

to section 1973cc-21 of Title 42, The Public Health and Welfare.

Section 1472, act Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588, which related to free postage, was transferred to section 1973cc-22 of Title 42.

Section 1473, act Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588, which related to prevention of fraud and coercion, was transferred to section 1973cc-23 of Title 42.

Section 1474, act Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589, which related to acts done in good faith, was transferred to section 1973cc-24 of Title 42.

Section 1475, act Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589, which related to undue influence and free discussion, was transferred to section 1973cc-25 of Title 42.

Section 1476, act Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589, which authorized appropriations, was transferred to section 1973cc-26 of Title 42.

Sections 1471 to 1476 were formerly classified to sections 2191 to 2196 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

### CHAPTER 31—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

#### §§ 1501 to 1509. Transferred

##### CODIFICATION

Section 1501, Pub. L. 86-380, § 1, Sept. 24, 1959, 73 Stat. 703, which related to establishment of the Advisory Commission on Intergovernmental Relations, was transferred to section 4271 of Title 42, The Public Health and Welfare.

Section 1502, Pub. L. 86-380, § 2, Sept. 24, 1959, 73 Stat. 703, which related to declaration of purpose, was transferred to section 4272 of Title 42.

Section 1503, Pub. L. 86-380, § 3, Sept. 24, 1959, 73 Stat. 704; Pub. L. 89-733, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1162, which related to membership of Commission, was transferred to section 4273 of Title 42.

Section 1504, Pub. L. 86-380, § 4, Sept. 24, 1959, 73 Stat. 705, which related to organization of Commission, was transferred to section 4274 of Title 42.

Section 1505, Pub. L. 86-380, § 5, Sept. 24, 1959, 73 Stat. 705, which related to duties of Commission, was transferred to section 4275 of Title 42.

Section 1506, Pub. L. 86-380, § 6, Sept. 24, 1959, 73 Stat. 705; Pub. L. 88-426, title III, § 306(e), Aug. 14, 1964, 78 Stat. 429; Pub. L. 89-733, §§ 3, 4, Nov. 2, 1966, 80 Stat. 1162, which related to powers of Commission and administrative provisions, was transferred to section 4276 of Title 42.

Section 1507, Pub. L. 86-380, § 7, Sept. 24, 1959, 73 Stat. 706; Pub. L. 89-733, § 5, Nov. 2, 1966, 80 Stat. 1162, which related to compensation of members of Commission, was transferred to section 4277 of Title 42.

Section 1508, Pub. L. 86-380, § 8, Sept. 24, 1959, 73 Stat. 706, which authorized appropriations, was transferred to section 4278 of Title 42.

Section 1509, Pub. L. 86-380, § 9, as added Pub. L. 89-733, § 6, Nov. 2, 1966, 80 Stat. 1162, which related to receipt of funds and to consideration of these funds by Congress in making appropriations for Commission, was transferred to section 4279 of Title 42.

### CHAPTER 32—CHEMICAL AND BIOLOGICAL WARFARE PROGRAM

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#### § 1511. Repealed. Pub. L. 104-106, div. A, title X, § 1061(k), Feb. 10, 1996, 110 Stat. 443

Section, Pub. L. 91-121, title IV, § 409(a), Nov. 19, 1969, 83 Stat. 209; Pub. L. 93-608, § 2(4), Jan. 2, 1975, 88 Stat. 1971; Pub. L. 97-375, title II, § 203(a)(2), Dec. 21, 1982, 96 Stat. 1822, directed Secretary of Defense to submit an annual report to Congress on expenditures for research, development, test, and evaluation of all lethal and non-lethal chemical and biological agents.

#### § 1512. Transportation, open air testing, and disposal; Presidential determination; report to Congress; notice to Congress and State Governors

None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, or the open air testing of any such agent within the United States, or the disposal of any such agent within the United States until the following procedures have been implemented:

(1) the Secretary of Defense (hereafter referred to in this chapter as the “Secretary”) has determined that the transportation or testing proposed to be made is necessary in the interests of national security;

(2) the Secretary has brought the particulars of the proposed transportation, testing, or disposal to the attention of the Secretary of Health and Human Services, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation, testing, or disposal may pose and to recommend what precautionary measures are necessary to protect the public health and safety;

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including, where practicable, the detoxification of any

such agent, if such agent is to be transported to or from a military installation for disposal): *Provided, however*, That in the event the Secretary finds the recommendation submitted by the Surgeon General would have the effect of preventing the proposed transportation, testing, or disposal, the President may determine that overriding considerations of national security require such transportation, testing, or disposal be conducted. Any transportation, testing, or disposal conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable; and

(4) the Secretary has provided notification that the transportation, testing, or disposal will take place, except where a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing or disposal will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

(Pub. L. 91-121, title IV, § 409(b), Nov. 19, 1969, 83 Stat. 209; Pub. L. 91-441, title V, § 506(b)(1), Oct. 7, 1970, 84 Stat. 912; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

#### REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), means Pub. L. 91-121, Nov. 19, 1969, 83 Stat. 204, as amended. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1970—Pub. L. 91-441 inserted reference to the disposal of lethal chemical or biological warfare agents in the United States.

#### CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in par. (2), pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

#### RIOT CONTROL AGENTS

Pub. L. 109-163, div. A, title XII, § 1232, Jan. 6, 2006, 119 Stat. 3468, provided that:

“(a) RESTATEMENT OF POLICY.—It is the policy of the United States that riot control agents are not chemical weapons and that the President may authorize their use as legitimate, legal, and non-lethal alternatives to the use of force that, as provided in Executive Order No. 11850 (40 Fed. Reg. 16187) [set out below] and consistent with the resolution of ratification of the Chemical Weapons Convention, may be employed by members of the Armed Forces in war in defensive military modes to save lives, including the illustrative purposes cited in Executive Order No. 11850.

“(b) REPORT REQUIRED.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006], the President shall submit to Congress a report on the use of riot control agents by members of the Armed Forces.

“(2) CONTENT.—The report required by paragraph (1) shall include—

“(A) a description of all regulations, doctrines, training materials, and any other information related to the use of riot control agents by members of the Armed Forces;

“(B) a description of how the material described in subparagraph (A) is consistent with United States policy on the use of riot control agents;

“(C) a description of the availability of riot control agents, and the means to use them, to members of the Armed Forces, including members of the Armed Forces deployed in Iraq and Afghanistan;

“(D) a description of the frequency and circumstances of the use of riot control agents by members of the Armed Forces since January 1, 1992, and a summary of views held by commanders of United States combatant commands as to the utility of the use of riot control agents by members of the Armed Forces when compared with alternatives;

“(E) a general description of steps taken or planned to be taken by the Department of Defense to clarify the circumstances under which riot control agents may be used by members of the Armed Forces; and

“(F) a brief explanation of the continuing validity of Executive Order No. 11850 [set out below] under United States law.

“(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

“(c) DEFINITIONS.—In this section:

“(1) CHEMICAL WEAPONS CONVENTION.—The term ‘Chemical Weapons Convention’ means the Convention on the Prohibitions 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).

“(2) RESOLUTION OF RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION.—The term ‘resolution of ratification of the Chemical Weapons Convention’ means S. Res. 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.”

#### CHEMICAL MUNITIONS TRANSPORTATION FROM OKINAWA TO THE UNITED STATES

Pub. L. 91-672, § 13, Jan. 12, 1971, 84 Stat. 2055, provided that: “No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the detoxification or destruction of chemical munitions only outside the United States. For purposes of this section, the term ‘United States’ means the several States and the District of Columbia.”

#### EX ORD. NO. 11850. RENUNCIATION OF CERTAIN USES IN WAR OF CHEMICAL HERBICIDES AND RIOT CONTROL AGENTS

Ex. Ord. No. 11850, Apr. 8, 1975, 40 F.R. 16187, provided: The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

(a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.

(d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

I have determined that the provisions and procedures prescribed by this Order are necessary to ensure proper implementation and observance of such national policy.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States and as Commander-in-Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

SEC. 2. The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States.

GERALD R. FORD.

### § 1512a. Transportation of chemical munitions

#### (a) Prohibition of transportation across State lines

The Secretary of Defense may not transport any chemical munition that constitutes part of the chemical weapons stockpile out of the State in which that munition is located on October 5, 1994, and, in the case of any such chemical munition not located in a State on October 5, 1994, may not transport any such munition into a State.

#### (b) Transportation of chemical munitions not in chemical weapons stockpile

In the case of any chemical munitions that are discovered or otherwise come within the control of the Department of Defense and that do not constitute part of the chemical weapons stockpile, the Secretary of Defense may transport such munitions to the nearest chemical munitions stockpile storage facility that has necessary permits for receiving and storing such items if the transportation of such munitions to that facility—

(1) is considered by the Secretary of Defense to be necessary; and

(2) can be accomplished while protecting public health and safety.

(Pub. L. 103-337, div. A, title I, § 143, Oct. 5, 1994, 108 Stat. 2689.)

