

**§ 2201. Transfers of spoils of war**

**(a) Eligibility for transfer**

Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

**(b) Terms and conditions**

Any transfer pursuant to subsection (a) of this section shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

(Pub. L. 103-236, title V, §552, Apr. 30, 1994, 108 Stat. 482.)

SHORT TITLE

Section 551 of Pub. L. 103-236 provided that: "This part [part B (§§551-556) of title V of Pub. L. 103-236, enacting this chapter] may be cited as the 'Spoils of War Act of 1994'."

**§ 2202. Prohibition on transfers to countries which support terrorism**

Spoils of war in the possession, custody, or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 2780 of title 22, to be a nation whose government has repeatedly provided support for acts of international terrorism.

(Pub. L. 103-236, title V, §553, Apr. 30, 1994, 108 Stat. 482.)

**§ 2203. Report on previous transfers**

Not later than 90 days after April 30, 1994, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before April 30, 1994. Such report shall be submitted in unclassified form to the extent possible.

(Pub. L. 103-236, title V, §554, Apr. 30, 1994, 108 Stat. 482.)

**§ 2204. Definitions**

As used in this chapter—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select<sup>1</sup> Committee on Intelligence of the House of Representatives;

(2) the term "enemy" means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term "person" means—

- (A) any natural person;
- (B) any corporation, partnership, or other legal entity; and
- (C) any organization, association, or group; and

(4) the term "spoils of war" means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

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

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§ 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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<sup>1</sup> So in original. Probably should be preceded by "Permanent".

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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

Section 1401 of title XIV of div. A of Pub. L. 104-201 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'."

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

Pub. L. 106-398, § 1 [div. A], title XIV, Oct. 30, 2000, 114 Stat. 1654, 1654A-345, 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) COMPOSITION.—The Commission shall be composed of nine members. Seven of the members shall be appointed by the Secretary of Defense and two of the members shall be appointed by the Director of the Federal Emergency Management Agency. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairmen and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives.

"(c) 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 (hereafter in this title referred to as 'EMP') effects resulting from the detonation of a nuclear weapon or weapons at high altitude, sometimes referred to as high-altitude electromagnetic pulse effects (HEMP).

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

"(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

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

"(g) INITIAL ORGANIZATION REQUIREMENTS.—All appointments to the Commission shall be made not later than 90 days after the date of the enactment of this Act [Oct. 30, 2000]. The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

##### "SEC. 1402. DUTIES OF COMMISSION.

"(a) REVIEW OF EMP THREAT.—The Commission shall assess—

"(1) the nature and magnitude of potential high-altitude EMP threats to the United States from all potentially hostile states or non-state actors that have or could acquire nuclear weapons and ballistic missiles enabling them to perform a high-altitude EMP attack against the United States within the next 15 years;

"(2) the vulnerability of United States military and especially civilian systems to an EMP attack, giving special attention to vulnerability of the civilian infrastructure as a matter of emergency preparedness;

"(3) the capability of the United States to repair and recover from damage inflicted on United States military and civilian systems by an EMP attack; and

"(4) the feasibility and cost of hardening select military and civilian systems against EMP attack.

"(b) RECOMMENDATION.—The Commission shall recommend any steps it believes should be taken by the United States to better protect its military and civilian systems from EMP attack.

"(c) COOPERATION FROM GOVERNMENT OFFICIALS.—In carrying out its duties, the Commission should receive the full and timely cooperation of the Secretary of Defense, the Director of the Federal Emergency Management Agency, and any other United States Government official serving in the Department of Defense or Armed Forces in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

##### "SEC. 1403. REPORTS.

"(a) COMMISSION REPORT.—The Commission shall, not later than one year after the date of its first meeting, submit to Congress, the Secretary of Defense, and the Director of the Federal Emergency Management Agency a report on the Commission's findings and conclusions.

