub. L. 106-65, div. A, title III, §323(b)(1), Oct. 5, 1999, 113 Stat. 562; amended Pub. L. 116-283, div. A, title XVIII, §1867(e)(2), Jan. 1, 2021, 134 Stat. 4282.)

Editorial Notes

REFERENCES IN TEXT

Section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2469), referred to in subsec. (a), was formerly set out as a note under section 2501 of this title, prior to repeal by Pub. L. 111-84, div. A, title II, §241, Oct. 28, 2009, 123 Stat. 2237.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 substituted “section 4811” for “section 2501”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

PURPOSES OF SECTION 323 OF PUB. L. 106-65

Pub. L. 106-65, div. A, title III, §323(a), Oct. 5, 1999, 113 Stat. 562, provided that: “The purposes of this section [enacting this section, amending section 2706 of this title, and enacting provisions set out as a note under section 2706 of this title] are—

“(1) to hold the Department of Defense and the military departments accountable for achieving performance-based results in the management of environmental technology by providing a connection between program direction and the achievement of specific performance-based results;

“(2) to assure the identification of end-user requirements for environmental technology within the military departments;

“(3) to assure results, quality of effort, and appropriate levels of service and support for end-users of