

FROM: <http://www.ecateam.com/Encroachment.pdf>

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Sent: Thursday, November 13, 2003 5:57 AM
To: 'colaero@qnet.com'
Subject: FW: Tasker In 2004 NDAA

Section 320 of the Fiscal Year 2004 Defense Authorization Act requires the Defense Department to study the effects of civilian encroachment on military facilities as well as the impact of environment compliance on readiness activities. It also requires the Department to develop a plan to respond to the problems documented in that study.

In this section Congress recognizes the potential significance of buffer zones in resolving conflicts between community development and military activities. It also asks the Defense Department to explain how the State Implementation Plan provisions of the Clean Air Act, the Solid Waste Disposal Act (including the Resource Conservation and Recovery Act), and the Comprehensive Environmental Response, Compensation, and Liability Act (the Superfund law) interfere or are likely to interfere with readiness. These are the three environmental laws that the Defense Department unsuccessfully sought to amend in its Readiness and Range Preservation Initiative.

The fully formatted language appears on pages 68-71 of the PDF file downloadable from http://www.house.gov/rules/H1588_CR.PDF. I have pasted a text version below.

SEC. 320. REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES AND PLAN TO ADDRESS ENCROACHMENT.

(a) STUDY REQUIRED. - The Secretary of Defense shall conduct a study on the impact, if any, of the following types of encroachment issues affecting military installations and operational ranges:

(1) Civilian community encroachment on those military installations and ranges whose operational training activities, research, development, test, and evaluation activities, or other operational, test and evaluation, maintenance, storage, disposal, or other support functions require, or in the future reasonably may require, safety or operational buffer areas. The requirement for such a buffer area may be due to a variety of factors, including air operations, ordnance operations and storage, or other activities that generate or might generate noise, electro-magnetic interference, ordnance arcs, or environmental impacts that require or may require safety or operational buffer areas.

(2) Compliance by the Department of Defense with State Implementation Plans for Air Quality under section 110 of the Clean Air Act (42 U.S.C. 7410).

(3) Compliance by the Department of Defense with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(b) MATTERS TO BE INCLUDED WITH RESPECT TO CIVILIAN COMMUNITY ENCROACHMENTS. - With respect to paragraph (1) of subsection (a), the study shall include the following:

(1) A list of all military installations described in subsection (a)(1) at which civilian community encroachment is occurring.

(2) A description and analysis of the types and degree of such civilian community encroachment at each military installation included on the list.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such civilian community encroachment on operational training activities, research, development, test, and evaluation activities, and other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions performed by military installations included on the list. The analysis shall include the following:

(A) A review of training and test ranges at military installations, including laboratories and technical centers of the military departments, included on the list.

(B) A description and explanation of the trends of such encroachment, as well as consideration of potential future readiness problems resulting from unabated encroachment.

(4) An estimate of the costs associated with current and anticipated partnerships between the Department of Defense and non-Federal entities to create buffer zones to preclude further development around military installations included on the list, and the costs associated with the conveyance of surplus property around such military installations for purposes of creating buffer zones.

(5) Options and recommendations for possible legislative or budgetary changes necessary to mitigate current and anticipated future civilian community encroachment problems.

(c) MATTERS TO BE INCLUDED WITH RESPECT TO COMPLIANCE WITH SPECIFIED LAWS. - With respect to paragraphs (2) and (3) of subsection (a), the study shall include the following:

(1) A list of all military installations and other locations at which the Armed Forces are encountering problems related to compliance with the laws specified in such paragraphs.

(2) A description and analysis of the types and degree of compliance problems encountered.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such compliance problems on the following functions performed at military installations:

(A) Operational training activities.

(B) Research, development, test, and evaluation activities.

(C) Other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions.

(4) A description and explanation of the trends of such compliance problems, as well as consideration of potential future readiness problems resulting from such compliance problems.

(d) PLAN TO RESPOND TO ENCROACHMENT ISSUES. - On the basis of the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c), the Secretary of Defense shall prepare a plan to respond to the encroachment issues described in subsection (a) affecting military installations and operational ranges.

(e) REPORTING REQUIREMENTS. - The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following reports regarding the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c):

(1) Not later than January 31, 2004, an interim report describing the progress made in conducting the study and containing the information collected under the study as of that date.

(2) Not later than January 31, 2006, a report containing the results of the study and the encroachment response plan required by subsection (d).

(3) Not later than January 31, 2007, and each January 31 thereafter through January 31, 2010, a report describing the progress made in implementing the encroachment response plan.

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