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

### § 1513. Deployment, storage, and disposal; notification to host country and Congress; international law violations; reports to Congress and international organizations

(1) None of the funds authorized to be appropriated by this Act or any other Act may be used for the future deployment, storage, or disposal, at any place outside the United States of—

(A) any lethal chemical or any biological warfare agent, or

(B) any delivery system specifically designed to disseminate any such agent,

unless prior notice of such deployment, storage, or disposal has been given to the country exercising jurisdiction over such place. In the case of any place outside the United States which is under the jurisdiction or control of the United States Government, no such action may be taken unless the Secretary gives prior notice of such action to the President of the Senate and the Speaker of the House of Representatives. As used in this paragraph, the term “United States” means the several States and the District of Columbia.

(2) None of the funds authorized by this Act or any other Act shall be used for the future testing, development, transportation, storage, or disposal of any lethal chemical or any biological warfare agent outside the United States, or for the disposal of any munitions in international waters, if the Secretary of State, after appropriate notice by the Secretary whenever any such action is contemplated, determines that such testing, development, transportation, storage, or disposal will violate international law. The Secretary of State shall report all determinations made by him under this paragraph to the President of the Senate and the Speaker of the House of Representatives, and to all appropriate international organizations, or organs thereof, in the event such report is required by treaty or other international agreement.

(Pub. L. 91-121, title IV, § 409(c), Nov. 19, 1969, 83 Stat. 210; Pub. L. 91-441, title V, § 506(b)(2), (3), Oct. 7, 1970, 84 Stat. 912.)

#### REFERENCES IN TEXT

This Act, referred to in pars. (1) and (2), means Pub. L. 91-121, Nov. 19, 1969, 83 Stat. 204, as amended. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1970—Par. (1). Pub. L. 91-441, § 506(b)(2), inserted reference to disposal of lethal chemical or biological warfare agents or delivery systems for such agents.

Par. (2). Pub. L. 91-441, § 506(b)(3), inserted reference to disposal of munitions in international waters.

#### WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Pub. L. 100-180, div. A, title I, § 126, Dec. 4, 1987, 101 Stat. 1044, provided that: “Chemical munitions of the United States stored in Europe on the date of the enactment of this Act [Dec. 4, 1987] should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.”

### § 1514. “United States” defined

Unless otherwise indicated, as used in this chapter the term “United States” means the several States the District of Columbia, and the territories and possessions of the United States.

(Pub. L. 91-121, title IV, § 409(d), Nov. 19, 1969, 83 Stat. 210.)

### § 1515. Suspension; Presidential authorization

After November 19, 1969, the operation of this chapter, or any portion thereof, may be suspended by the President during the period of any war declared by Congress and during the period

of any national emergency declared by Congress or by the President.

(Pub. L. 91-121, title IV, § 409(e), Nov. 19, 1969, 83 Stat. 210.)

#### § 1516. Delivery systems

None of the funds authorized to be appropriated by this Act shall be used for the procurement of delivery systems specifically designed to disseminate lethal chemical or any biological warfare agents, or for the procurement of delivery system parts or components specifically designed for such purpose, unless the President shall certify to the Congress that such procurement is essential to the safety and security of the United States.

(Pub. L. 91-441, title V, § 506(a), Oct. 7, 1970, 84 Stat. 912.)

#### REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91-441, Oct. 7, 1970, 84 Stat. 912. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was not enacted as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

Section is from the Armed Forces-Military Procurement, 1971 act, Pub. L. 91-441. Provisions similar to those in this section were contained in Pub. L. 91-121, title IV, § 409(f), Nov. 19, 1969, 83 Stat. 210.

#### § 1517. Immediate disposal when health or safety are endangered

Nothing contained in this chapter shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, in emergency situations either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this chapter would clearly endanger the health or safety of any person.

(Pub. L. 91-121, title IV, § 409(g), as added Pub. L. 91-441, title V, § 506(b)(4), Oct. 7, 1970, 84 Stat. 912.)

#### § 1518. Disposal; detoxification; report to Congress; emergencies

On and after October 7, 1970, no chemical or biological warfare agent shall be disposed of within or outside the United States unless such agent has been detoxified or made harmless to man and his environment unless immediate disposal is clearly necessary, in an emergency, to safeguard human life. An immediate report should be made to Congress in the event of such disposal.

(Pub. L. 91-441, title V, § 506(d), Oct. 7, 1970, 84 Stat. 913.)

#### CODIFICATION

Section was not enacted as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### § 1519. Lethal binary chemical munitions

(a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this or any other Act shall be used for the purpose of production of lethal binary chemical munitions unless the President certifies to Congress that the production of such munitions is essential to the national interest and submits a full report thereon to the President of the Senate and the Speaker of the House of Representatives as far in advance of the production of such munitions as is practicable.

(b) For purposes of this section the term "lethal binary chemical munitions" means (1) any toxic chemical (solid, liquid, or gas) which, through its chemical properties, is intended to be used to produce injury or death to human beings, and (2) any unique device, instrument, apparatus, or contrivance, including any components or accessories thereof, intended to be used to disperse or otherwise disseminate any such toxic chemical.

(Pub. L. 94-106, title VIII, § 818, Oct. 7, 1975, 89 Stat. 544.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-106, Oct. 7, 1975, 89 Stat. 531, as amended, known as the Department of Defense Appropriation Authorization Act, 1976. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was not enacted as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### § 1519a. Limitation on procurement of binary chemical weapons

(a) Notwithstanding any other provision of law, no funds may be obligated or expended after September 24, 1983, for the production of binary chemical weapons unless the President certifies to the Congress that for each 155-millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

(b)(1) Funds appropriated pursuant to the authorization of appropriations for the Army in section 101 of this Act may be used for the establishment of a production base for binary chemical munitions and for the procurement of components for 155-millimeter binary chemical artillery projectiles, but such funds may not be used for the actual production of binary chemical munitions before October 1, 1985.

(2) Notwithstanding the provisions of paragraph (1), before the production of binary chemical munitions may begin after September 30, 1985, the President must certify to Congress in writing that, in light of circumstances prevailing at the time the certification is made, the production of such munitions is essential to the national interest.

(3) For purposes of this subsection, "production of binary chemical munitions" means the final assembly of weapon components and the filling or loading of components with binary chemicals.

(Pub. L. 98-94, title XII, §1233, Sept. 24, 1983, 97 Stat. 695.)

#### REFERENCES IN TEXT

Section 101 of this Act, referred to in subsec. (b)(1), is section 101 of Pub. L. 98-94, title I, Sept. 24, 1983, 97 Stat. 618, which was not classified to the Code.

#### CODIFICATION

Section was enacted as part of the Department of Defense Authorization Act, 1984, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

**§ 1520. Repealed. Pub. L. 105-85, div. A, title X, §1078(g), Nov. 18, 1997, 111 Stat. 1916, and Pub. L. 105-277, div. I, title VI, §601, Oct. 21, 1998, 112 Stat. 2681-886**

Section, Pub. L. 95-79, title VIII, §808, July 30, 1977, 91 Stat. 334; Pub. L. 97-375, title II, §203(a)(1), Dec. 21, 1982, 96 Stat. 1822, related to use by the Department of Defense of human subjects for testing of chemical or biological agents, accounting to congressional committees with respect to experiments and studies, and notification of local civilian officials.

**§ 1520a. Restrictions on use of human subjects for testing of chemical or biological agents**

**(a) Prohibited activities**

The Secretary of Defense may not conduct (directly or by contract)—

- (1) any test or experiment involving the use of a chemical agent or biological agent on a civilian population; or
- (2) any other testing of a chemical agent or biological agent on human subjects.

**(b) Exceptions**

Subject to subsections (c), (d), and (e) of this section, the prohibition in subsection (a) of this section does not apply to a test or experiment carried out for any of the following purposes:

- (1) Any peaceful purpose that is related to a medical, therapeutic, pharmaceutical, agricultural, industrial, or research activity.
- (2) Any purpose that is directly related to protection against toxic chemicals or biological weapons and agents.
- (3) Any law enforcement purpose, including any purpose related to riot control.

**(c) Informed consent required**

The Secretary of Defense may conduct a test or experiment described in subsection (b) of this section only if informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

**(d) Prior notice to Congress**

Not later than 30 days after the date of final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense (whether directly or under contract) involving the use of human subjects for the testing of a chemical agent or a biological agent, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth a full accounting of those plans, and the experiment or study may then be conducted only after the end of the 30-day period

beginning on the date such report is received by those committees.

**(e) “Biological agent” defined**

In this section, the term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

- (1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
- (2) deterioration of food, water, equipment, supplies, or materials of any kind; or
- (3) deleterious alteration of the environment.

(Pub. L. 105-85, div. A, title X, §1078, Nov. 18, 1997, 111 Stat. 1915; Pub. L. 106-65, div. A, title X, §1067(4), Oct. 5, 1999, 113 Stat. 774.)

#### CODIFICATION

Section is comprised of section 1078 of Pub. L. 105-85. Subsec. (f) of section 1078 of Pub. L. 105-85 amended section 1523(b) of this title. Subsec. (g) of section 1078 of Pub. L. 105-85 repealed section 1520 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### AMENDMENTS

1999—Subsec. (d). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

**§ 1521. Destruction of existing stockpile of lethal chemical agents and munitions**

**(a) In general**

Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the “Secretary”) 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) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States’ stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond the stockpile elimination deadline, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1) of this section.

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.

(4) If the Secretary 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.