"(b) SECRETARY OF DEFENSE REPORT.—Not later than one year after the date of the Commission's report under subsection (a), the Secretary of Defense shall submit to Congress a report—

"(1) commenting on the Commission's findings and conclusions;

"(2) describing political-military scenarios that could possibly lead to an EMP attack against the United States;

"(3) evaluating the relative likelihood of an EMP attack against the United States compared to other threats involving nuclear weapons; and

"(4) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and the Secretary's reasons for doing so.

##### "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.

“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) COMMISSION.—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 grade GS-15 of the General Schedule.

“(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 shall be provided from amounts appropriated for the Department of

Defense for operation and maintenance for Defense-wide activities for fiscal year 2001. 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 60 days after the date of the submission of its report under section 1403(a).”

[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(l), 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.]

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 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.]

## § 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.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 12304; title 22 section 2794.

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. Emergency response assistance program****(a) Program required**

(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) In this section, the official responsible for carrying out the program is referred to as the “lead official”.

**(b) Coordination**

In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1) of this section.

**(c) Eligible participants**

The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

**(d) Involvement of other Federal agencies**

(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(3) If the lead official is not the Secretary of Defense, and requests assistance from the Department of Defense that, in the judgment of the Secretary of Defense would affect military readiness or adversely affect national security, the Secretary of Defense may appeal the request for Department of Defense assistance by the lead official to the President.

**(e) Available assistance**

Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a “hot line”) to a designated source of relevant data and expert advice for the use of State or local officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(5) A conveyance of ownership of United States property to a State or local government, without cost and without regard to subsection (f) of this section and title II of the Federal Property and Administrative Services Act of 1949<sup>1</sup> (or any other provision of law re-

<sup>1</sup> See References in Text note below.

lating to the disposal of property of the United States), if the property is equipment, or equipment and related materials, that is in the possession of the State or local government on December 28, 2001, pursuant to a loan of the property as assistance under this section.

**(f) Limitations on Department of Defense assistance to law enforcement agencies**

Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10.

**(g) Administration of Department of Defense assistance**

The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

**(h) Funding**

(1) Of the total amount authorized to be appropriated under section 301,<sup>1</sup> \$35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), \$10,500,000 is available for use by the Secretary of Defense to assist the Secretary of Health and Human Services in the establishment of metropolitan emergency medical response teams (commonly referred to as “Metropolitan Medical Strike Force Teams”) to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.<sup>1</sup>

(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.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (e)(5), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title II of the Act, which was classified principally to subchapter II (§§ 481, 483, 484, 485, 486, 487 to 490, 491, 492 et seq.) of chapter 10 and section 758 of former Title 40, Public Buildings, Property, and Works, was repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304, the first section of which enacted Title 40, Public Buildings, Property, and Works. For disposition of sections of former Title 40 to revised Title 40, see Table preceding section 101 of Title 40. For complete classification of this Act to the Code, see Tables.

Section 301, referred to in subsec. (h)(1), (3), is section 301 of Pub. L. 104–201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

AMENDMENTS

2001—Subsec. (e)(5). Pub. L. 107–107 added par. (5).

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.

TRANSFER OF TECHNOLOGY ITEMS AND EQUIPMENT IN SUPPORT OF HOMELAND SECURITY

Pub. L. 107–314, div. A, title XIV, § 1401, Dec. 2, 2002, 116 Stat. 2674, provided that:

“(a) RESPONSIBLE SENIOR OFFICIAL.—The Secretary of Defense shall designate a senior official of the Department of Defense to coordinate all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security.

“(b) DUTIES.—The official designated pursuant to subsection (a) shall—

“(1) identify technology items and equipment developed or being developed by Department of Defense components that have the potential to enhance public safety and improve homeland security;

“(2) cooperate with appropriate Federal Government officials outside the Department of Defense to evaluate whether such technology items and equipment would be useful to first responders;

“(3) facilitate the timely transfer, through identification of appropriate private sector manufacturers, of appropriate technology items and equipment to Federal, State, and local first responders, in coordination with appropriate Federal Government officials outside the Department of Defense;

“(4) identify and eliminate redundant and unnecessary research efforts within the Department of Defense with respect to technologies to be deployed to first responders;

“(5) expedite the advancement of high priority Department of Defense projects from research through implementation of initial manufacturing; and

“(6) participate in outreach programs established by appropriate Federal Government officials outside the Department of Defense to communicate with first responders and to facilitate awareness of available technology items and equipment to support responses to crises.

