

Exemptions from Environmental Laws for the Military Are Unwarranted

By Robert L. Glicksman and Thomas McGarity

Given the very real and pressing worries war planners are confronted with these days, it might be surprising to discover that the Department of Defense has identified an unexpected enemy right here at home: the nation's environmental laws, at least insofar as they apply to the military.

Over the last two years, the Department of Defense has mounted a campaign against what it calls an "encroachment" on military training and preparedness activities that it says threatens the national security. "Encroachment," in this instance, is a euphemism for the application to military activities of laws designed to protect public health and the environment. Last year, Congress rejected a Bush Administration bill to exempt the military from a wide array of environmental legislation. Emboldened by a new Republican majority, the Administration is renewing the effort, and hearings on the bill, reintroduced in the new Congress, began in early March.

The proposal would require the Environmental Protection Agency to ignore air pollution violations caused by exempted military activities without regard to the effect on carefully crafted state implementation plans needed to protect public health. Similarly, the bill would provide special treatment for the military under laws governing the management and cleanup of hazardous waste, the Endangered Species Act, and the Marine Mammal Protection Act.

Nobody wants to hamper the military, particularly now, so the effort to exempt the military from environmental laws might be worth considering, if it weren't for one very disturbing fact: The military is a huge source of hazardous pollution, and it is therefore a source of very real hazards for citizens who happen to breathe the air or drink the water near polluted military facilities. And such sites are legion. According to the Natural Resources Defense Council, the Department of Defense's current clean-up program includes "almost 28,000 currently or formerly contaminated sites in the United States and even other countries. California alone has 3,912 contaminated sites on 441 current and former DOD properties."

Other areas have similar problems. Citizens in Aberdeen, Maryland, for example, have been fighting to force the Aberdeen Proving Grounds to acknowledge and take responsibility for perchlorate contamination in local water. Perchlorate is used in rocket fuel and explosives. Otis Air Base on Cape Cod, Massachusetts is a Superfund site, where hazardous waste from jet fuel, munitions and other sources has leached into groundwater, forcing the shutdown of municipal wells. And not far from Baraboo, Wisconsin, groundwater near the propellant burning ground of the Badger Army Ammunition Plant has been contaminated by chemical solvents; nearby residential wells have been measured with levels of one such compound – carbon tetrachloride – at 15 times the safe level.

The problem is widespread. A nonprofit organization called the Military Toxics Project, working from Pentagon and EPA records, compiled a list of more than 50 active and abandoned military facilities listed as Superfund sites because of hazardous waste from unexploded ordnance. They include [insert localized list]

The Pentagon claims the exemptions are needed to ensure military preparedness. But EPA Administrator and Bush appointee Christine Todd Whitman recently told Congress that she was unaware of any military training mission anywhere in the country that was being held up because of environmental regulation.

In fact, if environmental restrictions ever really did threaten preparedness, the President has authority right now to exempt the military. Most environmental laws, including the Clean Air Act and the Superfund law, permit the President to excuse military activities from compliance obligations on a case-by-case basis when necessary to protect national security.

But instead of seeking exemptions one at a time and only when necessary, the Pentagon wants Congress to enact across-the-board exemptions that sacrifice public health and environmental protections without any demonstration that additional accommodations for military preparedness are necessary. What's worse, in some cases the pending bill would authorize exemptions without any public input into the exemption process.

The Administration calls the proposed bill a "narrowly tailored" plan to prevent further "encroachment" of environmental regulation, but the exemptions it provides are anything but narrow. The bill would reverse Congress's consistent refusal over the years to allow unwarranted, special treatment under the environmental laws for military operations that needlessly endanger public health and the environment. No one questions the need for a strong national defense. But that goal can be achieved without sacrificing the state of the nation's health or the integrity of its vital natural resources.

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