(5) For purposes of this section, the term “stockpile elimination deadline” means December 31, 2004.

**(c) Environmental protection and use of facilities**

(1) In carrying out the requirement of subsection (a) of this section, the Secretary 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) of this section; 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.

(4)(A) In order to carry out subparagraph (A) of paragraph (1), the Secretary 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) of this section. 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 450b(l) of title 25.

(5)(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) of this section at military installations in the continental United States; or

(ii) the destruction of such agents and munitions at facilities referred to in paragraph (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.

**(d) Requirement for strategic plan**

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics 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 treaty 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.

**(e) Management organization**

(1) In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary 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.

**(f) 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 for the purpose of carrying out subsection (c)(5) of this section shall be promptly made available to the Administrator of the Federal Emergency Management Agency.

**(g) Periodic reports**

(1) Except as provided by paragraph (3), the Secretary shall transmit, by December 15 of each year, a report to the 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 (c)(4) of this section.

(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 section 172(g) of Public Law 102-484 (50 U.S.C. 1521 note); 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 (c)(4) of this section.

(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.

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

**(h) Prohibition on acquiring certain lethal chemical agents and munitions**

(1) Except as provided in paragraph (2), no agency of the Federal Government may, after November 8, 1985, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

**(i) Reaffirmation of United States position on first use of chemical agents and munitions**

It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

**(j) Definitions**

For purposes of 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 "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.

(3) 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.

**(k) Operational verification**

(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent<sup>1</sup> and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

(2) Upon the successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report certifying that the prove out is completed.

(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.

(Pub. L. 99-145, title XIV, §1412, Nov. 8, 1985, 99 Stat. 747; Pub. L. 100-456, div. A, title I, §118, Sept. 29, 1988, 102 Stat. 1934; Pub. L. 101-510, div. A, title I, §§171, 172, Nov. 5, 1990, 104 Stat. 1507; Pub. L. 102-190, div. A, title I, §151, Dec. 5, 1991, 105 Stat. 1313; Pub. L. 102-484, div. A, title I, §§171, 179, Oct. 23, 1992, 106 Stat. 2341, 2347; Pub. L. 103-160, div. A, title I, §107(c), Nov. 30, 1993, 107 Stat. 1564; Pub. L. 103-337, div. A, title I, §142, Oct. 5, 1994, 108 Stat. 2689; Pub. L. 104-106, div. A, title I, §153(b), (c), title XV, §1502(c)(6), Feb. 10, 1996, 110 Stat. 216, 508; Pub. L. 104-201, div. A, title X, §1074(d)(2), Sept. 23, 1996, 110 Stat. 2661; Pub. L. 105-85, div. A, title X, §1041(d), Nov. 18, 1997, 111 Stat. 1885; Pub. L. 105-261, div. A, title I, §141, Oct. 17, 1998, 112 Stat. 1942; Pub. L. 106-65, div. A, title I, §141(b), title X, §1067(11), Oct. 5, 1999, 113 Stat. 537, 775; Pub. L. 107-107, div. A, title X, §1048(i)(4), Dec. 28, 2001, 115 Stat. 1229; Pub. L. 108-375, div. A, title IX, §931, Oct. 28, 2004, 118 Stat. 2031; Pub. L. 109-163, div. A, title IX, §921(a), Jan. 6, 2006, 119 Stat. 3410; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 110-181, div. A, title IX, §§923, 924, Jan. 28, 2008, 122 Stat. 284.)

**CODIFICATION**

Pub. L. 109-163, §921, which directed amendment of subsec. (c)(4) of this section effective Dec. 5, 1991, and applicable with respect to any cooperative agreement entered into on or after that date, was executed to subsec. (c)(4) of this section as in effect on the date of en-

actment of Pub. L. 109-163, to reflect the probable intent of Congress. This section did not contain a subsec. (c)(4) on Dec. 5, 1991. See 2006 Amendment note and Effective Date of 2006 Amendment note below.

Section was enacted as part of the Department of Defense Authorization Act, 1986, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

**AMENDMENTS**

2008—Subsec. (c)(5)(B). Pub. L. 110-181, §924, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “No assistance may be provided under this paragraph after the completion of the destruction of the United States’ stockpile of lethal chemical agents and munitions.”

Subsec. (e)(3). Pub. L. 110-181, §923, inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: “training in chemical warfare defense operations; and”.

2006—Subsec. (c)(4). Pub. L. 109-163 designated first two sentences as subpar. (A) and inserted “and to tribal organizations” after “to State and local governments” and “and tribal organizations” after “assist those governments”, designated third and fourth sentences as subpar. (B) and inserted “, and with tribal organizations,” after “with State and local governments”, and added subpar. (C). See Codification note above.

2004—Subsec. (d). Pub. L. 108-375 amended heading and text of subsec. (d) generally. Prior to amendment, text required the Secretary of Defense to develop and submit to Congress by Mar. 15, 1986, a comprehensive plan to carry out this section.

2001—Subsec. (g)(2)(C)(vii). Pub. L. 107-107 substituted “(c)(4)” for “(c)(3)”.

1999—Subsec. (b)(4). Pub. L. 106-65, §1067(11), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Subsec. (c)(2). Pub. L. 106-65, §141(b)(1)(A), added par. (2) and struck out former par. (2) which read as follows: “Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.”

Subsec. (c)(3) to (5). Pub. L. 106-65, §141(b)(1)(B), (C), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (f)(2). Pub. L. 106-65, §141(b)(2), substituted “(c)(5)” for “(c)(4)”.

Subsec. (g)(2)(B). Pub. L. 106-65, §141(b)(3), substituted “(c)(4)” for “(c)(3)”.

Subsec. (k)(2). Pub. L. 106-65, §1067(11), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1998—Subsec. (c)(4). Pub. L. 105-261, §141(a), added par. (4).

Subsec. (f). Pub. L. 105-261, §141(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(2)(B). Pub. L. 105-261, §141(c)(3), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (g)(2)(B)(vii). Pub. L. 105-261, §141(c)(1), added cl. (vii).

Subsec. (g)(2)(C), (D). Pub. L. 105-261, §141(c)(2), redesignated subpars. (B) and (C) as (C) and (D), respectively.

1997—Subsec. (g)(3), (4). Pub. L. 105-85 struck out “No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).” at end of par. (4), redesignated par. (4) as (3), and struck out former par. (3) which read as follows: “The Secretary shall transmit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a quarterly report containing an accounting of all funds expended (during the quarter covered by the report) for travel and associated travel costs for Citizens’ Advisory Commissioners under section 172(g) of Public Law 102-484 (50 U.S.C. 1521 note). The quar-

<sup>1</sup> So in original. Probably should be “agents”.

terly report for the final quarter of the period covered by a report under paragraph (1) may be included in that report.”

1996—Subsec. (b)(4). Pub. L. 104-106, §1502(c)(6), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (e)(3). Pub. L. 104-106, §153(c), inserted “or civilian equivalent” after “general officer” in introductory provisions.

Subsec. (g). Pub. L. 104-106, §153(b)(1), substituted “Periodic reports” for “Annual report” in heading.

Subsec. (g)(2). Pub. L. 104-201, §1074(d)(2)(A), substituted “shall include the following:” for “shall contain—” in introductory provisions.

Pub. L. 104-106, §153(b)(2)(A), substituted “Each annual report shall contain—” for “Each such report shall contain—” in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 104-201, §1074(d)(2)(B), substituted “A site-by-site” for “a site-by-site” and “and operation.” for “and operation:”.

Subsec. (g)(2)(B). Pub. L. 104-201, §1074(d)(2)(C), substituted “An accounting” for “an accounting” in introductory provisions.

Subsec. (g)(2)(B)(iv). Pub. L. 104-106, §153(b)(2)(B)(i), struck out “and” after “development:”.

Subsec. (g)(2)(B)(v). Pub. L. 104-106, §153(b)(2)(B)(ii), which directed substitution of “; and” for period at end of cl. (v), could not be executed because cl. (v) ended with “; and” and not with a period.

Subsec. (g)(2)(B)(vi). Pub. L. 104-106, §153(b)(2)(B)(iii), added cl. (vi).

Subsec. (g)(2)(C). Pub. L. 104-201, §1074(d)(2)(C), substituted “An assessment” for “an assessment” in introductory provisions.

Subsec. (g)(3). Pub. L. 104-106, §153(b)(4), added par. (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 104-106, §153(b)(5), substituted “paragraph (1) not later” for “this subsection not later” and inserted at end “No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).”

Pub. L. 104-106, §153(b)(3), redesignated par. (3) as (4).

Subsec. (k)(2). Pub. L. 104-106, §1502(c)(6), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

1994—Subsec. (f). Pub. L. 103-337 inserted “, including funds for military construction projects necessary to carry out this section,” after “carrying out this section” and struck out at end “Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.”

1993—Subsec. (c)(3). Pub. L. 103-160 substituted “processing, approving, and overseeing” for “processing and approving”.

1992—Subsec. (a). Pub. L. 102-484, §179(1), struck out par. (1) designation before “Notwithstanding” and struck out par. (2) which read as follows: “Such destruction shall be carried out in conjunction with the acquisition of binary chemical weapons for use by the Armed Forces.”

