



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

NOV. 23 1999

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ENVIRONMENT & SAFETY)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)
DIRECTOR, DEFENSE LOGISTICS AGENCY, DLA-CAAE

SUBJECT: Implementation of Section 8149 of the FY 2000 Defense Appropriations Act

The Defense Appropriations Act includes a provision that requires the Department to request and receive statutory authorization before use of FY2000 funds to pay for fines and penalties, including Supplemental Environmental Projects (SEPs) (attachment 1). The President has directed the Department to seek this authorization (attachment 2). This provision does not change the Department's requirement to comply with environmental statutes and regulations.

Implementation of this provision will be as follows:

- If an installation receives a proposed fine or penalty, they must negotiate with the regulator in good faith in an attempt to reach an administrative settlement.
- Final administrative agreements shall include a clause stating that the installation cannot pay the final fine or penalty nor execute a SEP with FY2000 funds unless specifically approved by Congress.
- DoD Components shall submit legislative proposals to this office within two weeks of final agreement between the installation and the regulator quantifying the fine, penalty, or SEP.
- This office will consolidate the submittals and present them to Congress according to Department policy on such proposals.

The provision does not prohibit nor inhibit negotiations with regulators, nor does it eliminate the Department's liability for fines and penalties. The provision only adds a step between settlement and payment – Congressional authorization — and we are committed to requesting Congressional authorization as quickly and efficiently as possible. Furthermore, we remain committed to achieving administrative settlement of proposed fines and penalties whenever possible. If your staff has questions about this policy, my point of contact is Ms. Maureen Sullivan, 604-0519.

Gary D. Vest

Acting Deputy Under Secretary of Defense
(Environmental Security)

2 Attachments:
as stated

Environmental Security



Defending Our Future