

thereof in the official capacity of such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Reviewability of orders and actions under transferred functions

Orders and actions of the Secretary in the exercise of functions transferred under any subchapter of this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any subchapter of this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 105-277, div. G, subdiv. A, title XVI, § 1615, Oct. 21, 1998, 112 Stat. 2681-800.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subdivision”, meaning subdiv. A of div. G of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

The effective dates of the respective subchapters of this chapter, referred to in subsecs. (a)(2), (b)(1), (c)(1), and (e), was in the original, references to the effective dates of the respective titles of this subdivision, meaning the effective dates of titles XI to XVI of subdiv. A of div. G of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 765. Titles XI and XVI of subdiv. A of div. G of Pub. L. 105-277 are effective Oct. 21, 1998. For the effective dates of titles XII, XIII, XIV, and XV of subdiv. A of div. G of Pub. L. 105-277, see sections 1201, 1301, 1401, and 1501, respectively, of div. G of Pub. L. 105-277, set out as notes under sections 6511, 6531, 6561, and 6581, respectively, of this title.

§ 6616. Authority of Secretary of State to facilitate transition

Notwithstanding any provision of this chapter, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this chapter, may transfer the whole or part of such functions prior to the effective dates established in this chapter, including the transfer of personnel and funds associated with such functions.

(Pub. L. 105-277, div. G, subdiv. A, title XVI, § 1616, Oct. 21, 1998, 112 Stat. 2681-801.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subdivision”, meaning subdiv. A of div. G of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

§ 6617. Final report

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treas-

ury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this chapter.

(Pub. L. 105-277, div. G, subdiv. A, title XVI, § 1617, Oct. 21, 1998, 112 Stat. 2681-801.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subdivision”, meaning subdiv. A of div. G of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

CHAPTER 75—CHEMICAL WEAPONS CONVENTION IMPLEMENTATION

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§ 6701. Definitions

In this chapter:

(1) Chemical weapon

The term “chemical weapon” means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would

be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) Chemical Weapons Convention; Convention

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, opened for signature on January 13, 1993.

(3) Key component of a binary or multicomponent chemical system

The term “key component of a binary or multicomponent chemical system” means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) National of the United States

The term “national of the United States” has the same meaning given such term in section 1101(a)(22) of title 8.

(5) Organization

The term “Organization” means the Organization for the Prohibition of Chemical Weapons.

(6) Person

The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) Precursor

(A) In general

The term “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) List of precursors

Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) Purposes not prohibited by this chapter

The term “purposes not prohibited by this chapter” means the following:

(A) Peaceful purposes

Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) Protective purposes

Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) Unrelated military purposes

Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) Law enforcement purposes

Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) Technical Secretariat

The term “Technical Secretariat” means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) Schedule 1 chemical agent

The term “Schedule 1 chemical agent” means any of the following, together or separately:

(A) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates

(e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate).

(B) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl

(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates

(e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate).

(C) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl

(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts

(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).

(D) Sulfur mustards:

2-Chloroethylchloromethylsulfide
Mustard gas: (Bis(2-chloroethyl)sulfide)¹
Bis(2-chloroethylthio)methane
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane

1,3-Bis(2-chloroethylthio)-n-propane
1,4-Bis(2-chloroethylthio)-n-butane
1,5-Bis(2-chloroethylthio)-n-pentane
Bis(2-chloroethylthiomethyl)ether
O-Mustard: Bis(2-chloroethylthioethyl)ether.

(E) Lewisites:

Lewisite 1: 2-Chlorovinylchloroarsine
Lewisite 2: Bis(2-chlorovinyl)chloroarsine
Lewisite 3: Tris(2-chlorovinyl)arsine.

(F) Nitrogen mustards:

HN1: Bis(2-chloroethyl)ethylamine
HN2: Bis(2-chloroethyl)methylamine
HN3: Tris(2-chloroethyl)amine.

(G) Saxitoxin.

¹So in original. Probably should not be preceded by an open parenthesis.

- (H) Ricin.
 (I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
 e.g. DF: Methylphosphonyldifluoride.
 (J) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl)O-2-dialkyl
 (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
 (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts
 e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.
 (K) Chlorosarin: O-Isopropyl methylphosphonochloridate.
 (L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.

(11) Schedule 2 chemical agent

The term “Schedule 2 chemical agent” means the following, together or separately:

- (A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts.
 (B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.
 (C) BZ: 3-Quinuclidinyl benzilate
 (D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,
 e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate
 Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.
 (E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.
 (F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.
 (G) arsenic trichloride.
 (H) 2,2-Diphenyl-2-hydroxyacetic acid.
 (I) Quinuclidine-3-ol.
 (J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.
 (K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts
 Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.
 (L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.
 (M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.
 (N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) Schedule 3 chemical agent

The term “Schedule 3 chemical agent” means any of the following, together or separately:

- (A) Phosgene: carbonyl dichloride.
 (B) Cyanogen chloride.
 (C) Hydrogen cyanide.
 (D) Chloropicrin: trichloronitromethane.