Subsec. (b)(5). Pub. L. 102-484, §171, substituted “December 31, 2004” for “July 31, 1999”.

Subsec. (c)(1). Pub. L. 102-484, §179(2), substituted “subsection (a)” for “subsection (a)(1)” in introductory provisions.

Subsec. (g)(1). Pub. L. 102-484, §179(3)(A), substituted “paragraph (3)” for “paragraph (4)”.

Subsec. (g)(2). Pub. L. 102-484, §179(3)(B), (C), redesignated par. (3) as (2), substituted “such report” for “report other than the first one” in introductory provisions, and struck out former par. (2) which read as follows: “The first such report shall be transmitted by December 15, 1985, and shall contain—

“(A) an accounting of the United States’ stockpile of lethal chemical agents and munitions on November 8, 1985; and

“(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.”

Subsec. (g)(3), (4). Pub. L. 102-484, §179(3)(D), redesignated par. (4) as (3). Former par. (3) redesignated (2).

1991—Subsec. (b)(5). Pub. L. 102-190, §151(a), substituted “July 31, 1999” for “April 30, 1997”.

Subsec. (c)(3). Pub. L. 102-190, §151(b), inserted at end “Additionally, the Secretary may provide funds through cooperative agreements with State and local governments for the purpose of assisting them in processing and approving 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.”

1990—Subsec. (a)(1). Pub. L. 101-510, §171(b), substituted “November 8, 1985” for “the date of the enactment of this Act”.

Subsec. (c)(3). Pub. L. 101-510, §172, added par. (3).

Subsec. (g)(3)(C). Pub. L. 101-510, §171(a), added subpar. (C).

Subsec. (h)(1). Pub. L. 101-510, §171(b), substituted “November 8, 1985” for “the date of the enactment of this Act”.

1988—Subsec. (b)(1), (3)(A). Pub. L. 100-456, §118(a)(1), substituted “the stockpile elimination deadline” for “September 30, 1994”.

Subsec. (b)(3)(B). Pub. L. 100-456, §118(a)(2), substituted “not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline” for “within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier”.

Subsec. (b)(4), (5). Pub. L. 100-456, §118(a)(3), added pars. (4) and (5).

Subsec. (k). Pub. L. 100-456, §118(b), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: “The provisions of this section shall take effect on October 1, 1985.”

#### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” and “Administrator” substituted for “Director of the Federal Emergency Management Agency” and “Director”, respectively, in subsecs. (c)(5) and (f)(2) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title IX, §921(b), Jan. 6, 2006, 119 Stat. 3410, provided that: “The amendments made by subsection (a) [amending this section]—

“(1) take effect as of December 5, 1991; and

“(2) apply with respect to any cooperative agreement entered into on or after that date.”

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and

sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SENSE OF CONGRESS ON COMPLETION OF DESTRUCTION OF UNITED STATES CHEMICAL WEAPONS STOCKPILE

Pub. L. 110-181, div. A, title IX, §922, Jan. 28, 2008, 122 Stat. 282, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on January 13, 1993 (commonly referred to as the ‘Chemical Weapons Convention’), requires that destruction of the entire United States chemical weapons stockpile be completed by not later than April 29, 2007.

“(2) In 2006, under the terms of the Chemical Weapons Convention, the United States requested and received a one-time, 5-year extension of its chemical weapons destruction deadline to April 29, 2012.

“(3) On April 10, 2006, the Secretary of Defense notified Congress that the United States would not meet even the extended deadline under the Chemical Weapons Convention for destruction of the United States chemical weapons stockpile, but would ‘continue working diligently to minimize the time to complete destruction without sacrificing safety and security’ and would also ‘continue requesting resources needed to complete destruction as close to April 2012 as practicable’.

“(4) The United States chemical demilitarization program has met its one percent, 20 percent, and extended 45 percent destruction deadlines under the Chemical Weapons Convention.

“(5) Destroying the remaining stockpile of United States chemical weapons is imperative for public safety and homeland security, and doing so by April 2012, in accordance with the current destruction deadline provided under the Chemical Weapons Convention, is required by United States law.

“(6) The elimination of chemical weapons anywhere they exist in the world, and the prevention of their proliferation, is of utmost importance to the national security of the United States.

“(7) Section 921(b)(3) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2359) contained a sense of Congress urging the Secretary of Defense to ensure the elimination of the United States chemical weapons stockpile in the shortest time possible, consistent with the requirement to protect public health, safety, and the environment.

“(8) Section 921(b)(4) of that Act contained a sense of Congress urging the Secretary of Defense to propose a credible treatment and disposal process with the support of affected communities. In this regard, any such process should provide for sufficient communication and consultation between representatives of the Department of Defense and representatives of affected States and communities.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the United States is, and must remain, committed to making every effort to safely dispose of its entire chemical weapons stockpile by April 2012, the current destruction deadline provided under the Chemical Weapons Convention, or as soon thereafter as possible, and must carry out all of its other obligations under the Convention; and

“(2) the Secretary of Defense should make every effort to plan for, and to request in the annual budget of the President submitted to Congress adequate funding to complete, the elimination of the United States chemical weapons stockpile in accordance with United States obligations under the Chemical Weapons Convention and in a manner that will protect public health, safety, and the environment, as required by law.

“(c) REPORTS REQUIRED.—

“(1) IN GENERAL.—Not later than March 15, 2008, and every 180 days thereafter until the year in which 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 submit to the members and committees of Congress referred to in paragraph (3) a report on the implementation by the United States of its chemical weapons destruction obligations under the Chemical Weapons Convention.

“(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

“(A) The anticipated schedule at the time of such report for the completion of destruction of chemical agents, munitions, and materiel at each chemical weapons demilitarization facility in the United States.

“(B) A description of the options and alternatives for accelerating the completion of chemical weapons destruction at each such facility, particularly in time to meet the destruction deadline of April 29, 2012, currently provided by the Chemical Weapons Convention, and by December 31, 2017.

“(C) A description of the funding required to achieve each of the options for destruction described under subparagraph (B), and a detailed life-cycle cost estimate for each of the affected facilities included in each such funding profile.

“(D) A description of all actions being taken by the United States to accelerate the destruction of its entire stockpile of chemical weapons, agents, and materiel in order to meet the current destruction deadline under the Chemical Weapons Convention of April 29, 2012, or as soon thereafter as possible.

“(3) MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress referred to in this paragraph are—

“(A) the majority leader of the Senate, the minority leader of the Senate, and the Committees on Armed Services and Appropriations of the Senate; and

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

DEADLINE FOR DESTRUCTION OF STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS

Pub. L. 110-116, div. A, title VIII, §8119, Nov. 13, 2007, 121 Stat. 1340, provided that:

“(a) Notwithstanding any other provision of law, the Department of Defense shall complete work on the destruction of the United States stockpile of lethal chemical agents and munitions, including those stored at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, by the deadline established by the Chemical Weapons Convention, and in no circumstances later than December 31, 2017.

“(b) REPORT.—

“(1) Not later than December 31, 2007, and every 180 days thereafter, the Secretary of Defense shall submit to the parties described in paragraph (2) a report on the progress of the Department of Defense toward compliance with this section.

“(2) The parties referred to in paragraph (1) are the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, the Majority and Minority Leaders of the Senate, and the congressional defense committees [Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives].

“(3) Each report submitted under paragraph (1) shall include the updated and projected annual fund-

ing levels necessary to achieve full compliance with this section. The projected funding levels for each report shall include a detailed accounting of the complete life-cycle costs for each of the chemical disposal projects.

“(c) In this section, 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).”

#### INCENTIVES CLAUSES IN CHEMICAL DEMILITARIZATION CONTRACTS

Pub. L. 109-364, div. A, title IX, §923, Oct. 17, 2006, 120 Stat. 2360, provided that:

“(a) IN GENERAL.—

“(1) AUTHORITY TO INCLUDE CLAUSES IN CONTRACTS.—The Secretary of Defense may, for the purpose specified in paragraph (2), 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 section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

“(2) PURPOSE.—The purpose of a clause referred to in paragraph (1) 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.

“(b) INCENTIVES CLAUSES.—

“(1) IN GENERAL.—An incentives clause under this section 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.

“(2) LIMITATION ON INCENTIVE PAYMENTS.—The maximum incentive payment under an incentives clause with respect to a chemical demilitarization facility may not exceed amounts as follows:

“(A) 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.

“(B) 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.

“(3) TARGET RANGES.—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.

“(4) CALCULATION OF INCENTIVE PAYMENTS.—The amount of the incentive payment earned by a contractor for a chemical demilitarization facility under an incentives clause under this section 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.

“(5) CONSISTENCY WITH EXISTING OBLIGATIONS.—The provisions of any incentives clause under this section shall be consistent with the obligation of the Secretary of Defense under section 1412(c)(1)(A) of the Department of Defense Authorization Act, 1986 [50 U.S.C. 1521(c)(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.

“(6) ADDITIONAL TERMS AND CONDITIONS.—In negotiating the inclusion of an incentives clause in a contract under this section, the Secretary may include in such clause such additional terms and conditions as the Secretary considers appropriate.

