

TITLE 50--WAR AND NATIONAL DEFENSE

CHAPTER 32--CHEMICAL AND BIOLOGICAL WARFARE PROGRAM

Sec. 1521. Destruction of existing stockpile of lethal chemical agents and munitions

(a) In general

Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the ``Secretary'') 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) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond the stockpile elimination deadline, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1) of this section.

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) 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.

(4) If the Secretary 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.

(5) For purposes of this section, the term ``stockpile elimination deadline'' means December 31, 2004.

(c) Environmental protection and use of facilities

(1) In carrying out the requirement of subsection (a) of this section, the Secretary 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) of this section; 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.

(4) In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments 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) of this section. Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants. Additionally, the Secretary may provide funds through cooperative agreements with State and local governments 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.

(5)(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Director of the Federal Emergency Management Agency, the Director 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) of this section at military installations in the continental United States; or
- (ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

(B) 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.

(C) Not later than December 15 of each year, the Director 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.

(d) Plan

(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide--

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of--

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e) of this section.

(e) Management organization

(1) In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary 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;

(B) training in chemical warfare defense operations; and

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

(f) 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 for the purpose of carrying out subsection (c)(5) of this section shall be promptly made available to the Director of the Federal Emergency Management Agency.

(g) Periodic reports

(1) Except as provided by paragraph (3), the Secretary shall transmit, by December 15 of each year, a report to the 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 (c)(4) of this section.

(C) An accounting of all funds expended (during such fiscal year) for activities carried out 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 section 172(g) of Public Law 102-484 (50 U.S.C. 1521 note); 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 (c)(4) of this section.

(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.

(h) Prohibition on acquiring certain lethal chemical agents and munitions

(1) Except as provided in paragraph (2), no agency of the Federal Government may, after November 8, 1985, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

(i) Reaffirmation of United States position on first use of chemical agents and munitions

It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) Definitions

For purposes of 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 ``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.

(3) The term ``destruction'' means, with respect to chemical munitions or agents--

(A) the demolition 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.

(k) Operational verification

(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent \1\ and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

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\1\ So in original. Probably should be ``agents''.  
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(2) Upon the successful completion of the prove out of the equipment

and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report certifying that the prove out is completed.

(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.

(Pub. L. 99-145, title XIV, Sec. 1412, Nov. 8, 1985, 99 Stat. 747; Pub. L. 100-456, div. A, title I, Sec. 118, Sept. 29, 1988, 102 Stat. 1934; Pub. L. 101-510, div. A, title I, Secs. 171, 172, Nov. 5, 1990, 104 Stat. 1507; Pub. L. 102-190, div. A, title I, Sec. 151, Dec. 5, 1991, 105 Stat. 1313; Pub. L. 102-484, div. A, title I, Secs. 171, 179, Oct. 23, 1992, 106 Stat. 2341, 2347; Pub. L. 103-160, div. A, title I, Sec. 107(c), Nov. 30, 1993, 107 Stat. 1564; Pub. L. 103-337, div. A, title I, Sec. 142, Oct. 5, 1994, 108 Stat. 2689; Pub. L. 104-106, div. A, title I, Sec. 153(b), (c), title XV, Sec. 1502(c)(6), Feb. 10, 1996, 110 Stat. 216, 508; Pub. L. 104-201, div. A, title X, Sec. 1074(d)(2), Sept. 23, 1996, 110 Stat. 2661; Pub. L. 105-85, div. A, title X, Sec. 1041(d), Nov. 18, 1997, 111 Stat. 1885; Pub. L. 105-261, div. A, title I, Sec. 141, Oct. 17, 1998, 112 Stat. 1942; Pub. L. 106-65, div. A, title I, Sec. 141(b), title X, Sec. 1067(11), Oct. 5, 1999, 113 Stat. 537, 775; Pub. L. 107-107, div. A, title X, Sec. 1048(i)(4), Dec. 28, 2001, 115 Stat. 1229.)

#### Codification

Section was enacted as part of the Department of Defense Authorization Act, 1986, and not as part of Pub. L. 91-121, title IV, Sec. 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

#### Amendments

2001--Subsec. (g)(2)(C)(vii). Pub. L. 107-107 substituted ``c)(4)'' for ``c)(3)''.

1999--Subsec. (b)(4). Pub. L. 106-65, Sec. 1067(11), substituted ``and the Committee on Armed Services'' for ``and the Committee on National Security''.