“(c) SUPPORT AGREEMENT.—The official designated pursuant to subsection (a) shall enter into an appropriate agreement with a nongovernment entity for such entity to assist the official designated under subsection (a) in carrying out that official’s duties under this section. Any such agreement shall be entered into using competitive procedures in compliance with applicable requirements of law and regulation.

“(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002], the Secretary of Defense 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 actions taken to carry out this section. The report shall include the following:

“(1) Identification of the senior official designated pursuant to subsection (a).

“(2) A summary of the actions taken or planned to be taken to implement subsection (b), including a schedule for planned actions.

“(3) An initial list of technology items and equipment identified pursuant to subsection (b)(1), together with a summary of any program schedule for the development, deployment, or transfer of such items and equipment.

“(4) A description of any agreement entered into pursuant to subsection (c).”

**§ 2313. Nuclear, chemical, and biological emergency response**

**(a) Department of Defense**

The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local

officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b) of this section.

**(b) Department of Energy**

The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a) of this section.

**(c) Funding**

Of the total amount authorized to be appropriated under section 301,<sup>1</sup> \$15,000,000 is available for providing assistance described in subsection (a) of this section.

(Pub. L. 104-201, div. A, title XIV, § 1413, Sept. 23, 1996, 110 Stat. 2719.)

REFERENCES IN TEXT

Section 301, referred to in subsec. (c), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

**§ 2314. Chemical-biological emergency response team**

**(a) Department of Defense rapid response team**

The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials.

**(b) Addition to Federal response plan**

Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 5196(b) of title 42 guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Director shall carry out this subsection in consultation with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

<sup>1</sup> See References in Text note below.

(Pub. L. 104-201, div. A, title XIV, § 1414, Sept. 23, 1996, 110 Stat. 2720.)

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.

**§ 2315. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons**

**(a) Emergencies involving chemical or biological weapons**

(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of fiscal years 1997 through 2013.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

**(b) Emergencies involving nuclear and radiological weapons**

(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of fiscal years 1997 through 2013.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

**(c) Annual revisions of programs**

The official responsible for carrying out a program developed under subsection (a) or (b) of this section shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

**(d) Option to transfer responsibility**

(1) The President may designate the head of an agency outside the Department of Defense to as-

sume the responsibility for carrying out the program developed under subsection (a) of this section beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) of this section beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

#### (e) Funding

Of the total amount authorized to be appropriated under section 301,<sup>1</sup> \$15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

(Pub. L. 104-201, div. A, title XIV, § 1415, Sept. 23, 1996, 110 Stat. 2720; Pub. L. 107-314, div. C, title XXXI, § 3154(a), Dec. 2, 2002, 116 Stat. 2738.)

#### REFERENCES IN TEXT

Section 301, referred to in subsec. (e), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

#### AMENDMENTS

2002—Subsecs. (a)(2), (b)(2). Pub. L. 107-314 substituted “of fiscal years 1997 through 2013” for “of five successive fiscal years beginning with fiscal year 1997”.

#### 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.

#### CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL

Pub. L. 107-314, div. C, title XXXI, § 3154(b), Dec. 2, 2002, 116 Stat. 2738, provided that: “The amendments made by subsection (a) [amending this section] may not be construed as modifying the designation of the President titled ‘Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997’, dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997) [50 U.S.C. 2312, 2315].”

### § 2316. Actions to increase civilian expertise

#### (a) to (c) Omitted

#### (d) Civilian expertise

The President shall take reasonable measures to reduce the reliance of civilian law enforce-

ment officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

#### (e) Reports

The President shall submit to Congress the following reports:

(1) Not later than 90 days after September 23, 1996, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after September 23, 1996, a report describing—

- (A) the actions planned to be taken to carry out subsection (d) of this section; and
- (B) the costs of such actions.