“(c) ADDITIONAL LIMITATION ON PAYMENTS.—

“(1) PAYMENT CONDITIONAL ON PERFORMANCE.—No payment may be made under an incentives clause under this section unless the Secretary determines that the contractor concerned has satisfactorily performed its duties under such incentives clause.

“(2) PAYMENT CONTINGENT ON APPROPRIATIONS.—An incentives clause under this section 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 section.”

#### MANAGEMENT OF CHEMICAL DEMILITARIZATION ACTIVITIES AT BLUEGRASS ARMY DEPOT, KENTUCKY AND PUEBLO ARMY DEPOT, COLORADO

Pub. L. 107-248, title VIII, §8122, Oct. 23, 2002, 116 Stat. 1566, provided that:

“(a) MANAGEMENT OF CHEMICAL DEMILITARIZATION ACTIVITIES AT BLUEGRASS ARMY DEPOT, KENTUCKY.—If a technology other than the baseline incineration program is selected for the destruction of lethal chemical munitions pursuant to section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 1521 note), the program manager for the Assembled Chemical Weapons Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Bluegrass Army Depot, Kentucky, including management of the pilot-scale facility phase of the alternative technology.

“(b) MANAGEMENT OF CHEMICAL DEMILITARIZATION ACTIVITIES AT PUEBLO DEPOT, COLORADO.—The program manager for the Assembled Chemical Weapons Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions.”

#### ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS

Pub. L. 105-261, div. A, title I, §142, Oct. 17, 1998, 112 Stat. 1943, as amended by Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717; Pub. L. 106-398, §1 [[div. A], title X, §1087(d)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, provided that:

“(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may carry out those activities necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

“(A) the technology has been demonstrated to be successful; and

“(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics has submitted a re-

port on the demonstration to Congress that includes a decision to proceed with the pilot-scale facility phase for an alternative technology.

“(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

“(A) Establish program requirements.

“(B) Prepare procurement documentation.

“(C) Develop environmental documentation.

“(D) Identify and prepare to meet public outreach and public participation requirements.

“(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999.

“(C) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide for an independent evaluation of the cost and schedule of the Assembled Chemical Weapons Assessment, which shall be performed and submitted to the Under Secretary not later than September 30, 1999. The evaluation shall be performed by a nongovernmental organization qualified to make such an evaluation.

“(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

“(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

“(A) certifies in writing to Congress is—

“(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

“(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

“(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

“(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

“(4) In this subsection, the term ‘Chemical Weapons Convention’ means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

“(e) PLAN FOR PILOT PROGRAM.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 214; 50 U.S.C. 1521 note), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

“(f) FUNDING.—(1) Of the amount authorized to be appropriated under section 107 [112 Stat. 1937], funds shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

“(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

“(B) Planning and preparation to proceed from demonstration of an alternative technology imme-

diately into the development of a pilot-scale facility for the technology, including planning and preparation for—

“(i) continued development of the technology leading to deployment of the technology for use;

“(ii) satisfaction of requirements for environmental permits;

“(iii) demonstration, testing, and evaluation;

“(iv) initiation of actions to design a pilot plant;

“(v) provision of support at the field office or depot level for deployment of the technology for use; and

“(vi) educational outreach to the public to engender support for the deployment.

“(C) The independent evaluation of cost and schedule required under subsection (c).

“(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

“(g) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term ‘Assembled Chemical Weapons Assessment’ means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).”

#### PILOT PROGRAM FOR DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-101, as amended by Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: “Notwithstanding section 142 of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996 [section 142 of Pub. L. 104-201, which amended section 152 of Pub. L. 104-106, set out below], of the funds provided in title VI of this Act [Pub. L. 104-208, div. A, title I, §101(b) [title VI], Sept. 30, 1996, 110 Stat. 3009-71, 3009-85], under the heading ‘Chemical Agents and Munitions Destruction, Defense’, \$40,000,000 shall only be available for the conduct of a pilot program to identify and demonstrate not less than two alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions: *Provided*, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall, not later than December 1, 1996, designate a program manager who is not, nor has been, in direct or immediate control of the baseline reverse assembly incineration demilitarization program to carry out the pilot program: *Provided further*, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall evaluate the effectiveness of each alternative chemical munitions demilitarization technology identified and demonstrated under the pilot program to demilitarize munitions and assembled chemical munitions while meeting all applicable Federal and State environmental and safety requirements: *Provided further*, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall transmit, by December 15 of each year, a report to the congressional defense committees on the activities carried out under the pilot program during the preceding fiscal year in which the report is to be made: *Provided further*, That section 142(f)(3) of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996 [probably means section 152(f)(3) of Pub. L. 104-106, set out below], is repealed: *Provided further*, That no funds may be obligated for the construction of a baseline incineration facility at the Lexington Blue Grass Army Depot or the Pueblo Depot activity until 180 days after the Secretary of Defense has submitted to the congressional defense committees a report detailing the effectiveness of each alternative chemical munitions demilitarization technology identified and demonstrated under the pilot program and its ability to meet the applicable safety and environmental requirements: *Provided further*, That none of the funds in this or any other Act may be obligated for the

preparation of studies, assessments, or planning of the removal and transportation of stockpile assembled unitary chemical weapons or neutralized chemical agent to any of the eight chemical weapons storage sites within the continental United States.”

DESTRUCTION OF EXISTING STOCKPILE OF LETHAL  
CHEMICAL AGENTS AND MUNITIONS

Pub. L. 106-65, div. A, title I, §141, Oct. 5, 1999, 113 Stat. 537, provided that:

“(a) PROGRAM ASSESSMENT.—(1) The Secretary of Defense shall conduct an assessment of the current program for destruction of the United States’ stockpile of chemical agents and munitions, including the Assembled Chemical Weapons Assessment, for the purpose of reducing significantly the cost of such program and ensuring completion of such program in accordance with the obligations of the United States under the Chemical Weapons Convention while maintaining maximum protection of the general public, the personnel involved in the demilitarization program, and the environment.

“(2) Based on the results of the assessment conducted under paragraph (1), the Secretary may take those actions identified in the assessment that may be accomplished under existing law to achieve the purposes of such assessment and the chemical agents and munitions stockpile destruction program.

“(3) Not later than March 1, 2000, the Secretary shall submit to Congress a report on—

“(A) those actions taken, or planned to be taken, under paragraph (2); and

“(B) any recommendations for additional legislation that may be required to achieve the purposes of the assessment conducted under paragraph (1) and of the chemical agents and munitions stockpile destruction program.

“(b) CHANGES AND CLARIFICATIONS REGARDING PROGRAM.—[Amended this section.]

“(c) COMPTROLLER GENERAL ASSESSMENT AND REPORT.—(1) Not later than March 1, 2000, the Comptroller General of the United States shall review and assess the program for destruction of the United States stockpile of chemical agents and munitions and report the results of the assessment to the congressional defense committees.

“(2) The assessment conducted under paragraph (1) shall include a review of the program execution and financial management of each of the elements of the program, including—

“(A) the chemical stockpile disposal project;

“(B) the nonstockpile chemical materiel project;

“(C) the alternative technologies and approaches project;

“(D) the chemical stockpile emergency preparedness program; and

“(E) the assembled chemical weapons assessment program.

“(d) DEFINITIONS.—As used in this section:

“(1) The term ‘Assembled Chemical Weapons Assessment’ means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).

“(2) The term ‘Chemical Weapons Convention’ means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.”

Section 152 of Pub. L. 104-106, as amended by Pub. L. 104-201, div. A, title I, §142, Sept. 23, 1996, 110 Stat. 2448; Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-102, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall proceed with the program for destruction of the chemical munitions stockpile of the Department of Defense while maintaining the maximum protection of the environment, the general public, and the personnel involved in the actual destruction of the munitions. In carrying out such program, the Secretary shall use

technologies and procedures that will minimize the risk to the public at each site.

“(b) 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.

“(c) ASSESSMENT OF ALTERNATIVES.—(1) The Secretary of Defense shall conduct an assessment of the current chemical demilitarization program and of measures that could be taken to reduce significantly the total cost of the program, while ensuring maximum protection of the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such an assessment under any provision of law.

“(2) The assessment shall be conducted in coordination with the National Research Council.

“(3) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

“(4) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and House of Representatives] an interim report assessing the current status of the chemical stockpile demilitarization program, including the results of the Army’s analysis of the physical and chemical integrity of the stockpile and implications for the chemical demilitarization program, and providing recommendations for revisions to that program that have been included in the budget request of the Department of Defense for fiscal year 1997. The Secretary shall submit to the congressional defense committees with the submission of the budget request of the Department of Defense for fiscal year 1998 a final report on the assessment conducted in accordance with paragraph (1) and recommendations for revision to the program, including an assessment of alternative demilitarization technologies and processes to the baseline incineration process and potential reconfiguration of the stockpile that should be incorporated in the program.

“(d) ASSISTANCE FOR CHEMICAL WEAPONS STOCKPILE COMMUNITIES AFFECTED BY BASE CLOSURE.—(1) The Secretary of Defense shall review and evaluate issues associated with closure and reutilization of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations.

“(2) The review shall include the following:

“(A) An analysis of the economic impacts on these communities and the unique reuse problems facing local communities associated with ongoing chemical weapons programs.

“(B) Recommendations of the Secretary on methods for expeditious and cost-effective transfer or lease of these facilities to local communities for reuse by those communities.