Subsec. (c)(2). Pub. L. 106-65, Sec. 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, Sec. 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, Sec. 141(b)(2), substituted `` (c)(5) '' for `` (c)(4) ''.

Subsec. (g)(2)(B). Pub. L. 106-65, Sec. 141(b)(3), substituted `` (c)(4) '' for `` (c)(3) ''.

Subsec. (k)(2). Pub. L. 106-65, Sec. 1067(11), substituted `` and the Committee on Armed Services '' for `` and the Committee on National Security ''.

1998--Subsec. (c)(4). Pub. L. 105-261, Sec. 141(a), added par. (4).

Subsec. (f). Pub. L. 105-261, Sec. 141(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(2)(B). Pub. L. 105-261, Sec. 141(c)(3), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (g)(2)(B)(vii). Pub. L. 105-261, Sec. 141(c)(1), added cl. (vii).

Subsec. (g)(2)(C), (D). Pub. L. 105-261, Sec. 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, Sec. 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, Sec. 153(c), inserted `` or civilian equivalent '' after `` general officer '' in introductory provisions.

Subsec. (g). Pub. L. 104-106, Sec. 153(b)(1), substituted `` Periodic reports '' for `` Annual report '' in heading.

Subsec. (g)(2). Pub. L. 104-201, Sec. 1074(d)(2)(A), substituted `` shall include the following: '' for `` shall contain-- '' in introductory provisions.

Pub. L. 104-106, Sec. 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, Sec. 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, Sec. 1074(d)(2)(C), substituted `` An accounting '' for `` an accounting '' in introductory provisions.

Subsec. (g)(2)(B)(iv). Pub. L. 104-106, Sec. 153(b)(2)(B)(i), struck

out ``and'' after ``development;''.

Subsec. (g)(2)(B)(v). Pub. L. 104-106, Sec. 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, Sec. 153(b)(2)(B)(iii), added cl. (vi).

Subsec. (g)(2)(C). Pub. L. 104-201, Sec. 1074(d)(2)(C), substituted ``An assessment'' for ``an assessment'' in introductory provisions.

Subsec. (g)(3). Pub. L. 104-106, Sec. 153(b)(4), added par. (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 104-106, Sec. 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, Sec. 153(b)(3), redesignated par. (3) as (4).

Subsec. (k)(2). Pub. L. 104-106, Sec. 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, Sec. 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, Sec. 171, substituted ``December 31, 2004'' for ``July 31, 1999''.

Subsec. (c)(1). Pub. L. 102-484, Sec. 179(2), substituted ``subsection (a)'' for ``subsection (a)(1)'' in introductory provisions.

Subsec. (g)(1). Pub. L. 102-484, Sec. 179(3)(A), substituted ``paragraph (3)'' for ``paragraph (4)''.

Subsec. (g)(2). Pub. L. 102-484, Sec. 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, Sec. 179(3)(D), redesignated par. (4) as (3). Former par. (3) redesignated (2).

1991--Subsec. (b)(5). Pub. L. 102-190, Sec. 151(a), substituted ``July 31, 1999'' for ``April 30, 1997''.

Subsec. (c)(3). Pub. L. 102-190, Sec. 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, Sec. 171(b), substituted ``November 8, 1985'' for ``the date of the enactment of this Act''.

Subsec. (c)(3). Pub. L. 101-510, Sec. 172, added par. (3).

Subsec. (g)(3)(C). Pub. L. 101-510, Sec. 171(a), added subpar. (C).

Subsec. (h)(1). Pub. L. 101-510, Sec. 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, Sec. 118(a)(1), substituted ``the stockpile elimination deadline'' for ``September 30, 1994''.

Subsec. (b)(3)(B). Pub. L. 100-456, Sec. 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, Sec. 118(a)(3), added pars. (4) and (5).

Subsec. (k). Pub. L. 100-456, Sec. 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.''

#### Transfer of Functions

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 sections 313(1), 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.

#### Management of Chemical Demilitarization Activities at Bluegrass Army Depot, Kentucky and Pueblo Army Depot, Colorado

Pub. L. 107-248, title VIII, Sec. 8122, Oct. 23, 2002, 116 Stat. 1566, provided that:

``(a) Management of Chemical Demilitarization Activities at Bluegrass Army Depot, Kentucky.--If a technology other than the baseline incineration program is selected for the destruction of lethal chemical munitions pursuant to section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 1521 note), the program manager for the Assembled Chemical Weapons

Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Bluegrass Army Depot, Kentucky, including management of the pilot-scale facility phase of the alternative technology.