- (E) Phosphorous oxychloride.
 (F) Phosphorous trichloride.
 (G) Phosphorous pentachloride.
 (H) Trimethyl phosphite.
 (I) Triethyl phosphite.
 (J) Dimethyl phosphite.
 (K) Diethyl phosphite.
 (L) Sulfur monochloride.
 (M) Sulfur dichloride.
 (N) Thionyl chloride.
 (O) Ethyldiethanolamine.
 (P) Methyl-diethanolamine.
 (Q) Triethanolamine.

(13) Toxic chemical

(A) In general

The term “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) List of toxic chemicals

Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) United States

The term “United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

- (A) any of the places within the provisions of paragraph (41)² of section 40102 of title 49;
 (B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37),² respectively, of section 40102 of title 49; and
 (C) any vessel of the United States, as such term is defined in section 70502(b) of title 46.

(15) Unscheduled discrete organic chemical

The term “unscheduled discrete organic chemical” means any chemical not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

(Pub. L. 105-277, div. I, § 3, Oct. 21, 1998, 112 Stat. 2681-856.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out below and Tables.

² See References in Text note below.

Paragraphs (17), (37), and (41) of section 40102 of title 49, referred to in par. (14)(A) and (B), probably were originally meant to refer to paragraphs (17), (37), and (41) of subsection (a) of section 40102 of title 49. Paragraphs (37) and (41) were subsequently redesignated as (41) and (46), respectively, by Pub. L. 108-176, title II, § 225(a)(1), (3), Dec. 12, 2003, 117 Stat. 2528.

CODIFICATION

In par. 14(C), “section 70502(b) of title 46” substituted for “section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))”, meaning section 3(b) of the Maritime Drug Law Enforcement Act, on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

SHORT TITLE

Pub. L. 105-277, div. I, § 1, Oct. 21, 1998, 112 Stat. 2681-856, provided that: “This Division [enacting this chapter, sections 229 to 229F of Title 18, Crimes and Criminal Procedure, and section 436 of Title 41, Public Contracts, amending section 362 of Title 11, Bankruptcy, and section 2332a of Title 18, repealing section 2332c of Title 18 and section 1520 of Title 50, War and National Defense, and enacting provisions set out as a note under section 229 of Title 18] may be cited as the ‘Chemical Weapons Convention Implementation Act of 1998’.”

REGULATIONS

Regulations, orders, or directives to implement this chapter to be issued, amended, or revised by Departments of State and Commerce, and other agencies as appropriate, see section 3 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions under this chapter, see section 5 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 6711. Designation of United States National Authority

(a) Designation

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) Purposes

The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this chapter in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) Director

The Secretary of State shall serve as the Director of the United States National Authority.

(d) Powers

The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this chapter.

(e) Implementation

The President is authorized to implement and carry out the provisions of this chapter and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this chapter and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

(Pub. L. 105-277, div. I, title I, § 101, Oct. 21, 1998, 112 Stat. 2681-860.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (d), and (e), was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

EX. ORD. NO. 13128. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT

Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Chemical Weapons Convention Implementation Act of 1998 [22 U.S.C. 6701 et seq.] (as enacted in Division I of Public Law 105-277) (the Act), the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the “Convention”), it is hereby ordered as follows:

SECTION 1. The Department of State shall be the United States National Authority (the “USNA”) for purposes of the Act and the Convention.

SEC. 2. The USNA shall coordinate the implementation of the provisions of the Act and the Convention with an interagency group consisting of the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Energy, and the heads of such other agencies or departments, or their designees, I may consider necessary or advisable.

SEC. 3. The Departments of State and Commerce, and other agencies as appropriate, each shall issue, amend, or revise regulations, orders, or directives as necessary to implement the Act and U.S. obligations under Article VI and related provisions of the Convention. Regulations under section 401(a) of the Act [22 U.S.C. 6741(a)] shall be issued by the Department of Commerce by a date specified by the USNA, which shall review and approve these regulations, in coordination with the interagency group designated in section 2 of this order, prior to their issuance.

SEC. 4. The Secretary of Commerce is authorized:

(a) to obtain and execute warrants pursuant to section 305 of the Act [22 U.S.C. 6725] for the purposes of conducting inspections of facilities subject to the regulations issued by the Department of Commerce pursuant to section 3 of this order;

(b) to suspend or revoke export privileges pursuant to section 211 of the Act [18 U.S.C. 229 note]; and

(c) to carry out all functions with respect to proceedings under section 501(a) of the Act [22 U.S.C. 6761(a)] and to issue regulations with respect thereto, except for those functions that the Act specifies are to be performed by the Secretary of State or the USNA.