“(3) The Secretary shall submit to the congressional defense committees a report on the review and evaluation under this subsection. The report shall be submitted not later than 90 days after the date of the enactment of this Act [Feb. 10, 1996].

“(e) ASSESSMENT OF ALTERNATIVE TECHNOLOGIES FOR DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.—(1) In addition to the assessment required by

subsection (c), the Secretary of Defense shall conduct an assessment of the chemical demilitarization program for destruction of assembled chemical munitions and of the alternative demilitarization technologies and processes (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with these munitions, while ensuring maximum protection for the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public and reduce the total cost of the chemical agents and munitions destruction program. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such assessment under any provision of law.

“(2) The assessment shall be conducted in coordination with the National Research Council.

“(3) Among the alternatives, the assessment shall include a determination of the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site (other than Tooele Army Depot or Johnston Atoll), and transporting the neutralized remains and all munitions parts to a treatment, storage, and disposal facility within the United States that has the necessary environmental permits to undertake incineration of the material.

“(4) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

“(5) Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a report on the assessment conducted in accordance with paragraph (1) and any recommendations for revision of the chemical demilitarization program, including the continued development of alternative demilitarization technologies and processes other than incineration that could be used for the destruction of the lethal chemical agents and the chemical munitions demilitarization sites for which the selected technologies should be developed.

“(f) PILOT PROGRAM FOR DEMILITARIZATION OF CHEMICAL AGENTS FOR ASSEMBLED MUNITIONS.—(1) If the Secretary of Defense makes a decision to continue the development of an alternative demilitarization technology or process (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with assembled chemical munitions, \$25,000,000 shall be available from the funds authorized to be appropriated in section 107 of the National Defense Authorization Act for Fiscal Year 1997 [Pub. L. 104-201, 110 Stat. 2440] for the chemical agents and munitions destruction program, in order to initiate a pilot program using the selected alternative technology or process for the destruction of chemical agents that are stored at these sites.

“(2) Not less than 30 days before using funds to initiate the pilot program under paragraph (1), the Secretary shall submit notice in writing to Congress of the Secretary's intent to do so.

“[(3) Repealed. Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-102.]”

#### CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS

Pub. L. 102-484, div. A, title I, §172, Oct. 23, 1992, 106 Stat. 2341, as amended by Pub. L. 104-106, div. A, title I, §153(a), Feb. 10, 1996, 110 Stat. 215; Pub. L. 104-201, div. A, title X, §1073(d), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 110-181, div. A, title IX, §921, Jan. 28, 2008, 122 Stat. 282; Pub. L. 110-417, [div. A], title IX, §921, Oct. 14, 2008, 122 Stat. 4573; Pub. L. 111-84, div. A, title X, §1073(c)(8), Oct. 28, 2009, 123 Stat. 2475, provided that:

“(a) ESTABLISHMENT.—(1) The Secretary of the Army shall establish a citizens' commission for each State in which there is a low-volume site (as defined in section

180 [set out below]). Each such commission shall be known as the ‘Chemical Demilitarization Citizens' Advisory Commission’ for that State.

“(2) The Secretary shall also establish a Chemical Demilitarization Citizens' Advisory Commission for any State in which there is located a chemical weapons storage site other than a low-volume site, if the establishment of such a commission for such State is requested by the Governor of that State.

“(b) FUNCTIONS.—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 this section to receive citizen and State concerns regarding the ongoing program of the Army for the disposal of the lethal chemical agents and munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)) at each of the sites with respect to which a commission is established pursuant to subsection (a).

“(c) MEMBERSHIP.—(1) Each commission established for a State pursuant to subsection (a) 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.

“(2) For purposes of paragraph (1), affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

“(d) CONFLICTS OF INTEREST.—For a period of five years after the termination of any commission, 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—

“(1) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)); or

“(2) a subcontract under such a contract.

“(e) CHAIRMAN.—The members of each commission shall designate the chairman of the commission from among the members of the commission.

“(f) COLORADO AND KENTUCKY CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—(1) Notwithstanding subsections (b), (g), and (h), and consistent with section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105-261] (50 U.S.C. 1521 note) and section 8122 of the Department of Defense Appropriations Act, 2003 (Public Law 107-248; 116 Stat. 1566; 50 U.S.C. 1521 note), the Secretary of the Army shall transfer responsibilities for the Chemical Demilitarization Citizens' Advisory Commissions in Colorado and Kentucky to the Program Manager for Assembled Chemical Weapons Alternatives.

“(2) In carrying out the responsibilities transferred under paragraph (1), the Program Manager for Assembled Chemical Weapons Alternatives shall take appropriate actions to ensure that each Commission referred to in paragraph (1) retains the capacity to receive citizen and State concerns regarding the ongoing chemical demilitarization program in the State concerned.

“(3) A representative of the Office of the Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall meet with each Commission referred to in paragraph (1) not less often than twice a year.

“(4) Funds appropriated for the Assembled Chemical Weapons Alternatives Program shall be available for travel and associated travel costs for Commissioners on the Commissions referred to in paragraph (1) when such travel is conducted at the invitation of the Special Assistant for Chemical and Biological Defense and Chemical Demilitarization Programs of the Department of Defense.

“(g) MEETINGS.—Each commission shall meet with a representative from the Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) upon joint agreement between the chairman of the commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

“(h) PAY AND EXPENSES.—Members of each commission 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 Citizens’ Advisory Commissioners, when such travel is conducted at the invitation of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology).

“(i) TERMINATION OF COMMISSIONS.—Each commission shall be terminated after the closure activities required pursuant to regulations promulgated 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 the commission’s State, or upon the request of the Governor of the commission’s State, whichever occurs first.”

[Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(8) to section 921(1) of Pub. L. 110-417, included in the credit set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.]

#### ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES; REVISED DISPOSAL CONCEPT PLAN

Sections 174 and 175 of Pub. L. 102-484, as amended by Pub. L. 103-160, div. A, title I, §155(b), Nov. 30, 1993, 107 Stat. 1579, provided that:

#### “SEC. 174. ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES.

“(a) REQUIREMENT FOR ALTERNATIVE PROCESS.—If the date by which chemical weapons destruction and demilitarization operations can be completed at a low-volume site using an alternative technology process evaluated by the Secretary of the Army falls within the deadline established by the amendment made by section 171 [amending this section] and the Secretary determines that the use of that alternative technology process for the destruction of chemical weapons at that site is significantly safer and equally or more cost-effective than the use of the baseline disassembly and incineration process, then the Secretary of the Army, as part of the requirement of section 1412(a) of Public Law 99-145 [subsec. (a) of this section], shall carry out the disposal of chemical weapons at that site using such alternative technology process. In addition, the Secretary may carry out the disposal of chemical weapons at sites other than low-volume sites using an alternative technology process (rather than the baseline process) after notifying Congress of the Secretary’s intent to do so.

“(b) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsections (c), (e), (f), and (g) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) shall apply to this section and to activities under this section in the same manner as if this section were part of that section 1412.

#### “SEC. 175. REVISED CHEMICAL WEAPONS DISPOSAL CONCEPT PLAN.

“(a) REVISED PLAN.—If, pursuant to section 174, the Secretary of the Army is required to implement an alternative technology process for destruction of chemical weapons at any low-volume site, the Secretary shall submit to Congress a revised chemical weapons disposal concept plan incorporating the alternative technology process and reflecting the revised stockpile disposal schedule developed under section 1412(b) of Public Law 99-145 (50 U.S.C. 1521(b)), as amended by section 171. In developing the revised concept plan, the Secretary should consider, to the maximum extent practicable, revisions to the program and program schedule that capitalize on the changes to the chemical demil-

itarization schedule resulting from the revised stockpile elimination deadline by reducing cost and decreasing program risk.

“(b) MATTERS TO BE INCLUDED.—The revised concept plan should include—

“(1) life-cycle cost estimates and schedules; and

“(2) a description of the facilities and operating procedures to be employed using the alternative technology process.

“(c) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsection (c) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) shall apply to the revised concept plan in the same manner as if this section were part of that section 1412.

“(d) SUBMISSION OF REVISED PLAN.—If the Secretary is required to submit a revised concept plan under this section, the Secretary shall submit the revised concept plan during the 120-day period beginning at the end of the 60-day period following the submission of the report of the Secretary required under section 173 [106 Stat. 2342].

“(e) LIMITATION.—If the Secretary is required to submit a revised concept plan under this section, no funds may be obligated for procurement of equipment or for facilities planning and design activities (other than for those preliminary planning and design activities required to comply with subsection(b)(2)) for a chemical weapons disposal facility at any low-volume site at which the Secretary intends to implement an alternative technology process until the Secretary submits the revised concept plan.”

#### SENSE OF CONGRESS CONCERNING INTERNATIONAL CONSULTATION AND EXCHANGE PROGRAM

Section 178 of Pub. L. 102-484 provided that: “It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should establish, with other nations that are anticipated to be signatories to an international agreement or treaty banning chemical weapons, a program under which consultation and exchange concerning chemical weapons disposal technology could be enhanced. Such a program shall be used to facilitate the exchange of technical information and advice concerning the disposal of chemical weapons among signatory nations and to further the development of safer, more cost-effective methods for the disposal of chemical weapons.”

