

Emerging Contaminants: Things That Go Bump In The Night



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Active and Former Base Remediation Costs Statutory and Contractual Avenues for Recovery

Closure Authority	120 (h)(3) Warranty ¹	330 Indemnity ²	107 Recovery	Insurance CGL vs. PLL	10 USC 2701(d) Grant (ESCA)	CERCLA 104 ³
BRAC 88, 91, 93, 95, 05 2687 (eff. 1 Aug 77)	Yes	Yes	Yes	Yes	Yes	
< 1 April 88 ⁴	No	Yes	Yes	Yes	Yes	
> 1 April 88 ⁴	Yes	Yes	Yes	Yes	Yes	
< 1 Aug 77	No	No	Yes	Yes	Yes	
Below Threshold	Yes, if after 1 April 88	No	Yes	Yes	Yes	
FUDS	No	No	Yes	Yes	Yes	
Roosevelt Roads	Special legislation provides for BRAC Treatment					
Pease AFB	Special legislation provides for indemnity, passed prior to 330. Both Statutes apply.					
Active Bases	No	No	Off Site potential		Yes On and Off Site	

- 1 Secretarial obligation to perform remediation only; remedy selection not included
- 2 More than remediation costs; includes contaminants and pollutants
- 3 Discretionary, includes pollutants and contaminants, delegation per XO12580 to Sec Def and EPA
- 4 Eighteen months after SARA enacted