

1022 of the National Defense Authorization Act for Fiscal Year 2004 [Pub. L. 108-136, set out above], as amended by subsection (a), may not be exercised unless the Secretary of Defense certifies to Congress, in writing, that the Department of Defense is in compliance with the provisions of paragraph (2) of subsection (d) of such section, as added by section 1012(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4346).”]

§ 272. Use of military equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §372; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 104-106, div. A, title III, §378, Feb. 10, 1996, 110 Stat. 284; Pub. L. 104-201, div. A, title XIV, §1416(b), Sept. 23, 1996, 110 Stat. 2723; Pub. L. 112-239, div. A, title III, §351, Jan. 2, 2013, 126 Stat. 1701; renumbered §272, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

PRIOR PROVISIONS

A prior section 272, added Pub. L. 85-861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 96-513, title V, §511(8), Dec. 12, 1980, 94 Stat. 2920, related to transfers back from Standby Reserve to Ready Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10150 of this title.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 372 of this title as this section.

2013—Pub. L. 112-239 struck out “(a) IN GENERAL.—” before “The Secretary” and subsec. (b) which related to emergencies involving chemical and biological agents.

1996—Pub. L. 104-106 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104-201 inserted at end “The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.”

1988—Pub. L. 100-456 amended section generally, inserting “(including associated supplies or spare parts)” and substituting “Department of Defense” for “Army, Navy, Air Force, or Marine Corps”.

SUPPORT FOR NON-FEDERAL DEVELOPMENT AND TESTING OF MATERIAL FOR CHEMICAL AGENT DEFENSE

Pub. L. 110-181, div. A, title X, §1034, Jan. 28, 2008, 122 Stat. 308, as amended by Pub. L. 114-328, div. A, title X, §1043, Dec. 23, 2016, 130 Stat. 2393; Pub. L. 115-232, div. A, title VIII, §813(b)(2), Aug. 13, 2018, 132 Stat. 1851, provided that:

“(a) AUTHORITY TO PROVIDE TOXIC CHEMICALS OR PRECURSORS.—

“(1) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other elements of the Federal Government, may make available, to a State, a unit of local government, or a private entity incorporated in the United States, small quantities of a toxic chemical or precursor for the development or testing, in the United States, of material that is designed to be used for protective purposes.

“(2) TERMS AND CONDITIONS.—Any use of the authority under paragraph (1) shall be subject to such terms

and conditions as the Secretary considers appropriate.

“(b) PAYMENT OF COSTS AND DISPOSITION OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall ensure, through the advance payment required by paragraph (2) and through any other payments that may be required, that a recipient of toxic chemicals or precursors under subsection (a) pays for all actual costs, including direct and indirect costs, associated with providing the toxic chemicals or precursors.

“(2) ADVANCE PAYMENT.—In carrying out paragraph (1), the Secretary shall require each recipient to make an advance payment in an amount that the Secretary determines will equal all such actual costs.

“(3) CREDITS.—A payment received under this subsection shall be credited to the account that was used to cover the costs for which the payment was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

“(c) CHEMICAL WEAPONS CONVENTION.—The Secretary shall ensure that toxic chemicals and precursors are made available under this section for uses and in quantities that comply with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on January 13, 1993, and entered into force with respect to the United States on April 29, 1997.

“(d) DEFINITIONS.—In this section:

“(1) The terms ‘precursor’, ‘protective purposes’, and ‘toxic chemical’ have the meanings given those terms in the convention referred to in subsection (c), in paragraph 2, paragraph 9(b), and paragraph 1, respectively, of article II of that convention.

“(2) The term ‘biological select agent or toxin’ means any agent or toxin identified under any of the following:

“(A) Section 331.3 of title 7, Code of Federal Regulations.

“(B) Section 121.3 or section 121.4 of title 9, Code of Federal Regulations.

“(C) Section 73.3 or section 73.4 of title 42, Code of Federal Regulations.”

§ 273. Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372¹ of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §373; amended Pub. L. 99-145, title XIV, §1423(a), Nov. 8, 1985, 99 Stat. 752; Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; renumbered §273, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

REFERENCES IN TEXT

Section 372 of this title, referred to in par. (1), was renumbered section 272 of this title by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

PRIOR PROVISIONS

A prior section 273, act Aug. 10, 1956, ch. 1041, 70A Stat. 13, related to composition of Standby Reserve and

¹ See References in Text note below.

maintenance of inactive status list in Standby Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See sections 10151 to 10153 of this title.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 373 of this title as this section.

1988—Pub. L. 100-456 amended section generally, substituting provisions authorizing Secretary of Defense, in accordance with applicable law, to make Defense Department personnel available for training, etc., for former subsecs. (a) to (c) authorizing Secretary of Defense to assign members of Army, Navy, Air Force, and Marine Corps, etc., for training, etc., briefing sessions by Attorney General, and other functions of Attorney General and Administrator of General Services.

1985—Pub. L. 99-145 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title XIV, §1423(b), Nov. 8, 1985, 99 Stat. 752, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1986."

§ 274. Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372¹ of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372¹ of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term "Federal law enforcement agency" means a Federal agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) Chapter 705 of title 46.

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term "land area of the United States" includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §374; amended Pub. L. 98-525,

¹ See References in Text note below.