(3) Not later than three years after September 23, 1996, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d) of this section.

(Pub. L. 104-201, div. A, title XIV, § 1416, Sept. 23, 1996, 110 Stat. 2721.)

#### CODIFICATION

Section is comprised of subsecs. (d) and (e) of section 1416 of Pub. L. 104-201. Subsecs. (a) to (c) of section 1416 enacted section 382 of Title 10, Armed Forces, and sections 175a and 2332d of Title 18, Crimes and Criminal Procedure, and amended section 372 of Title 10.

### § 2317. Rapid response information system

#### (a) Inventory of rapid response assets

(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b) of this section.

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

#### (b) Master inventory

The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories pre-

<sup>1</sup> See References in Text note below.

pared under subsection (a) of this section. The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

**(c) Addition to Federal response plan**

Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 5196(b) of title 42 guidance on accessing and using the physical equipment and assets included in the master list developed under subsection<sup>1</sup> to respond to emergencies involving weapons of mass destruction.

**(d) Database on chemical and biological materials**

The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

**(e) Access to inventory and database**

The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

(Pub. L. 104-201, div. A, title XIV, § 1417, Sept. 23, 1996, 110 Stat. 2724.)

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.

SUBCHAPTER II—INTERDICTION OF WEAPONS OF MASS DESTRUCTION AND RELATED MATERIALS

**§ 2331. Procurement of detection equipment for United States border security**

Of the amount authorized to be appropriated by section 301,<sup>1</sup> \$15,000,000 is available for the procurement of—

- (1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;
- (2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and
- (3) materials and technologies related to use of equipment described in paragraph (1) or (2).

<sup>1</sup> So in original. Probably should be “subsection (b) of this section”.

<sup>1</sup> See References in Text note below.

(Pub. L. 104-201, div. A, title XIV, § 1421, Sept. 23, 1996, 110 Stat. 2725.)

REFERENCES IN TEXT

Section 301, referred to in text, is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

**§ 2332. Sense of Congress concerning criminal penalties**

**(a) Sense of Congress concerning inadequacy of sentencing guidelines**

It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

**(b) Urging of revision to guidelines**

Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

- (1) Section 2410 of the Appendix to this title.
- (2) Sections 2778 and 2780 of title 22.
- (3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).
- (4) Section 2139a(c) of title 42.

(Pub. L. 104-201, div. A, title XIV, § 1423, Sept. 23, 1996, 110 Stat. 2725; Pub. L. 105-261, div. A, title X, § 1069(c)(1), Oct. 17, 1998, 112 Stat. 2136.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b)(3), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

Section is comprised of section 1423 of Pub. L. 104-201 which also enacted provisions listed in a table of provisions for review, promulgation, or amendment of Federal sentencing guidelines relating to specific offenses set out under section 994 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105-261 made technical amendment to reference in original act which appears in text as reference to section 2139a(c) of title 42.

**§ 2333. International border security**

**(a) Secretary of Defense responsibility**

The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

**(b) Funding**

Of the total amount authorized to be appropriated by section 301,<sup>1</sup> \$15,000,000 is available for carrying out the programs referred to in subsection (a) of this section.

**(c) Assistance to states of former Soviet Union**

Assistance under programs referred to in subsection (a) of this section may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

(Pub. L. 104-201, div. A, title XIV, § 1424, Sept. 23, 1996, 110 Stat. 2726.)

## REFERENCES IN TEXT

Section 301, referred to in subsec. (b), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

## TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(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.

## DELEGATION OF AUTHORITY

Memorandum of President of the United States, July 24, 1997, 62 F.R. 40727, provided:

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you, in consultation with the Secretary of State, the authority vested in the President under section 1424(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201) [50 U.S.C. 2333(c)].

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

### SUBCHAPTER III—CONTROL AND DISPOSITION OF WEAPONS OF MASS DESTRUCTION AND RELATED MATERIALS THREATENING THE UNITED STATES

## SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2361 of this title.

**§ 2341. Elimination of plutonium production****(a) Replacement program**

The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk-7 and Krasnoyarsk-26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

<sup>1</sup> See References in Text note below.