``(b) Management of Chemical Demilitarization Activities at Pueblo Depot, Colorado.--The program manager for the Assembled Chemical Weapons

Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions.''

#### Alternative Technologies for Destruction of Assembled Chemical Weapons

Pub. L. 105-261, div. A, title I, Sec. 142, Oct. 17, 1998, 112 Stat. 1943, as amended by Pub. L. 106-65, div. A, title IX, Sec. 911(a)(1), Oct. 5, 1999, 113 Stat. 717; Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(d)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, provided that:

``(a) Program Management.--The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

``(b) Post-Demonstration Activities.--(1) The program manager for the Assembled Chemical Weapons Assessment may carry out those activities necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after--

``(A) the technology has been demonstrated to be successful; and

``(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics has submitted a report on the demonstration to Congress that includes a decision to proceed with the pilot-scale facility phase for an alternative technology.

``(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

``(A) Establish program requirements.

``(B) Prepare procurement documentation.

``(C) Develop environmental documentation.

``(D) Identify and prepare to meet public outreach and public participation requirements.

``(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider

team for the technology not later than December 30, 1999.

``(c) Independent Evaluation.--The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide for an independent evaluation of the cost and schedule of the Assembled Chemical Weapons Assessment, which shall be performed and submitted to the Under Secretary not later than September 30, 1999. The evaluation shall be performed by a nongovernmental organization qualified to make such an evaluation.

``(d) Pilot Facilities Contracts.--(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

``(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary--

``(A) certifies in writing to Congress is--

``(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

``(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction

of

the munitions under the Chemical Weapons Convention; and

``(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

``(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

``(4) In this subsection, the term 'Chemical Weapons Convention' means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

``(e) Plan for Pilot Program.--If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 214; 50 U.S.C. 1521 note), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

``(f) Funding.--(1) Of the amount authorized to be appropriated under section 107 [112 Stat. 1937], funds shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

``(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

``(B) Planning and preparation to proceed from demonstration of

an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for--

``(i) continued development of the technology leading to deployment of the technology for use;

``(ii) satisfaction of requirements for environmental permits;

``(iii) demonstration, testing, and evaluation;

``(iv) initiation of actions to design a pilot plant;

``(v) provision of support at the field office or depot level for deployment of the technology for use; and

``(vi) educational outreach to the public to engender support for the deployment.

``(C) The independent evaluation of cost and schedule required under subsection (c).

``(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

``(g) Assembled Chemical Weapons Assessment Defined.--In this section, the term 'Assembled Chemical Weapons Assessment' means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).'

#### Pilot Program for Demilitarization of Assembled Chemical Munitions

Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VIII, Sec. 8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-101, as amended by Pub. L. 106-65, div. A, title IX, Sec. 911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: ``Notwithstanding section 142 of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996 [section 142 of Pub. L. 104-201, which amended section 152 of Pub. L. 104-106, set out below], of the funds provided in title VI of this Act [Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VI], Sept. 30, 1996, 110 Stat. 3009-71, 3009-85], under the heading 'Chemical Agents and Munitions Destruction, Defense', \$40,000,000 shall only be available for the conduct of a pilot program to identify and demonstrate not less than two alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions: Provided, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall, not later than December 1, 1996, designate a program manager who is not, nor has been, in direct or immediate control of the baseline reverse assembly incineration demilitarization program to carry out the pilot program: Provided further, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall evaluate the effectiveness of each alternative chemical munitions demilitarization technology identified and demonstrated under the pilot program to demilitarize munitions and assembled chemical munitions while meeting all applicable Federal and State environmental and safety requirements: Provided further, That the Under Secretary of Defense for Acquisition, Technology, and Logistics shall transmit, by December 15 of each year, a report to the

congressional defense committees on the activities carried out under the pilot program during the preceding fiscal year in which the report is to be made: Provided further, That section 142(f)(3) of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996 [probably means section 152(f)(3) of Pub. L. 104-106, set out below], is repealed: Provided further, That no funds may be obligated for the construction of a baseline incineration facility at the Lexington Blue Grass Army Depot or the Pueblo Depot activity until 180 days after the Secretary of Defense has submitted to the congressional defense committees a report detailing the effectiveness of each alternative chemical munitions demilitarization technology identified and demonstrated under the pilot program and its ability to meet the applicable safety and environmental requirements: Provided further, That none of the funds in this or any other Act may be obligated for the preparation of studies, assessments, or planning of the removal and transportation of stockpile assembled unitary chemical weapons or neutralized chemical agent to any of the eight chemical weapons storage sites within the continental United States.'

