

(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 L. 105-85 repealed section 1520 of this title.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

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

#### (b) Date for completion

(1) The destruction of such stockpile shall be completed by the stockpile elimination deadline.

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

(3) For purposes of this section, the term “stockpile elimination deadline” means the deadline established by the Chemical Weapons Convention, but not later than December 31, 2017.

#### (c) Initiation of demilitarization operations

The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place:

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

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

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

#### (d) Environmental protection and use of facilities

(1) In carrying out the requirement of subsection (a), the Secretary of Defense shall provide for—

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

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

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

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

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

#### (e) Grants and cooperative agreements

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

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

(C) In this paragraph, the term “tribal organization” has the meaning given that term in section 450b(1) of title 25.

(2)(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Administrator of the Federal Emergency Management Agency, the Administrator shall carry out a program to provide assistance to State and

local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

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

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

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

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

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

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

**(f) Requirement for strategic plan**

(1) The 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 and that take full advantage of opportunities to accelerate destruction of the stockpile.

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

**(g) Management organization**

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

Depot, Kentucky, and Pueblo Chemical Depot, Colorado<sup>1</sup>

(2) The program manager for the Assembled Chemical Weapons Alternative Program shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Blue Grass Army Depot, Kentucky, and Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions. In performing such management, the program manager shall act independently of the Army program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition, Technology, and Logistics<sup>1</sup>

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

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

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

**(h) Identification of funds**

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

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

**(i) Annual reports**

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

(2) Each annual report shall include the following:

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

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

(C) An accounting of all funds expended (during such fiscal year) for activities carried out

<sup>1</sup> So in original. Probably should be followed by a period.

under this section, with a separate accounting for amounts expended for—

- (i) the construction of and equipment for facilities used for the destruction of agents and munitions;
- (ii) the operation of such facilities;
- (iii) the dismantling or other closure of such facilities;
- (iv) research and development;
- (v) program management;
- (vi) travel and associated travel costs for Citizens' Advisory Commissioners under subsection (m)(7); and
- (vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (e).

(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.

**(j) Semiannual reports**

(1) Not later than March 1 and September 1 each year 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) 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 stockpile elimination deadline.
- (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 stockpile elimination dead-

line under the Chemical Weapons Convention of April 29, 2012, or as soon thereafter as possible.

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

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

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

**(k) Authorized use of toxic chemicals**

Consistent with United States obligations under the Chemical Weapons Convention, the Secretary of Defense may develop, produce, otherwise acquire, retain, transfer, and use toxic chemicals and their precursors for purposes not prohibited by the Chemical Weapons Convention if the types and quantities of such chemicals and precursors are consistent with such purposes, including for protective purposes such as protection against toxic chemicals and protection against chemical weapons.

**(l) Surveillance and assessment program**

The Secretary of Defense shall conduct an ongoing comprehensive program of—

- (1) surveillance of the existing United States stockpile of chemical weapons; and
- (2) assessment of the condition of the stockpile.

**(m) Chemical demilitarization citizens' advisory commissions**

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

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

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

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

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

(C) The Department of Defense shall provide for a representative from the Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs to meet

with the commissions in Colorado and Kentucky.

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

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

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

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

(B) a subcontract under such a contract.

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

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

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

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

**(n) Incentive clauses in chemical demilitarization contracts**

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

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

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

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

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

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

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

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

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

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

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

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

Defense, shall be available for payments under incentives clauses under this subsection.

**(o) Definitions**

In this section:

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

(2) The term “Chemical Weapons Convention” means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103-21).

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

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

(A) the demolishment 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.

(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. 110-181, div. A, title IX, §§923, 924, Jan. 28, 2008, 122 Stat. 284; Pub. L. 111-383, div. A, title XIV, §1421(a), Jan. 7, 2011, 124 Stat. 4412.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsecs. (c)(3) and (m)(8), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (c)(3), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The

Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

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 enactment 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

2011—Pub. L. 111-383, §1421(a), which directed the general amendment of section 1412 of the “National Defense Authorization Act, 1986 (50 U.S.C. 1521)”, was executed by making the amendment to this section, which is section 1412 of the Department of Defense Authorization Act, 1986, to reflect the probable intent of Congress. Prior to amendment, section related to destruction of existing stockpile of lethal chemical agents and munitions by Dec. 31, 2004.

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 quarterly 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.”

#### 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.”

#### 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, as amended by Pub. L. 111-383, div. A, title XIV, §1421(b)(10), Jan. 7, 2011, 124 Stat. 4420, provided that:

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

“(1) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chem-

ical 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) Repealed. Pub. L. 111-383, div. A, title XIV, §1421(b)(10), Jan. 7, 2011, 124 Stat. 4420.]”

