

FOIA MARKER

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Folder Title:

Chron File - October 1993 #2 [6]

Staff Office-Individual:

Defense Policy-Bell, Robert

Original OA/ID Number:

47

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For William Itoh from W. Douglas Gow. Subject: Review of Proposed Revision of Cold War Regulations. (4 pages)	10/21/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 47

FOLDER TITLE:

Chron File - October 1993 #2 [6]

2016-0152-F

vz4491

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

October 21, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RAB*

FROM: KEITH HAHN *KH*

SUBJECT: EPA Conference Document RE: S 1298, National
Defense Authorization Act for Fiscal Year 1994

Tab II provides EPA's response to pertinent segments of the FY94 Authorization bill now in conference. Most of the comments seek to clarify procedures and requirements for the environmental clean-up of military installations before their transfer to civilian or commercial users. This Legislative Referral Memorandum is a supplement to a document circulated earlier. It also contains changes to that earlier LRM (#1419). DoD has no objections to these comments. DoE has not reviewed these comments yet.

Concurrences by: *EC* Eileen Claussen and *JR* Jeremy Rosner

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the EPA conference document.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: EPA Conference Document RE: S 1298, National
Defense Authorization Act for Fiscal Year 1994

The National Security Council staff concurs in the EPA conference document.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

8/192
URGENT

October 21, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1497

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703) 697-1305 - 325
ENERGY - Bob Rabben - (202) 586-6718 - 209
GSA - William R. Ratchford - (202) 501-0563 - 237
JUSTICE - Sheila F. Anthony - (202) 514-2141 - 217
NEC - Sonia Mathews - (202) 456-6722 - 429
NSC - William H. Itoh - (202) 395-3723 - 249

FROM: RONALD K. PETERSON (for) *Ronald K. Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: EPA Conference Document RE: S 1298, National
Defense Authorization Act for Fiscal Year
1994

DEADLINE: 4:30 P.M., TODAY, THURSDAY, October 21, 1993

COMMENTS: The attached text is a supplement to that circulated under cover of LRM #I-1419 and will be used as the text of an EPA conference document to be sent to the conferees on HR 2401/S 1298. Please note that conference has begun; thus, we ask that your agency comply with the deadline noted above. If you do not respond by then, we will assume that your agency has no comment. In addition, EPA has revised page 2 of the conference document circulated under cover of LRM #I-1419, by adding comments on section 3138(e). Page 2 is also attached for your review. Please note that comments, which your agency may have submitted on this page, have not yet been incorporated.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

Page 2
LRN #I-1497

CC:

B. McLeod
L. Haber
J. Schuhart
D. Gessaman
R. Mertens
L. Mori

J. Pfeiffer
J. Palmieri
H. Paster
K. McGinty
C. Walden

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this
response sheet

DRAFT**EPA COMMENTS ON H.R. 2401 (AS PASSED BY THE HOUSE)**

- **Secs. 2816 & 2822 --** The provisions of Section 2816 providing for transfer to persons willing to undertake remediation and Section 2822 providing for transfer to communities are at odds with the existing 120(h) requirements. Both provisions contemplate prompt transfer of the installation, or contaminated portions of the installation, not currently permitted under Section 120(h). The expectations of the community will be frustrated when it is recognized that much of the most valuable components of the installation cannot be deeded for a substantial period of time. There is also language which can be read to say that, since the transfer is to occur prior to closing, the base may not be closed until it has been remediated. This approach was rejected in 1991 and should be rejected again.
- **Section 2816 --** This section may complicate the cleanup of installations currently covered by IAGs since it is not clear how current schedules would be enforced. The IAGs call for stipulated penalties to be paid by the military department. Will the developer be responsible for those penalties or to dispute the penalty assessment? Placing private parties in the Executive Branch Dispute Resolution process is not something which should be done without careful consideration.

The statute should also clearly state whether the "fair market value" is to be determined before or after the cleanup. The current language suggests that the standard is post cleanup since that is where the transfer is allowed under 120(h). This approach could discourage cleanup efforts because the party undertaking the cleanup would be charged twice. First, the cost of cleanup which will increase the fair market value and second the increase in the fair market value which must be paid to acquire the property.
- **Section 2821 --** This section, which provides for preference to local contractors, also has the potential for delaying cleanup unless it is clarified to allow existing contractors to continue planned activities.
- **Section 2822 --** This section, providing no-cost transfers to redevelopment authorities, can only work if there is a single organization recognized by the local community to be authorized to accept and manage the property. Many communities have struggled to achieve focus in their reuse efforts but have had limited success. The time constraint and incentives proposed by this section could well bias the process and prevent important community interests from being heard.

10/21/93

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EPA CONG LIASON

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- 2 -

- Section 2823 -- This section, which provides for private "site managers," should be carefully examined in light of the experience of other Agencies, e.g., DOE, where private management of government installations has demonstrated that the "reasonable overhead" provision can greatly increase costs of remediation, produce incentives for delaying cleanup activities and creating major issues regarding responsibility for progress and environmental releases associated with waste management and cleanup.

EPA COMMENTS on HR 2401 ~~SEE~~ LRM I 1419

- Sec. 3138 -- Under subsection (b), it should be stated that DOE shall provide appropriate and complete documentation on all required actions or milestones that fall into identified categories in paragraphs (1) to (6). This will make the consultation requirement more meaningful in subsection (c).

-Subsection (b)(3) -- In order for this paragraph to make sense, it should be noted that the review will only take place after a remedy or interim remedy has been selected. Neither EPA nor the states bind DOE to specific technologies without following the CERCLA and/or RCRA processes.

-Subsection (b)(4) -- "Technology will not be available" could mean any number of circumstances, including that no technology exists to remediate or comply, or that DOE or its contractors have failed to procure the technology or technology services properly. Regardless of the subsection's final language, DOE will need to document and describe why the "technology is not available." DOE should also be required to document its efforts to make the technology available in a timely manner for DOE's use.

-Subsection (b)(5) -- DOE will need to document and describe why the appropriate data and information is not available. DOE should also be required to document its efforts to gather the data or information in a timely manner.

-Subsection (c) -- This should require DOE to "consult" with the full public, including national public interest groups, not just local community representatives. Many of the issues in these agreements involve national and state concerns.

-Subsection (e) -- The second paragraph of this section should require DOE to make copies of the proposed report available to the public, including local community representatives.

NEW
BUREAU

TO: ITOH

FROM: GOW, W

DOC DATE: 21 OCT 93
SOURCE REF:

KEYWORDS: RUSSIA

PERSONS:

SUBJECT: FBI COMMENTS ON REVIEW & PROPOSED REVISION OF COLD WAR REGULATIONS

ACTION: FOR RECORD PURPOSES

DUE DATE: 02 OCT 93 STATUS: C

STAFF OFFICER: POTTS

LOGREF: 9308273

FILES: PA

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL
BURNS
POTTS

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By VZ NARA, Date 6/3/2016

2016-052 F

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSWEA

CLOSED BY: NSWEA

DOC 7 OF 7

Withdrawal/Redaction Marker

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