**(b) Program requirements**

(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

**(c) Submission of program plan to Congress**

Not later than 180 days after September 23, 1996, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a) of this section;

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

(Pub. L. 104-201, div. A, title XIV, § 1432, Sept. 23, 1996, 110 Stat. 2726.)

**§ 2342. Cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism****(a) Program required**

The Administrator for Nuclear Security shall carry out with the Russian Federation a cooperative program on the research, development, and demonstration of technologies for protection from and response to nuclear or radiological terrorism.

**(b) Program elements**

In carrying out the program required by subsection (a) of this section, the Administrator shall—

(1) conduct research and development of technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, and disposition of radiological materials that could be used for nuclear terrorism; and

(2) provide, where feasible, for the demonstration to other countries of technologies or methodologies on matters relating to nuclear or radiological terrorism, including—

(A) the demonstration of technologies developed under the program to respond to nuclear or radiological terrorism;

(B) the demonstration of technologies developed under the program for the disposal of radioactive materials;

(C) the demonstration of methodologies developed under the program for use in evaluating the radiological threat of radiological sources identified as not under current accounting programs in the audit report of the Inspector General of the Department of Energy titled "Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries" (DOE/IG-0546);

(D) in coordination with the Nuclear Regulatory Commission, the demonstration of methodologies developed under the program to facilitate the development of a regulatory framework for licensing and controlling radioactive sources; and

(E) in coordination with the Office of Environment, Safety, and Health of the Department of Energy, the demonstration of methodologies developed under the program to facilitate development of consistent criteria for screening international transfers of radiological materials.

**(c) Consultation**

In carrying out activities in accordance with subsection (b)(2) of this section, the Administrator shall consult with—

- (1) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and
- (2) the International Atomic Energy Agency.

**(d) Amount for activities**

Of the amount authorized to be appropriated by section 3101(a)(2)<sup>1</sup> for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$15,000,000 may be available for carrying out this section.

(Pub. L. 107-314, div. C, title XXXI, §3155, Dec. 2, 2002, 116 Stat. 2739.)

REFERENCES IN TEXT

Section 3101(a)(2), referred to in subsec. (d), is section 3101(a)(2) of Pub. L. 107-314, div. C, title XXXI, Dec. 2, 2002, 116 Stat. 2729, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

**§ 2343. Matters relating to the international materials protection, control, and accounting program of the Department of Energy**

**(a) Radiological dispersal device materials protection, control, and accounting**

The Secretary of Energy may establish within the International Materials Protection, Control, and Accounting program of the Department of Energy a program on the protection, control, and accounting of materials usable in radiological dispersal devices. In establishing such program, the Secretary shall—

- (1) identify the sites and radiological materials to be covered by such program;
- (2) carry out a risk assessment of such radiological materials; and
- (3) identify and establish the costs of and schedules for such program.

**(b) Revised focus for materials protection, control, and accounting program of Russian Federation**

(1) The Secretary of Energy shall work cooperatively with the Russian Federation to develop, as soon as practicable but not later than January 1, 2013, a sustainable nuclear materials protection, control, and accounting system for

the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(2) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

**(c) Amount for activities**

Of the amount authorized to be appropriated by section 3101(a)(2)<sup>1</sup> for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$5,000,000 may be available for carrying out this section.

(Pub. L. 107-314, div. C, title XXXI, §3156, Dec. 2, 2002, 116 Stat. 2739.)

REFERENCES IN TEXT

Section 3101(a)(2), referred to in subsec. (c), is section 3101(a)(2) of Pub. L. 107-314, div. C, title XXXI, Dec. 2, 2002, 116 Stat. 2729, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

**§ 2344. Strengthened international security for nuclear materials and security of nuclear operations**

**(a) Report on options for international program to strengthen security**

(1) Not later than 270 days after December 2, 2002, the Secretary of Energy shall submit to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials outside the United States.

(2) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States.

**(b) Joint programs with Russia on proliferation-resistant nuclear energy technologies**

(1) The Secretary shall pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles.

