

**Department of Defense Authorization Act, 1986 - Sections  
1212 and 1412**

[Public Law 99-145; approved Nov. 8, 1985]

[As Amended Through P.L. 118-159, Enacted December 23, 2024]

【Currency: This publication is a compilation of the text of Public Law 99-145. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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**SEC. 1212. [10 U.S.C. 113 note] PROHIBITION OF CERTAIN RESTRICTIONS ON INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES**

(a) No solicitation, contract, or agreement for the provision of offduty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

(b) No solicitation, contract, or agreement for the provision of offduty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and

procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 with respect to the procurement of such services are—

(A) consistent with the provisions of subsections (a) and (b);

(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph, the contract may be awarded—

(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

(iii) on the basis of a new solicitation.

(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel.

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**SEC. 1412. [50 U.S.C. 1521] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.**

(a) **IN GENERAL.**—The Secretary of Defense shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(b) **DATE FOR COMPLETION.**—(1) The destruction of such stockpile shall be completed by the stockpile elimination deadline.

(2) If the Secretary of Defense determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that projected delay.

(3) For purposes of this section, the term “stockpile elimination deadline” means the deadline established by the Chemical Weapons Convention, but not later than December 31, 2023.

(c) **INITIATION OF DEMILITARIZATION OPERATIONS.**—The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place:

(1) Support measures that are required by Department of Defense and Army chemical surety and security program regulations.

(2) Support measures that are required by the general and site chemical munitions demilitarization plans specific to that installation.

(3) Support measures that are required by the permits required by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.) for chemical munitions demilitarization operations at that installation, as approved by the appropriate State regulatory agencies.

(d) **ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.**—(1) In carrying out the requirement of subsection (a), the Secretary of Defense shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a), including but not limited to the use of technologies and procedures that will minimize risk to the public at each site; and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section shall, when no longer needed for the purposes for which they were constructed, be disposed of in accordance with applicable laws and regulations and mutual agreements between the Secretary of the Army and the Governor of the State in which the facility is located.

(3)(A) Facilities constructed to carry out this section may not be used for a purpose other than the destruction of the stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(B) The prohibition in subparagraph (A) shall not apply with respect to items designated by the Secretary of Defense as lethal chemical agents, munitions, or related materials after November 8, 1985, if the State in which a destruction facility is located issues the appropriate permit or permits for the destruction of such items at the facility.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—(1)(A) In order to carry out subsection (d)(1)(A), the Secretary of Defense may make grants to State and local governments and to tribal organizations (either directly or through the Federal Emergency Management Agency) to assist those governments and tribal organizations in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants.

(B) Additionally, the Secretary may provide funds through cooperative agreements with State and local governments, and with tribal organizations, for the purpose of assisting them in processing, approving, and overseeing permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.

(C) In this paragraph, the term “tribal organization” has the meaning given that term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(2)(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Administrator of the Federal Emergency Management Agency, the Administrator shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

(i) the storage of lethal chemical agents and munitions referred to in subsection (a) at military installations in the continental United States; or

(ii) the destruction of such agents and munitions at facilities referred to in subsection (d)(1)(B).

(B) Assistance may be provided under this paragraph for capabilities to respond to emergencies involving an installation or facility as described in subparagraph (A) until the earlier of the following:

(i) The date of the completion of all grants and cooperative agreements with respect to the installation or facility for purposes of this paragraph between the Federal Emergency Management Agency and the State and local governments concerned.

(ii) The date that is 180 days after the date of the completion of the destruction of lethal chemical agents and munitions at the installation or facility.

(C) Not later than December 15 of each year, the Administrator shall transmit a report to Congress on the activities carried out under this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.

(f) REQUIREMENT FOR STRATEGIC PLAN.—(1) The<sup>1</sup> Under Secretary of Defense for Acquisition and Sustainment and the Secretary of the Army shall jointly prepare, and from time to time shall update as appropriate, a strategic plan for future activities for destruction of the United States' stockpile of lethal chemical agents and munitions.

(2) The plan shall include, at a minimum, the following considerations:

(A) Realistic budgeting for stockpile destruction and related support programs.

(B) Contingency planning for foreseeable or anticipated problems.

(C) A management approach and associated actions that address compliance with the obligations of the United States under the Chemical Weapons Convention and that take full advantage of opportunities to accelerate destruction of the stockpile.

(3) The Secretary of Defense shall each year submit to the Committee on the Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the strategic plan as most recently prepared and updated under paragraph (1). Such submission shall be made each year at the time of the submission to the Congress that year of the President's budget for the next fiscal year.