#### “LOW-VOLUME SITE” DEFINED

Section 180 of Pub. L. 102-484 provided that: “For purposes of this subtitle [subtitle G (§§171-180) of title I of div. A of Pub. L. 102-484, amending this section and enacting provisions set out as notes above], the term ‘low-volume site’ means one of the three chemical weapons storage sites in the United States at which there is stored 5 percent or less of the total United States stockpile of unitary chemical weapons.”

#### REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

Pub. L. 100-180, div. A, title I, §125, Dec. 4, 1987, 101 Stat. 1043, provided that:

“(a) DEFINITION.—For purposes of this section, the term ‘chemical stockpile demilitarization program’ means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States’ stockpile of lethal chemical agents and munitions.

“(b) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

“(c) DISPOSAL TECHNOLOGIES.—(1) Funds appropriated pursuant to this Act [see Tables for classification] or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military

construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

“(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

“(B) Full-scale operational verification of the technology or technologies selected for such disposal.

“(C) Maximum protection for public health and the environment.

“(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

“(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

“(1) incorporate the requirements of subsections (b) and (c); and

“(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

“(e) 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.”

#### **§ 1521a. Destruction of existing stockpile of lethal chemical agents and munitions**

##### **(a) Program management**

The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10) in accordance with the essential elements of such programs as may be determined by the Secretary.

##### **(b) Requirement for Under Secretary of Defense (Comptroller) annual certification**

Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1521 of this title.

(Pub. L. 107-314, div. A, title I, § 141, Dec. 2, 2002, 116 Stat. 2477.)

#### CODIFICATION

Section was enacted as part of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and not as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### “CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 107-314, 116 Stat. 2471. See note under section 101 of Title 10, Armed Forces.

#### **§ 1522. Conduct of chemical and biological defense program**

##### **(a) General**

The Secretary of Defense shall carry out the chemical and biological defense program of the United States in accordance with the provisions of this section.

##### **(b) Management and oversight**

In carrying out his responsibilities under this section, the Secretary of Defense shall do the following:

(1) Assign responsibility for overall coordination and integration of the chemical and biological warfare defense program and the chemical and biological medical defense program to a single office within the Office of the Secretary of Defense.

(2) Take those actions necessary to ensure close and continuous coordination between (A) the chemical and biological warfare defense program, and (B) the chemical and biological medical defense program.

(3) Exercise oversight over the chemical and biological defense program through the Defense Acquisition Board process.

##### **(c) Coordination of program**

(1) The Secretary of Defense shall designate the Army as executive agent for the Department of Defense to coordinate and integrate research, development, test, and evaluation, and acquisition, requirements of the military departments for chemical and biological warfare defense programs of the Department of Defense.

(2) The Director of the Defense Advanced Research Projects Agency may conduct a program of basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems. In conducting such program, the Director shall seek to avoid unnecessary duplication of the activities under the program with chemical and biological warfare defense activities of the military departments and defense agencies and shall coordinate the activities under the program with those of the military departments and defense agencies.

##### **(d) Funding**

(1) The budget for the Department of Defense for each fiscal year after fiscal year 1994 shall reflect a coordinated and integrated chemical and biological defense program for the Department of Defense.

(2) Funding requests for the program (other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) of this section) shall be set forth in the budget of the Department of Defense for each fiscal year as a separate account, with a single program element for each of the categories of research, development, test, and evaluation, acquisition, and military construction. Amounts for military construction projects may be set forth in the annual military construction budget. Funds for military construction for the program in the military construction budget shall be set forth separately from other funds for military construction projects. Funding requests for the program

may not be included in the budget accounts of the military departments.

(3) The program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) of this section shall be set forth as a separate program element in the budget of that agency.

(4) All funding requirements for the chemical and biological defense program shall be reviewed by the Secretary of the Army as executive agent pursuant to subsection (c) of this section.

**(e) Management review and report**

(1) The Secretary of Defense shall conduct a review of the management structure of the Department of Defense chemical and biological warfare defense program, including—

- (A) research, development, test, and evaluation;
- (B) procurement;
- (C) doctrine development;
- (D) policy;
- (E) training;
- (F) development of requirements;
- (G) readiness; and
- (H) risk assessment.

(2) Not later than May 1, 1994, the Secretary shall submit to Congress a report that describes the details of measures being taken to improve joint coordination and oversight of the program and ensure a coherent and effective approach to its management.

(Pub. L. 103-160, div. A, title XVII, §1701, Nov. 30, 1993, 107 Stat. 1853; Pub. L. 104-201, div. A, title II, § 228, Sept. 23, 1996, 110 Stat. 2460.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-201, § 228(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(1). Pub. L. 104-201, § 228(b)(1), substituted “program for the Department of Defense” for “program for the military departments”.

Subsec. (d)(2). Pub. L. 104-201, § 228(b)(2), in first sentence, inserted “(other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) of this section)” after “requests for the program”.

Subsec. (d)(3), (4). Pub. L. 104-201, § 228(b)(3), (4), added par. (3) and redesignated former par. (3) as (4).

NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER

Pub. L. 107-296, title XVII, §1708, Nov. 25, 2002, 116 Stat. 2318, provided that: “There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.”

[For transfer of functions, personnel, assets, and liabilities of the National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 183(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

CHEMICAL WARFARE DEFENSE

Pub. L. 105-261, div. A, title II, §247, Oct. 17, 1998, 112 Stat. 1956, provided that:

“(a) REVIEW AND MODIFICATION OF POLICIES AND DOCTRINES.—The Secretary of Defense shall review the policies and doctrines of the Department of Defense on chemical warfare defense and modify the policies and doctrine as appropriate to achieve the objectives set forth in subsection (b).

“(b) OBJECTIVES.—The objectives for the modification of policies and doctrines of the Department of Defense on chemical warfare defense are as follows:

“(1) To provide for adequate protection of personnel from any exposure to a chemical warfare agent (including chronic and low-level exposure to a chemical warfare agent) that would endanger the health of exposed personnel because of the deleterious effects of—

“(A) a single exposure to the agent;

“(B) exposure to the agent concurrently with other dangerous exposures, such as exposures to—

“(i) other potentially toxic substances in the environment, including pesticides, other insect and vermin control agents, and environmental pollutants;

“(ii) low-grade nuclear and electromagnetic radiation present in the environment;

“(iii) preventive medications (that are dangerous when taken concurrently with other dangerous exposures referred to in this paragraph);

“(iv) diesel fuel, jet fuel, and other hydrocarbon-based fuels; and

“(v) occupational hazards, including battlefield hazards; and

“(C) repeated exposures to the agent, or some combination of one or more exposures to the agent and other dangerous exposures referred to in subparagraph (B), over time.

“(2) To provide for—

“(A) the prevention of and protection against, and the detection (including confirmation) of, exposures to a chemical warfare agent (whether intentional or inadvertent) at levels that, even if not sufficient to endanger health immediately, are greater than the level that is recognized under Department of Defense policies as being the maximum safe level of exposure to that agent for the general population; and

“(B) the recording, reporting, coordinating, and retaining of information on possible exposures described in subparagraph (A), including the monitoring of the health effects of exposures on humans and animals, environmental effects, and ecological effects, and the documenting and reporting of those effects specifically by location.

“(3) To provide solutions for the concerns and mission requirements that are specifically applicable for one or more of the Armed Forces in a protracted conflict when exposures to chemical agents could be complex, dynamic, and occurring over an extended period.

“(c) RESEARCH PROGRAM.—The Secretary of Defense shall develop and carry out a plan to establish a research program for determining the effects of exposures to chemical warfare agents of the type described in subsection (b). The research shall be designed to yield results that can guide the Secretary in the evolution of policy and doctrine on exposures to chemical warfare agents and to develop new risk assessment methods and instruments with respect to such exposures. The plan shall state the objectives and scope of the program and include a 5-year funding plan.

“(d) REPORT.—Not later than May 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives] a report on the results of the review under subsection (a) and on the research program developed under subsection (c). The report shall include the following:

“(1) Each modification of chemical warfare defense policy and doctrine resulting from the review.

“(2) Any recommended legislation regarding chemical warfare defense.

“(3) The plan for the research program.”

STUDY OF FACILITY FOR TRAINING AND EVALUATION OF CHEMICAL OR BIOLOGICAL WEAPONS RESPONSE PERSONNEL

Pub. L. 104-132, title V, §521(b), Apr. 24, 1996, 110 Stat. 1286, provided that:

“(1) FINDINGS.—The Congress finds that—

“(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

“(B) the military and law enforcement agencies in the United States that are responding for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

“(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

“(2) STUDY OF FACILITY.—

“(A) IN GENERAL.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

“(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

“(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

“(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

“(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

“(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

“(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

“(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

“(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

“(i) be under the jurisdiction of the Secretary of Defense; and

“(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.”

CONSOLIDATION OF CHEMICAL AND BIOLOGICAL DEFENSE TRAINING ACTIVITIES

Section 1702 of Pub. L. 103-160 provided that: “The Secretary of Defense shall consolidate all chemical and biological warfare defense training activities of the Department of Defense at the United States Army Chemical School.”