#### Destruction of Existing Stockpile of Lethal Chemical Agents and Munitions

Pub. L. 106-65, div. A, title I, Sec. 141, Oct. 5, 1999, 113 Stat. 537, provided that:

``(a) Program Assessment.--(1) The Secretary of Defense shall conduct an assessment of the current program for destruction of the United States' stockpile of chemical agents and munitions, including the Assembled Chemical Weapons Assessment, for the purpose of reducing significantly the cost of such program and ensuring completion of such program in accordance with the obligations of the United States under the Chemical Weapons Convention while maintaining maximum protection of the general public, the personnel involved in the demilitarization program, and the environment.

``(2) Based on the results of the assessment conducted under paragraph (1), the Secretary may take those actions identified in the assessment that may be accomplished under existing law to achieve the purposes of such assessment and the chemical agents and munitions stockpile destruction program.

``(3) Not later than March 1, 2000, the Secretary shall submit to Congress a report on--

``(A) those actions taken, or planned to be taken, under paragraph (2); and

``(B) any recommendations for additional legislation that may be required to achieve the purposes of the assessment conducted under paragraph (1) and of the chemical agents and munitions stockpile destruction program.

``(b) Changes and Clarifications Regarding Program.--[Amended this section.]

``(c) Comptroller General Assessment and Report.--(1) Not later than

March 1, 2000, the Comptroller General of the United States shall review and assess the program for destruction of the United States stockpile of chemical agents and munitions and report the results of the assessment to the congressional defense committees.

“(2) The assessment conducted under paragraph (1) shall include a review of the program execution and financial management of each of the elements of the program, including--

- “(A) the chemical stockpile disposal project;
- “(B) the nonstockpile chemical materiel project;
- “(C) the alternative technologies and approaches project;
- “(D) the chemical stockpile emergency preparedness program;

and

- “(E) the assembled chemical weapons assessment program.

“(d) Definitions.--As used in this section:

“(1) The term ‘Assembled Chemical Weapons Assessment’ means the

pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).

“(2) The term ‘Chemical Weapons Convention’ means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.’’

Section 152 of Pub. L. 104-106, as amended by Pub. L. 104-201, div. A, title I, Sec. 142, Sept. 23, 1996, 110 Stat. 2448; Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VIII, Sec. 8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-102, provided that:

“(a) In General.--The Secretary of Defense shall proceed with the program for destruction of the chemical munitions stockpile of the Department of Defense while maintaining the maximum protection of the environment, the general public, and the personnel involved in the actual destruction of the munitions. In carrying out such program, the Secretary shall use technologies and procedures that will minimize the risk to the public at each site.

“(b) 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.

“(c) Assessment of Alternatives.--(1) The Secretary of Defense shall conduct an assessment of the current chemical demilitarization program and of measures that could be taken to reduce significantly the

total cost of the program, while ensuring maximum protection of the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public. The assessment shall be conducted without regard to any limitation that would otherwise apply to

the conduct of such an assessment under any provision of law.

((2) The assessment shall be conducted in coordination with the National Research Council.

((3) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

((4) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and House of Representatives] an interim report assessing the current status of the chemical stockpile demilitarization program, including the results of the Army's analysis of the physical and chemical integrity of the stockpile and implications for the chemical demilitarization program, and providing recommendations for revisions to that program that have been included in the budget request of the Department of Defense for fiscal year 1997. The Secretary shall submit to the congressional defense committees with the submission of the budget request of the Department of Defense for fiscal year 1998 a final report on the assessment conducted in accordance with paragraph (1) and recommendations for revision to the program, including an assessment of alternative demilitarization technologies and processes to the baseline incineration process and potential reconfiguration of the stockpile that should be incorporated in the program.

((d) Assistance for Chemical Weapons Stockpile Communities Affected

by Base Closure.--(1) The Secretary of Defense shall review and evaluate

issues associated with closure and reutilization of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations.

((2) The review shall include the following:

((A) An analysis of the economic impacts on these communities and the unique reuse problems facing local communities associated with ongoing chemical weapons programs.

((B) Recommendations of the Secretary on methods for expeditious and cost-effective transfer or lease of these facilities to local communities for reuse by those communities.