(g) MANAGEMENT ORGANIZATION.—(1) In carrying out this section, the Secretary of Defense shall provide for a management organization within the Department of the Army. The Secretary of the Army shall be responsible for management of the destruction of agents and munitions at all sites except Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado

(2) The program manager for the Assembled Chemical Weapons Alternative Program shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Blue Grass Army Depot, Kentucky, and Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions. In performing such management, the program manager shall act independently of the Army program manager for Chemical De-

<sup>1</sup>Section 902(91) of division A of Public Law 116-92 amends subsections (f)(1) and (g)(2) of section 1412 of Public Law 99-145 by striking "Under Secretary of Defense for Acquisition, Technology, and Logistics" and inserting "Under Secretary of Defense for Acquisition and Sustainment". However section 902(91) incorrectly references this Act as the "National Defense Authorization Act, 1986" but the amendments were carried out to reflect the probable intent of Congress.

militarization and shall report to the <sup>1</sup>Under Secretary of Defense for Acquisition and Sustainment <sup>2</sup>

(3) The Secretary of Defense shall designate a general officer or civilian equivalent as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions; and

(B) outstanding qualifications regarding safety in handling chemical agents and munitions.

(h) IDENTIFICATION OF FUNDS.—(1) Funds for carrying out this section, including funds for military construction projects necessary to carry out this section, shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.

(2) Amounts appropriated to the Secretary of Defense for the purpose of carrying out subsection (e) shall be promptly made available to the Administrator of the Federal Emergency Management Agency.

(i) ANNUAL REPORTS.—(1) Except as provided by paragraph (3), the Secretary of Defense shall transmit, by December 15 each year, a report to Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) Each annual report shall include the following:

(A) A site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation.

(B) A site-by-site description of actions taken to assist State and local governments (either directly or through the Federal Emergency Management Agency) in carrying out functions relating to emergency preparedness and response in accordance with subsection (e).

(C) An accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;

(iii) the dismantling or other closure of such facilities;

(iv) research and development;

(v) program management;

(vi) travel and associated travel costs for Citizens' Advisory Commissioners under subsection (m)(7); and

(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (e).

<sup>2</sup> So in original. Probably should be followed by a period.

(D) An assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

(i) an estimate on how much longer that stockpile can continue to be stored safely;

(ii) a site-by-site assessment of the safety of those agents and munitions; and

(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

(E) A description of any supplemental chemical agent and munitions destruction technologies used at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky, during the period covered by the report, including explosive destruction technologies and any technologies developed for the treatment and disposal of energetic or agent hydrolystates.

(3) The Secretary shall transmit the final report under paragraph (1) not later than 120 days following the completion of activities under this section.

(j) QUARTERLY BRIEFING.—<sup>1</sup>(1) Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2019, and every 90 days thereafter until the United States completes the destruction of its entire stockpile of chemical weapons under the terms of the Chemical Weapons Convention, the Secretary of Defense shall brief the members and committees of Congress referred to in paragraph (3) on the progress made by the United States toward fulfilling its chemical weapons destruction obligations under the Chemical Weapons Convention.

(2)<sup>2</sup> Each briefing under paragraph (1) shall include a description of contractor costs and performance relative to schedule, the progress to date toward the complete destruction of the stockpile, and any other information the Secretary determines to be relevant.

(3) The members and committees of Congress referred to in this paragraph are—

(A) the majority leader and the minority leader of the Senate and the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Speaker of the House of Representatives, the majority leader and the minority leader of the House of Representatives, and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(k) AUTHORIZED USE OF TOXIC CHEMICALS.—Consistent with United States obligations under the Chemical Weapons Convention, the Secretary of Defense may develop, produce, otherwise acquire, retain, transfer, and use toxic chemicals and their precursors for purposes not prohibited by the Chemical Weapons Convention if the types and quantities of such chemicals and precursors are consistent with such purposes, including for protective purposes

<sup>1</sup>Section 1424(1) of division A of Public Law 115–232 provides for an amendment to the heading. The matter proposed to be struck did not appear in the proper casing for subsections, however, such amendment was carried out to reflect the probable intent of Congress.

<sup>2</sup>Margin for paragraph (2) is so in law.

such as protection against toxic chemicals and protection against chemical weapons.

(1) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing United States stockpile of chemical weapons; and

(2) assessment of the condition of the stockpile.

(m) CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—(1)(A) The Secretary of the Army shall establish a citizens' commission for each State in which there is a chemical demilitarization facility under Army management.

(B) The Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs shall establish a chemical demilitarization citizens' commission in Colorado and in Kentucky.

(C) Each commission under this subsection shall be known as the "Chemical Demilitarization Citizens' Advisory Commission" for the State concerned.

(2)(A) The Secretary of the Army, or the Department of Defense with respect to Colorado and Kentucky, shall provide for a representative to meet with each commission established under this subsection to receive citizen and State concerns regarding the ongoing program for the disposal of the lethal chemical agents and munitions in the stockpile referred to in subsection (a) at each of the sites with respect to which a commission is established pursuant to paragraph (1).

(B) The Secretary of the Army shall provide for a representative from the Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) to meet with each commission under Army management.

