

the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

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

#### REFERENCES IN TEXT

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

#### AMENDMENTS

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

#### CHANGE OF NAME

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

#### RIOT CONTROL AGENTS

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

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

“(b) REPORT REQUIRED.—

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

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

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

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

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

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

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

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

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

“(c) DEFINITIONS.—In this section:

“(1) CHEMICAL WEAPONS CONVENTION.—The term ‘Chemical Weapons Convention’ means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103-21).

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

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

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

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

Ex. Ord. No. 11850, Apr. 8, 1975, 40 F.R. 16187, provided:

The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

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

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

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

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

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

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

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

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

GERALD R. FORD.

#### § 1512a. Transportation of chemical munitions

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

The Secretary of Defense may not transport any chemical munition that constitutes part of

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

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

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

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

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

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

CODIFICATION

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

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

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

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

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

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

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

the House of Representatives, and to all appropriate international organizations, or organs thereof, in the event such report is required by treaty or other international agreement.

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

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

**§ 1514. “United States” defined**

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

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

**§ 1515. Suspension; Presidential authorization**

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

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

**§ 1516. Delivery systems**

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

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

REFERENCES IN TEXT

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