

(Pub. L. 103-236, title V, §555, Apr. 30, 1994, 108 Stat. 482.)

§ 2205. Construction

Nothing in this chapter shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

(Pub. L. 103-236, title V, §556, Apr. 30, 1994, 108 Stat. 483.)

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§ 2301. Findings

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in

the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the

rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

(Pub. L. 104-201, div. A, title XIV, §1402, Sept. 23, 1996, 110 Stat. 2715.)

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-293, title VII, §701, Oct. 11, 1996, 110 Stat. 3470, provided that: "This title [enacting section 2366 of this title and provisions set out as a note under section 2351 of this title] may be cited as the 'Combatting Proliferation of Weapons of Mass Destruction Act of 1996'."

SHORT TITLE

Pub. L. 104-201, div. A, title XIV, §1401, Sept. 23, 1996, 110 Stat. 2715, provided that: "This title [enacting this chapter, section 382 of Title 10, Armed Forces, and sections 175a and 2332d of Title 18, Crimes and Criminal Procedure, amending section 1705 of this title, section 372 of Title 10, and provisions set out as a note under section 5955 of Title 22, Foreign Relations and Intercourse] may be cited as the 'Defense Against Weapons of Mass Destruction Act of 1996'."

Pub. L. 107-228, div. B, title XIII, §1331, Sept. 30, 2002, 116 Stat. 1448, provided that: "This subtitle [subtitle C

(§§1331-1339) of title XIII of div. B of Pub. L. 107-228, enacting subchapter IV-A of this chapter] may be cited as the ‘Nonproliferation Assistance Coordination Act of 2002’.”

UTILIZATION OF CONTRIBUTIONS TO INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM

Pub. L. 109-364, div. C, title XXXI, §3114, Oct. 17, 2006, 120 Stat. 2505, as amended by Pub. L. 110-417, div. C, title XXXI, §3115, Oct. 14, 2008, 122 Stat. 4757, provided that:

“(a) **IN GENERAL.**—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program of the National Nuclear Security Administration.

“(b) **RETENTION AND USE OF AMOUNTS.**—Notwithstanding section 3302 of title 31, United States Code, the Secretary of Energy may retain and use amounts contributed under an agreement under subsection (a) for purposes of the International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program. Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

“(c) **RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS.**—If an amount contributed under an agreement under subsection (a) is not used under this section within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

“(d) **NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES.**—Not later than 30 days after the receipt of an amount contributed under subsection (a), the Secretary of Energy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

“(e) **ANNUAL REPORT.**—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the receipt and use of amounts under this section during the preceding fiscal year. Each report for a fiscal year shall set forth—

“(1) a statement of any amounts received under this section, including, for each such amount, the value of the contribution and the person who contributed it;

“(2) a statement of any amounts used under this section, including, for each such amount, the purposes for which the amount was used; and

“(3) a statement of the amounts retained but not used under this section, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

“(f) **EXPIRATION.**—The authority to accept, retain, and use contributions under this section expires on December 31, 2015.”

COMMISSION TO ASSESS THE THREAT TO THE UNITED STATES FROM ELECTROMAGNETIC PULSE (EMP) ATTACK

Pub. L. 114-92, div. A, title X, §1089(a), (b), Nov. 25, 2015, 129 Stat. 1015, 1016, provided that:

“(a) **REESTABLISHMENT.**—The commission established pursuant to title XIV of the Floyd D. Spence National

Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-345) [set out below], and reestablished pursuant to section 1052 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 50 U.S.C. 2301 note), known as the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, is hereby reestablished.

“(b) **MEMBERSHIP.**—Service on the Commission is voluntary, and Commissioners may elect to terminate their service on the Commission. If a Commissioner is unwilling or unable to serve on the Commission, the Secretary of Defense, in consultation with the chairmen and ranking members of the Committees on Armed Services of the House of Representatives and the Senate, shall appoint a new member to fill that vacancy.”

Pub. L. 109-163, div. A, title X, §1052(a)-(c), Jan. 6, 2006, 119 Stat. 3434, provided that:

“(a) **REESTABLISHMENT.**—The commission established pursuant to title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-345) [set out below], known as the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, is hereby reestablished.