((3) The Secretary shall submit to the congressional defense committees a report on the review and evaluation under this subsection. The report shall be submitted not later than 90 days after the date of the enactment of this Act [Feb. 10, 1996].

((e) Assessment of Alternative Technologies for Demilitarization of

Assembled Chemical Munitions.--(1) In addition to the assessment required by subsection (c), the Secretary of Defense shall conduct an assessment of the chemical demilitarization program for destruction of assembled chemical munitions and of the alternative demilitarization technologies and processes (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated

with these munitions, while ensuring maximum protection for the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public and reduce the total cost of the chemical agents and munitions destruction program. The assessment shall be conducted without regard to any limitation that would otherwise apply

to the conduct of such assessment under any provision of law.

((2) The assessment shall be conducted in coordination with the National Research Council.

((3) Among the alternatives, the assessment shall include a determination of the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site (other than Tooele Army Depot or Johnston Atoll), and transporting the neutralized remains and all munitions parts to a treatment, storage, and disposal facility within the United States that has the necessary environmental permits to undertake incineration of the material.

((4) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

((5) Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a report on the assessment conducted in accordance with paragraph (1) and any recommendations for revision of the chemical demilitarization program, including the continued development of alternative demilitarization technologies and processes other than incineration that could be used for the destruction of the lethal chemical agents that are associated with these assembled chemical munitions and the chemical munitions demilitarization sites for which the selected technologies should be developed.

((f) Pilot Program for Demilitarization of Chemical Agents for Assembled Munitions.--(1) If the Secretary of Defense makes a decision to continue the development of an alternative demilitarization technology or process (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with assembled chemical munitions, \$25,000,000 shall be available from the funds authorized to be appropriated in section 107 of the National Defense Authorization Act for Fiscal Year 1997 [Pub. L. 104-201, 110 Stat. 2440] for the chemical agents and munitions destruction program, in order to initiate a pilot program using the selected alternative technology or process for the destruction of chemical agents that are stored at these sites.

((2) Not less than 30 days before using funds to initiate the pilot program under paragraph (1), the Secretary shall submit notice in writing to Congress of the Secretary's intent to do so.

[(3) Repealed. Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VIII, Sec. 8065], Sept. 30, 1996, 110 Stat. 3009-71, 3009-102.]''

#### Chemical Demilitarization Citizens Advisory Commissions

Section 172 of Pub. L. 102-484, as amended by Pub. L. 104-106, div. A, title I, Sec. 153(a), Feb. 10, 1996, 110 Stat. 215; Pub. L. 104-201,



div. A, title X, Sec. 1073(d), Sept. 23, 1996, 110 Stat. 2658, provided that:

``(a) Establishment.--(1) The Secretary of the Army shall establish a citizens' commission for each State in which there is a low-volume site (as defined in section 180 [set out below]). Each such commission shall be known as the `Chemical Demilitarization Citizens' Advisory Commission' for that State.

``(2) The Secretary shall also establish a Chemical Demilitarization Citizens' Advisory Commission for any State in which there is located a chemical weapons storage site other than a low-volume site, if the establishment of such a commission for such State is requested by the Governor of that State.

``(b) Functions.--The Secretary of the Army shall provide for a representative from the Office of the Assistant Secretary of the Army (Research, Development and Acquisition) to meet with each commission under this section to receive citizen and State concerns regarding the ongoing program of the Army for the disposal of the lethal chemical agents and munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)) at each of the sites with respect to which a commission is established pursuant to subsection (a).

``(c) Membership.--(1) Each commission established for a State pursuant to subsection (a) 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.

``(2) For purposes of paragraph (1), affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

``(d) Conflicts of Interest.--For a period of five years after the termination of any commission, 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--

``(1) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)); or

``(2) a subcontract under such a contract.

``(e) Chairman.--The members of each commission shall designate the chairman of the commission from among the members of the commission.

``(f) Meetings.--Each commission shall meet with a representative from the Office of the Assistant Secretary of the Army (Research, Development and Acquisition) upon joint agreement between the chairman of the commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

``(g) Pay and Expenses.--Members of each commission 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 Citizens' Advisory Commissioners, when such travel is conducted at the invitation of the Assistant Secretary of the Army (Research, Development, and Acquisition).

``(h) Termination of Commissions.--Each commission shall be

terminated after the stockpile located in that commission's State has been destroyed.'