(C) The Department of Defense shall provide for a representative from the Office of the Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs to meet with the commissions in Colorado and Kentucky.

(3)(A) Each commission under this subsection shall be composed of nine members appointed by the Governor of the State. Seven of such members shall be citizens from the local affected areas in the State. The other two shall be representatives of State government who have direct responsibilities related to the chemical demilitarization program.

(B) For purposes of this paragraph, affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

(4) For a period of five years after the termination of any commission under this subsection, no corporation, partnership, or other organization in which a member of that commission, a spouse of a member of that commission, or a natural or adopted child of a member of that commission has an ownership interest may be awarded—

(A) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in subsection (a); or

(B) a subcontract under such a contract.

(5) The members of each commission under this subsection shall designate the chair of such commission from among the members of such commission.

(6) Each commission under this subsection shall meet with a representative from the Army, or the Office of the Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs with respect to the commissions in Colorado and Kentucky, upon joint agreement between the chair of such commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

(7) Members of each commission under this subsection shall receive no pay for their involvement in the activities of their commissions. Funds appropriated for the Chemical Stockpile Demilitarization Program may be used for travel and associated travel costs for commissioners of commissions under this subsection when such travel is conducted at the invitation of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) or the invitation of the Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs for the commissions in Colorado and Kentucky.

(8) Each commission under this subsection shall be terminated after the closure activities required pursuant to regulations prescribed by the Administrator of the Environmental Protection Agency pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) have been completed for the chemical agent destruction facility in such commission's State, or upon the request of the Governor of such commission's State, whichever occurs first.

(n) INCENTIVE CLAUSES IN CHEMICAL DEMILITARIZATION CONTRACTS.—(1)(A) The Secretary of Defense may, for the purpose specified in paragraph (B), authorize the inclusion of an incentives clause in any contract for the destruction of the United States stockpile of lethal chemical agents and munitions carried out pursuant to subsection (a).

(B) The purpose of a clause referred to in subparagraph (A) is to provide the contractor for a chemical demilitarization facility an incentive to accelerate the safe elimination of the United States chemical weapons stockpile and to reduce the total cost of the Chemical Demilitarization Program by providing incentive payments for the early completion of destruction operations and the closure of such facility.

(2)(A) An incentives clause under this subsection shall permit the contractor for the chemical demilitarization facility concerned the opportunity to earn incentive payments for the completion of destruction operations and facility closure activities within target incentive ranges specified in such clause.

(B) The maximum incentive payment under an incentives clause with respect to a chemical demilitarization facility may not exceed the following amounts:

(i) In the case of an incentive payment for the completion of destruction operations within the target incentive range specified in such clause, \$110,000,000.

(ii) In the case of an incentive payment for the completion of facility closure activities within the target incentive range specified in such clause, \$55,000,000.

(C) An incentives clause in a contract under this section shall specify the target incentive ranges of costs for completion of destruction operations and facility closure activities, respectively, as jointly agreed upon by the contracting officer and the contractor concerned. An incentives clause shall require a proportionate reduction in the maximum incentive payment amounts in the event that the contractor exceeds an agreed-upon target cost if such excess costs are the responsibility of the contractor.

(D) The amount of the incentive payment earned by a contractor for a chemical demilitarization facility under an incentives clause under this subsection shall be based upon a determination by the Secretary on how early in the target incentive range specified in such clause destruction operations or facility closure activities, as the case may be, are completed.

(E) The provisions of any incentives clause under this subsection shall be consistent with the obligation of the Secretary of Defense under subsection (d)(1)(A), to provide for maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions.

(F) In negotiating the inclusion of an incentives clause in a contract under this subsection, the Secretary may include in such clause such additional terms and conditions as the Secretary considers appropriate.

(3)(A) No payment may be made under an incentives clause under this subsection unless the Secretary determines that the contractor concerned has satisfactorily performed its duties under such incentives clause.

(B) An incentives clause under this subsection shall specify that the obligation of the Government to make payment under such incentives clause is subject to the availability of appropriations for that purpose. Amounts appropriated for Chemical Agents and Munitions Destruction, Defense, shall be available for payments under incentives clauses under this subsection.

(o) SUPPLEMENTAL DESTRUCTION TECHNOLOGIES.—In determining the technologies to supplement the neutralization destruction of the stockpile of lethal chemical agents and munitions at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky, the Secretary of Defense may consider the following:

(1) Explosive Destruction Technologies.

(2) Any technologies developed for the treatment and disposal of energetic or agent hydrolysates, if problems with the current on-site treatment of hydrolysates are encountered.

(p) DEFINITIONS.—In this section:

(1) The term “chemical agent and munition” means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term “Chemical Weapons Convention” means the Convention on the Prohibition of Development, Production,

Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21).

(3) The term “lethal chemical agent and munition” means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(4) The term “destruction” means, with respect to chemical munitions or agents—

(A) the demolition of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.