SENSE OF CONGRESS CONCERNING FEDERAL EMERGENCY PLANNING FOR RESPONSE TO TERRORIST THREATS

Section 1704 of Pub. L. 103-160 provided that: “It is the sense of Congress that the President should strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other

appropriate Federal, State, and local agencies for development of a capability for early detection and warning of and response to—

“(1) potential terrorist use of chemical or biological agents or weapons; and

“(2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease.”

§ 1523. Annual report on chemical and biological warfare defense

(a) Report required

The Secretary of Defense shall include in the annual report of the Secretary under section 113(c) of title 10 a report on chemical and biological warfare defense. The report shall assess—

(1) the overall readiness of the Armed Forces to fight in a chemical-biological warfare environment and shall describe steps taken and planned to be taken to improve such readiness; and

(2) requirements for the chemical and biological warfare defense program, including requirements for training, detection, and protective equipment, for medical prophylaxis, and for treatment of casualties resulting from use of chemical or biological weapons.

(b) Matters to be included

The report shall include information on the following:

(1) The quantities, characteristics, and capabilities of fielded chemical and biological defense equipment to meet wartime and peacetime requirements for support of the Armed Forces, including individual protective items.

(2) The status of research and development programs, and acquisition programs, for required improvements in chemical and biological defense equipment and medical treatment, including an assessment of the ability of the Department of Defense and the industrial base to meet those requirements.

(3) Measures taken to ensure the integration of requirements for chemical and biological defense equipment and material among the Armed Forces.

(4) The status of nuclear, biological, and chemical (NBC) warfare defense training and readiness among the Armed Forces and measures being taken to include realistic nuclear, biological, and chemical warfare simulations in war games, battle simulations, and training exercises.

(5) Measures taken to improve overall management and coordination of the chemical and biological defense program.

(6) Problems encountered in the chemical and biological warfare defense program during the past year and recommended solutions to those problems for which additional resources or actions by the Congress are required.

(7) A description of the chemical warfare defense preparations that have been and are being undertaken by the Department of Defense to address needs which may arise under article X of the Chemical Weapons Convention.

(8) A summary of other preparations undertaken by the Department of Defense and the On-Site Inspection Agency to prepare for and to assist in the implementation of the conven-

tion, including activities such as training for inspectors, preparation of defense installations for inspections under the convention using the Defense Treaty Inspection Readiness Program, provision of chemical weapons detection equipment, and assistance in the safe transportation, storage, and destruction of chemical weapons in other signatory nations to the convention.

(9) A description of any program involving the testing of biological or chemical agents on human subjects that was carried out by the Department of Defense during the period covered by the report, together with—

- (A) a detailed justification for the testing;
- (B) a detailed explanation of the purposes of the testing;
- (C) a description of each chemical or biological agent tested; and
- (D) the Secretary's certification that informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

(10) A description of the coordination and integration of the program of the Defense Advanced Research Projects Agency (DARPA) on basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems under section 1522(c)(2) of this title with the overall program of the Department of Defense on chemical and biological warfare defense, including—

- (A) an assessment of the degree to which the DARPA program is coordinated and integrated with, and supports the objectives and requirements of, the overall program of the Department of Defense; and
- (B) the means by which the Department determines the level of such coordination and support.

(Pub. L. 103-160, div. A, title XVII, §1703, Nov. 30, 1993, 107 Stat. 1854; Pub. L. 105-85, div. A, title X, §1078(f), Nov. 18, 1997, 111 Stat. 1915; Pub. L. 109-364, div. A, title X, §1041, Oct. 17, 2006, 120 Stat. 2390.)

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### AMENDMENTS

2006—Subsec. (b)(10). Pub. L. 109-364 added par. (10).  
1997—Subsec. (b)(9). Pub. L. 105-85 added par. (9).

### § 1524. Agreements to provide support to vaccination programs of Department of Health and Human Services

#### (a) Agreements authorized

The Secretary of Defense may enter into agreements with the Secretary of Health and Human Services to provide support for vaccination programs of the Secretary of Health and Human Services in the United States through use of the excess peacetime biological weapons defense capability of the Department of Defense.

#### (b) Report

Not later than February 1, 1994, the Secretary of Defense shall submit to the congressional de-

fense committees a report on the feasibility of providing Department of Defense support for vaccination programs under subsection (a) of this section and shall identify resource requirements that are not within the Department's capability.

(Pub. L. 103-160, div. A, title XVII, §1705, Nov. 30, 1993, 107 Stat. 1856.)

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### “CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives, see section 3 of Pub. L. 103-160, 107 Stat. 1562. See note under section 101 of Title 10, Armed Forces.

### § 1525. Assistance for facilities subject to inspection under Chemical Weapons Convention

#### (a) Assistance authorized

Upon the request of the owner or operator of a facility that is subject to a routine inspection or a challenge inspection under the Chemical Weapons Convention, the Secretary of Defense may provide technical assistance to that owner or operator related to compliance of that facility with the Convention. Any such assistance shall be provided through the On-Site Inspection Agency of the Department of Defense.

#### (b) Reimbursement requirement

The Secretary may provide assistance under subsection (a) of this section only to the extent that the Secretary determines that the Department of Defense will be reimbursed for costs incurred in providing the assistance. The United States National Authority may provide such reimbursement from amounts available to it. Any such reimbursement shall be credited to amounts available for the On-Site Inspection Agency.

#### (c) Definitions

In this section:

(1) The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

(2) The term “facility that is subject to a routine inspection” means a declared facility, as defined in paragraph 15 of part X of the Annex on Implementation and Verification of the Convention.

(3) The term “challenge inspection” means an inspection conducted under Article IX of the Convention.

(4) The term “United States National Authority” means the United States National Authority established or designated pursuant to Article VII, paragraph 4, of the Convention.

(Pub. L. 105-85, div. A, title XIII, §1303, Nov. 18, 1997, 111 Stat. 1951.)

#### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part

of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

### § 1526. Effective use of resources for non-proliferation programs

#### (a) Prohibition

Except as provided in subsection (b) of this section, no assistance may be provided by the United States Government to any person who is involved in the research, development, design, testing, or evaluation of chemical or biological weapons for offensive purposes.

#### (b) Exception

The prohibition contained in subsection (a) of this section shall not apply to any activity conducted pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(Pub. L. 106-113, div. B, §1000(a)(7) [div. B, title XI, §1132], Nov. 29, 1999, 113 Stat. 1536, 1501A-493).

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsection (b), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§413 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Arms Control and Nonproliferation Act of 1999, and also as part of the Arms Control, Nonproliferation, and Security Assistance Act of 1999, and the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years, 2000 and 2001, and not as part of Pub. L. 91-121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

## CHAPTER 33—WAR POWERS RESOLUTION

Sec.	
1541.	Purpose and policy.
1542.	Consultation; initial and regular consultations.
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### § 1541. Purpose and policy

#### (a) Congressional declaration

It is the purpose of this chapter to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

#### (b) Congressional legislative power under necessary and proper clause

Under article I, section 8, of the Constitution, it is specifically provided that the Congress

shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer hereof.

#### (c) Presidential executive power as Commander-in-Chief; limitation

The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

(Pub. L. 93-148, §2, Nov. 7, 1973, 87 Stat. 555.)

#### EFFECTIVE DATE

Section 10 of Pub. L. 93-148 provided that: "This joint resolution [enacting this chapter] shall take effect on the date of its enactment [Nov. 7, 1973]."

#### SHORT TITLE

Section 1 of Pub. L. 93-148 provided that: "This joint resolution [enacting this chapter] may be cited as the 'War Powers Resolution'."

#### REPORT ON RESPONSIBLE REDEPLOYMENT OF UNITED STATES ARMED FORCES FROM IRAQ

Pub. L. 111-84, div. A, title XII, §1227, Oct. 28, 2009, 123 Stat. 2525, provided that:

"(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 2009], or December 31, 2009, whichever occurs later, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate congressional committees a report concerning the responsible redeployment of United States Armed Forces from Iraq in accordance with the policy announced by the President on February 27, 2009, and the Agreement Between the United States of America and the Republic of Iraq On the Withdrawal of United States Forces From Iraq and the Organization of Their Activities During Their Temporary Presence in Iraq.

"(b) ELEMENTS.—The report required under subsection (a) shall include the following elements:

"(1) The number of United States military personnel in Iraq by service and component for each month of the preceding 90-day period and an estimate of the personnel levels in Iraq for the 90-day period following submission of the report.

"(2) The number and type of military installations in Iraq occupied by 100 or more United States military personnel and the number of such military installations closed, consolidated, or transferred to the Government of Iraq in the preceding 90-day period.

"(3) An estimate of the number of military vehicles, containers of equipment, tons of ammunition, or other significant items belonging to the Department of Defense removed from Iraq during the preceding 90-day period, an estimate of the remaining amount of such items belonging to the Department of Defense, and an assessment of the likelihood of successfully removing, demilitarizing, or otherwise transferring all items belonging to the Department of Defense from Iraq on or before December 31, 2011.

"(4) An assessment of United States detainee operations and releases. Such assessment should include the total number of detainees held by the United States in Iraq, the number of detainees in each threat level category, the number of detainees who are not nationals of Iraq, the number of detainees transferred