“(b) **MEMBERSHIP.**—The Commission as reestablished shall have the same membership as the Commission had as of the date of the submission of the report of the Commission pursuant to section 1403(a) of such Act, as in effect before the date of the enactment of this Act [Jan. 6, 2006]. Service on the Commission is voluntary, and Commissioners may elect to terminate their service on the Commission.

“(c) **COMMISSION CHARTER DEFINED.**—In this section [enacting this note and amending title XIV of Pub. L. 106-398, set out below], the term ‘Commission charter’ means title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-345 et seq.).”

Pub. L. 106-398, §1 [[div. A], title XIV], Oct. 30, 2000, 114 Stat. 1654, 1654A-345, as amended by Pub. L. 109-163, div. A, title X, §1052(d)-(j), Jan. 6, 2006, 119 Stat. 3434, 3435; Pub. L. 109-364, div. A, title X, §1073, Oct. 17, 2006, 120 Stat. 2403; Pub. L. 110-181, div. A, title X, §§1063(e)(2), 1075(a), (b), Jan. 28, 2008, 122 Stat. 323, 333; Pub. L. 111-383, div. A, title X, §1075(f)(8), Jan. 7, 2011, 124 Stat. 4376; Pub. L. 114-92, div. A, title X, §1089(d)-(g), Nov. 25, 2015, 129 Stat. 1016, provided that:

“SEC. 1401. ESTABLISHMENT OF COMMISSION.

“(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the ‘Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack’ (hereafter in this title referred to as the ‘Commission’).

“(b) **PURPOSE.**—The purpose of the Commission is to monitor, investigate, make recommendations, and report to Congress on the evolving threat to the United States from electromagnetic pulse (hereinafter in this title referred to as ‘EMP’) attack resulting from the detonation of a nuclear weapon or weapons at high altitude, from non-nuclear EMP weapons, from natural EMP generated by geomagnetic storms, and from proposed uses in the military doctrines of potential adversaries of using EMP weapons in combination with other attack vectors.. [sic]

“(c) **COMPOSITION.**—The Commission shall be composed of nine members. In the event of a vacancy in the membership of the Commission, the Secretary of Defense shall appoint a new member.

“(d) **QUALIFICATIONS.**—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the scientific, technical, and military aspects of electromagnetic pulse effects referred to in subsection (b).

“(e) **CHAIRMAN OF COMMISSION.**—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

“(f) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

“SEC. 1402. DUTIES OF COMMISSION.

“The Commission shall assess the following:

“(1) The vulnerability of electric-dependent military systems in the United States to a manmade or natural EMP event, giving special attention to the progress made by the Department of Defense, other Government departments and agencies of the United States, and entities of the private sector in taking steps to protect such systems from such an event.

“(2) The evolving current and future threat from state and non-state actors of a manmade EMP attack employing nuclear or non-nuclear weapons.

“(3) New technologies, operational procedures, and contingency planning that can protect electronics and military systems from the effects a manmade or natural EMP event.

“(4) Among the States, if State grids are protected against manmade or natural EMP, which States should receive highest priority for protecting critical defense assets.

“(5) The degree to which vulnerabilities of critical infrastructure systems create cascading vulnerabilities for military systems.

“SEC. 1403. REPORTS.

“(a) FINAL REPORT.—Not later than June 30, 2017, the Commission shall submit to Congress a report on the Commission’s assessment of the matters specified in section 1402. That report shall include recommendations for any steps the Commission believes should be taken by the United States to better protect systems referred to in section 1402(1) from an EMP attack.

“(b) INTERIM REPORTS.—Before the submission of its report under subsection (a), the Commission may submit to Congress interim reports at such times as the Commission considers appropriate.

“SEC. 1404. POWERS.

“(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

“(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this title.

“(c) COORDINATION WITH DEPARTMENT OF HOMELAND SECURITY.—The Commission and the Secretary of Homeland Security shall jointly ensure that the work of the Commission with respect to electromagnetic pulse attack on electricity infrastructure, and protection against such attack, is coordinated with Department of Homeland Security efforts on such matters.

“SEC. 1405. COMMISSION PROCEDURES.

“(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

“(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

“(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

“(c) PANELS.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission’s duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

“(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any agent or member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

“SEC. 1406. PERSONNEL MATTERS.