Alternative Disposal Process for Low-Volume Sites; Revised Disposal  
Concept Plan

Sections 174 and 175 of Pub. L. 102-484, as amended by Pub. L. 103-160, div. A, title I, Sec. 155(b), Nov. 30, 1993, 107 Stat. 1579, provided that:

``SEC. 174. ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES.

``(a) Requirement for Alternative Process.--If the date by which chemical weapons destruction and demilitarization operations can be completed at a low-volume site using an alternative technology process evaluated by the Secretary of the Army falls within the deadline established by the amendment made by section 171 [amending this section]

and the Secretary determines that the use of that alternative technology

process for the destruction of chemical weapons at that site is significantly safer and equally or more cost-effective than the use of the baseline disassembly and incineration process, then the Secretary of

the Army, as part of the requirement of section 1412(a) of Public Law 99-145 [subsec. (a) of this section], shall carry out the disposal of chemical weapons at that site using such alternative technology process.

In addition, the Secretary may carry out the disposal of chemical weapons at sites other than low-volume sites using an alternative technology process (rather than the baseline process) after notifying Congress of the Secretary's intent to do so.

``(b) Applicability of Certain Provisions of Section 1412.-- Subsections (c), (e), (f), and (g) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) shall apply to this section and to activities under this section in the same manner as if this section were part of that section 1412.

``SEC. 175. REVISED CHEMICAL WEAPONS DISPOSAL CONCEPT PLAN.

``(a) Revised Plan.--If, pursuant to section 174, the Secretary of the Army is required to implement an alternative technology process for destruction of chemical weapons at any low-volume site, the Secretary shall submit to Congress a revised chemical weapons disposal concept plan incorporating the alternative technology process and reflecting the

revised stockpile disposal schedule developed under section 1412(b) of Public Law 99-145 (50 U.S.C. 1521(b)), as amended by section 171. In developing the revised concept plan, the Secretary should consider, to the maximum extent practicable, revisions to the program and program schedule that capitalize on the changes to the chemical demilitarization

schedule resulting from the revised stockpile elimination deadline by reducing cost and decreasing program risk.

``(b) Matters To Be Included.--The revised concept plan should include--

``(1) life-cycle cost estimates and schedules; and

``(2) a description of the facilities and operating procedures to be employed using the alternative technology process.

``(c) Applicability of Certain Provisions of Section 1412.--

Subsection (c) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) shall apply to the revised concept plan in the same manner as if this section were part of that section 1412.

``(d) Submission of Revised Plan.--If the Secretary is required to submit a revised concept plan under this section, the Secretary shall submit the revised concept plan during the 120-day period beginning at the end of the 60-day period following the submission of the report of the Secretary required under section 173 [106 Stat. 2342].

``(e) Limitation.--If the Secretary is required to submit a revised concept plan under this section, no funds may be obligated for procurement of equipment or for facilities planning and design activities (other than for those preliminary planning and design activities required to comply with subsection(b)(2)) for a chemical weapons disposal facility at any low-volume site at which the Secretary intends to implement an alternative technology process until the Secretary submits the revised concept plan.''

#### Sense of Congress Concerning International Consultation and Exchange Program

Section 178 of Pub. L. 102-484 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

Section 180 of Pub. L. 102-484 provided that: ``For purposes of this subtitle [subtitle G (Secs. 171-180) of title I of div. A of Pub. L. 102-484, amending this section and enacting provisions set out as notes above], the term `low-volume site' means one of the three chemical weapons storage sites in the United States at which there is stored 5 percent or less of the total United States stockpile of unitary chemical weapons.''

#### Revision of Chemical Demilitarization Program

Pub. L. 100-180, div. A, title I, Sec. 125, Dec. 4, 1987, 101 Stat. 1043, provided that:

``(a) Definition.--For purposes of this section, the term `chemical stockpile demilitarization program' means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

``(b) Environmental Impact Statement.--The Secretary of Defense

shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

“(c) Disposal Technologies.--(1) Funds appropriated pursuant to this Act [see Tables for classification] or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may

not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

“(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

“(B) Full-scale operational verification of the technology or technologies selected for such disposal.

“(C) Maximum protection for public health and the environment.

“(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

“(d) Alternative Concept Plan.--The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall--

“(1) incorporate the requirements of subsections (b) and (c); and

“(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

“(e) 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.”

#### Section Referred to in Other Sections

This section is referred to in section 1521a of this title.