#### 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, which directed the Department of Defense to complete work on the destruction of the stockpile of lethal chemical agents and munitions no later than Dec. 31, 2017, and to report to congressional leaders and defense committees on progress toward compliance not later than Dec. 31, 2007, and every 180 days

thereafter, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(9), Jan. 7, 2011, 124 Stat. 4420.

#### INCENTIVES CLAUSES IN CHEMICAL DEMILITARIZATION CONTRACTS

Pub. L. 109-364, div. A, title IX, §923, Oct. 17, 2006, 120 Stat. 2360, which authorized use of incentives clauses in chemical demilitarization contracts, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(8), Jan. 7, 2011, 124 Stat. 4420.

#### 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, which related to management of chemical demilitarization activities at Bluegrass Army Depot, Kentucky, and Pueblo Army Depot, Colorado, if, pursuant to Pub. L. 105-261, §142, formerly set out as a note below, an alternative technology was selected for the destruction of lethal chemical munitions, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(7), Jan. 7, 2011, 124 Stat. 4420.

#### 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, which directed the program manager of the pilot program carried out under Pub. L. 104-208, §101(b), formerly set out as a note below, to continue to manage the development and testing of alternative technologies for the destruction of lethal chemical munitions and authorized the Under Secretary of Defense for Acquisition, Technology, and Logistics to award a contract for the design, construction, and operation of a pilot facility for a technology if an independent evaluation and certain determinations and certifications had been made, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(5), Jan. 7, 2011, 124 Stat. 4420.

#### 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, which related to pilot program to identify and demonstrate not less than two alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions and required the Under Secretary of Defense for Acquisition, Technology, and Logistics to report annually to congressional defense committees on activities carried out under the program, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(4), Jan. 7, 2011, 124 Stat. 4420.

#### 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, which directed the Secretary of Defense to assess the stockpile destruction program for the purpose of reducing costs and ensuring completion in accordance with the Chemical Weapons Convention and report to Congress on actions to be taken and recommendations for legislation, and required the Comptroller General to review the program and report results to congressional defense committees, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(6), Jan. 7, 2011, 124 Stat. 4420.

Pub. L. 104-106, div. A, title I, §152, Feb. 10, 1996, 110 Stat. 214, 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, which directed the Secretary of Defense to proceed with the program for destruction of the chemical munitions stockpile while ensuring maximum protection of the environment, the general pub-

lic, and the personnel involved in the program, and required the Secretary to report to the congressional defense committees on the status of the program and recommend revisions, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(3), Jan. 7, 2011, 124 Stat. 4420.

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, which directed the Secretary of the Army to establish a Chemical Demilitarization Citizens' Advisory Commission in each State in which there existed a low-volume chemical weapons storage site in order to receive citizen and State concerns regarding the program for the disposal of lethal chemical agents and munitions, and provided for termination of each such commission after completion of closure activities or upon request of the State's Governor, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(2), Jan. 7, 2011, 124 Stat. 4420.

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

Pub. L. 102-484, div. A, title I, §§174, 175, Oct. 23, 1992, 106 Stat. 2344, as amended by Pub. L. 103-160, div. A, title I, §155(b), Nov. 30, 1993, 107 Stat. 1579, which related to use of an alternative technology process for the destruction of chemical weapons at low-volume sites and required a revised chemical weapons disposal concept plan incorporating such process if employed, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(2), Jan. 7, 2011, 124 Stat. 4420.

SENSE OF CONGRESS CONCERNING INTERNATIONAL  
CONSULTATION AND EXCHANGE PROGRAM

Pub. L. 102-484, div. A, title I, §178, Oct. 23, 1992, 106 Stat. 2346, 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

Pub. L. 102-484, div. A, title I, §180, Oct. 23, 1992, 106 Stat. 2347, which defined "low-volume site" for purposes of subtitle G (§§171-180) of title I of div. A of Pub. L. 102-484, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(2), Jan. 7, 2011, 124 Stat. 4420.

REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

Pub. L. 100-180, div. A, title I, §125, Dec. 4, 1987, 101 Stat. 1043, which directed the Secretary of Defense to issue an environmental impact statement, submit to congressional committees an alternative concept plan for the chemical stockpile demilitarization program, and conduct ongoing surveillance and assessment of the stockpile, was repealed by Pub. L. 111-383, div. A, title XIV, §1421(b)(1), Jan. 7, 2011, 124 Stat. 4420.

**§ 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