“(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

“(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(c) STAFF.—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

“(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for senior level and scientific or professional positions.

“(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

“(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

“SEC. 1407. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

“(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Secretary of Defense shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

“SEC. 1408. FUNDING.

“Funds for activities of the Commission for any fiscal year shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for that fiscal year. Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

“SEC. 1409. TERMINATION OF THE COMMISSION.

“The Commission shall terminate 30 days after the date of the submission of its report under section 1403(a), as amended by the National Defense Authorization Act for Fiscal Year 2016 [Pub. L. 114-92].”

[Amendments by Pub. L. 114-92, div. A, title X, §1089(f), (g), Nov. 25, 2015, 129 Stat. 1016, to title XIV of Pub. L. 106-398, set out above, were executed to reflect the probable intent of Congress. Section 1089(f), which directed substitution of “June 30, 2017” for “September 30, 2007” in section 1403, was executed by making the substitution for “November 30, 2008” following the amendment by Pub. L. 110-181, §1075(a). Section 1089(g),

which directed insertion of “, as amended by the National Defense Authorization Act for Fiscal Year 2016” before period at end of section “1049” of Pub. L. 106-398, was executed by making the insertion in section 1409.]

[Pub. L. 111-383, div. A, title X, §1075(f)(8), Jan. 7, 2011, 124 Stat. 4376, provided that the amendment made by section 1075(f)(8) to section 1075(a) of Pub. L. 110-181, amending Pub. L. 106-398, §1403(a), set out above, is effective as of Jan. 28, 2008, and as if included in Pub. L. 110-181 as enacted.]

[Pub. L. 109-163, div. A, title X, §1052(i)(1), Jan. 6, 2006, 119 Stat. 3435, which directed amendment of section 1408 of Pub. L. 106-398, set out above, by inserting “for any fiscal year” after “activities of the Commission”, was executed by making the insertion after “activities of the Commission” the first place appearing, to reflect the probable intent of Congress.]

DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST
WEAPONS OF MASS DESTRUCTION

Pub. L. 105-261, div. A, title XIV, Oct. 17, 1998, 112 Stat. 2167, as amended by Pub. L. 106-65, div. A, title X, §1064, Oct. 5, 1999, 113 Stat. 769, Pub. L. 106-398, §1 [[div. A], title X, §1087(d)(7)], Oct. 30, 2000, 114 Stat. 1654, 1654A-293; Pub. L. 107-107, div. A, title XV, §1514(a), (b)(1), Dec. 28, 2001, 115 Stat. 1273; Pub. L. 107-296, title VIII, §889(b)(2), Nov. 25, 2002, 116 Stat. 2251, provided that:

“SEC. 1401. SHORT TITLE.

“This title may be cited as the ‘Defense Against Weapons of Mass Destruction Act of 1998’.

“SEC. 1402. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

“(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by utilizing the President’s existing authorities to develop an integrated program that builds upon the program established under the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2714; 50 U.S.C. 2301 et seq.).

“(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

“SEC. 1403. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS

[Repealed. Pub. L. 107-296, title VIII, §889(b)(2), Nov. 25, 2002, 116 Stat. 2251.]

“SEC. 1404. THREAT AND RISK ASSESSMENTS.

“(a) THREAT AND RISK ASSESSMENTS.—Assistance to Federal, State, and local agencies provided under the program under section 1402 shall include the performance of assessments of the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. Such assessments shall be used by Federal, State, and local agencies to determine the training and equipment requirements under this program and shall be performed as a collaborative effort with State and local agencies.

“(b) CONDUCT OF ASSESSMENTS.—The Department of Justice, as lead Federal agency for domestic crisis management in response to terrorism involving weapons of mass destruction, shall—

“(1) conduct any threat and risk assessment performed under subsection (a) in coordination with appropriate Federal, State, and local agencies; and

“(2) develop procedures and guidance for conduct of the threat and risk assessment in consultation with officials from the intelligence community.

“SEC. 1405. ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.

“(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Attorney General, the Secretary of Energy, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall enter into a contract with a federally funded research and development center to establish a panel to assess the capabilities for domestic response to terrorism involving weapons of mass destruction.

