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Recent reports indicate that since 2006, the Department of Defense has been bullying state agencies and shirking its responsibility as the owner of military installations to clean up in a timely manner, as mandated by CERCLA and RCRA. New federal interpretation of the administration of the Defense Environmental Restoration Program is pressuring states to relinquish enforcement authority on contaminated military sites or face losing their oversight funding. California, Colorado, Ohio, and twelve more states complain that the Pentagon's new interpretation of the Defense-State Memorandum of Agreement (DSMOA) undermines state authority by:

- a) limiting funding of clean-up investigations and remediation to site-specific activities;
- b) refusing to allow enforcement at a DoD facility until the state goes through a formal dispute resolution or withholding *all* reimbursement until the state rescinds its attempt at enforcement;
- c) citing non-partisan agencies, such as state associations, as ineligible for Defense Environmental Restoration Account (DERA) funds; and finally,
- d) refusing to fund site-specific work related to property transfer (outlined in CERFAS, FOSETs, and FOSLs).

In response to their decreasing power to enforce remediation and protect public health, state governments, led by the Environmental Council of States and the Association of State and Territorial Solid Waste Management Officials, seek a revision of US Code Chapter 10, Section 2701 to explicitly permit reimbursement of funds spent on policy and technical discourse related to DoD facilities and Defense Environmental Restoration Program. Additionally, the ASTSWMO recommends that state government reopen their DSMOAs to address these interpretations with explicit language.

For more information:

1. "States Accuse Pentagon of Threats, Retaliation: Allegations Arise In Base Cleanup Hearing" – September 19, 2008  
<http://www.washingtonpost.com/wp-dyn/content/article/2008/09/18/AR2008091803435.html>
2. Testimony of Bonnie Buthker, program manager in the Ohio EPA's Office of Federal Facilities Oversight – September 18, 2008  
[http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=96e0264a-c8a9-4511-8c6c-18dd75cbf0c7](http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=96e0264a-c8a9-4511-8c6c-18dd75cbf0c7)
3. "One More Time" (page two of article) – September 18, 2008  
<http://www.washingtonpost.com/wp-dyn/content/article/2008/09/17/AR2008091703425.html>
4. "Pentagon Fights EPA On Pollution Cleanup" – June 30, 2008  
[http://www.washingtonpost.com/wp-dyn/content/article/2008/06/29/AR2008062901977\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/06/29/AR2008062901977_pf.html)
5. ECOS Report: DSMOA Issues and Effects on States – date not specified  
[http://www.ecos.org/files/2884\\_file\\_green\\_report\\_on\\_DSMOA\\_final.pdf](http://www.ecos.org/files/2884_file_green_report_on_DSMOA_final.pdf)
6. ECOS Letter to Department of Defense regarding changes in DSMOA Policy – April 25, 2007  
<http://www.nga.org/Files/pdf/0704LETTERECOSDSMOA.PDF>