“(b) COMPOSITION OF PANEL; SELECTION.—(1) The panel shall be composed of members who shall be private citizens of the United States with knowledge and expertise in emergency response matters.

“(2) Members of the panel shall be selected by the federally funded research and development center in accordance with the terms of the contract established pursuant to subsection (a).

“(c) PROCEDURES FOR PANEL.—The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including procedures for selection of a panel chairman.

“(d) DUTIES OF PANEL.—The panel shall—

“(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

“(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

“(3) assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;

“(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

“(5) assess the appropriate roles of State and local government in funding effective local response capabilities.

“(e) DEADLINE TO ENTER INTO CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998].

“(f) DEADLINE FOR SELECTION OF PANEL MEMBERS.—Selection of panel members shall be made not later than 30 days after the date on which the Secretary enters into the contract required by subsection (a).

“(g) INITIAL MEETING OF THE PANEL.—The panel shall conduct its first meeting not later than 30 days after the date that all the selections to the panel have been made.

“(h) REPORTS.—(1) Not later than 6 months after the date of the first meeting of the panel, the panel shall submit to the President and to Congress an initial report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

“(2) Not later than December 15 of each year, beginning in 1999 and ending in 2003, the panel shall submit to the President and to the Congress a report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

“(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense, the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency, or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

“(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and

Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

“(j) FUNDING.—The Secretary of Defense shall provide the funds necessary for the panel to carry out its duties from the funds available to the Department of Defense for weapons of mass destruction preparedness initiatives.

“(k) COMPENSATION OF PANEL MEMBERS.—The provisions of paragraph (4) of section 591(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in section 101(d) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681-212)), shall apply to members of the panel in the same manner as to members of the National Commission on Terrorism under that paragraph.

“(l) TERMINATION OF THE PANEL.—The panel shall terminate five years after the date of the appointment of the member selected as chairman of the panel.

“(m) DEFINITION.—In this section, the term ‘weapon of mass destruction’ has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).”

[Pub. L. 107-107, div. A, title XV, § 1514(b)(2), Dec. 28, 2001, 115 Stat. 1274, provided that: “The amendment made by paragraph (1) [amending section 1405(k) of Pub. L. 105-261, set out above] shall apply with respect to periods of service on the advisory panel under section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105-261] on or after the date of the enactment of this Act [Dec. 28, 2001].”]

[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.]

EXECUTIVE ORDER NO. 13328

Ex. Ord. No. 13328, Feb. 6, 2004, 69 F.R. 6901, which established the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, was revoked by Ex. Ord. No. 13385, § 3(a), Sept. 29, 2005, 70 F.R. 57990, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 2302. Definitions

In this chapter:

(1) The term “weapon of mass destruction” means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

- (A) toxic or poisonous chemicals or their precursors;
- (B) a disease organism; or
- (C) radiation or radioactivity.

(2) The term “independent states of the former Soviet Union” has the meaning given that term in section 5801 of title 22.

(3) The term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235.

(Pub. L. 104-201, div. A, title XIV, § 1403, Sept. 23, 1996, 110 Stat. 2717.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XIV of div. A of Pub. L. 104-201, Sept. 23, 1996, 110 Stat. 2714, which is classified principally to this chapter. For complete classification of title XIV to the Code, see Short Title note set out under section 2301 of this title and Tables.

SUBCHAPTER I—DOMESTIC PREPAREDNESS

§ 2311. Response to threats of terrorist use of weapons of mass destruction

(a) Enhanced response capability

In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) Report required

Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

(Pub. L. 104-201, div. A, title XIV, § 1411, Sept. 23, 1996, 110 Stat. 2717.)

§ 2312. Repealed. Pub. L. 109-163, div. A, title X, § 1034, Jan. 6, 2006, 119 Stat. 3429

Section, Pub. L. 104-201, div. A, title XIV, § 1412, Sept. 23, 1996, 110 Stat. 2718; Pub. L. 107-107, div. A, title XV, § 1513, Dec. 28, 2001, 115 Stat. 1273, related to emergency response assistance for civilian personnel in case of use or threatened use of weapons of mass destruction.

§ 2313. Nuclear, chemical, and biological emergency response

(a) Department of Defense

The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, disman-