(2) Of the amount authorized to be appropriated by section 3101(a)(2)<sup>1</sup> for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$10,000,000 may be available for carrying out the joint programs referred to in paragraph (1).

**(c) Assistance regarding hostile insiders**

The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nu-

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

clear Regulatory Commission, provide technical assistance to nuclear reactor facilities outside the United States with respect to the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

(Pub. L. 107-314, div. C, title XXXI, §3158, Dec. 2, 2002, 116 Stat. 2741.)

#### REFERENCES IN TEXT

Section 3101(a)(2), referred to in subsec. (b)(2), is section 3101(a)(2) of Pub. L. 107-314, div. C, title XXXI, Dec. 2, 2002, 116 Stat. 2729, which is not classified to the Code.

#### CODIFICATION

Section was enacted as part of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

### § 2345. Export control programs

#### (a) Authority to pursue options for strengthening export control programs

The Secretary of Energy, in coordination with the Secretary of State, may pursue in the region of the former Soviet Union and other regions of concern options for accelerating programs that assist the countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

#### (b) Amount for activities

Of the amount authorized to be appropriated by section 3101(a)(2)<sup>1</sup> for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$5,000,000 may be available for carrying out this section.

(Pub. L. 107-314, div. C, title XXXI, §3159, Dec. 2, 2002, 116 Stat. 2741.)

#### REFERENCES IN TEXT

Section 3101(a)(2), referred to in subsec. (b), is section 3101(a)(2) of Pub. L. 107-314, div. C, title XXXI, Dec. 2, 2002, 116 Stat. 2729, which is not classified to the Code.

#### CODIFICATION

Section was enacted as part of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

### SUBCHAPTER IV—COORDINATION OF POLICY AND COUNTERMEASURES AGAINST PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

### § 2351. National coordinator on nonproliferation

#### (a) Designation of position

The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

#### (b) Duties

The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation of the National Security Council; and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

#### (c) Allocation of funds

Of the total amount authorized to be appropriated under section 301,<sup>1</sup> \$2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3) of this section.

(Pub. L. 104-201, div. A, title XIV, §1441, Sept. 23, 1996, 110 Stat. 2727; Pub. L. 105-261, div. A, title X, §1069(c)(2), Oct. 17, 1998, 112 Stat. 2136.)

#### REFERENCES IN TEXT

Section 301, referred to in subsec. (c), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

#### AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105-261 substituted “of the National Security Council” for “established under section 1342”.

#### COMMISSION TO ASSESS ORGANIZATION OF FEDERAL GOVERNMENT TO COMBAT PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Pub. L. 104-293, title VII, subtitle A, Oct. 11, 1996, 110 Stat. 3470, as amended by Pub. L. 105-277, div. A, §101(f) [title VII, §708], Oct. 21, 1998, 112 Stat. 2681-337, 2681-390, provided that:

#### “SEC. 711. ESTABLISHMENT OF COMMISSION.

“(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle [subtitle A (§§711-717) of title VII of Pub. L. 104-293] referred to as the ‘Commission’).

“(b) MEMBERSHIP.—The Commission shall be composed of twelve members, none of whom may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and of whom—

“(1) four shall be appointed by the President;

“(2) three shall be appointed by the Majority Leader of the Senate;

“(3) one shall be appointed by the Minority Leader of the Senate;

“(4) three shall be appointed by the Speaker of the House of Representatives; and

“(5) one shall be appointed by the Minority Leader of the House of Representatives.

“(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

“(A) the nonproliferation of weapons of mass destruction;

“(B) the efficient and effective implementation of United States nonproliferation policy; or

“(C) the implementation, funding, or oversight of the national security policies of the United States.

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

“(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

“(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(e) INITIAL MEETING.—Not later than 30 days after the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999 [Oct. 21, 1998], regardless of whether all the members of the Commission have been appointed as of that date, [sic] the Commission shall hold its first meeting.

“(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

“(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

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

“SEC. 712. DUTIES OF COMMISSION.

“(a) STUDY.—

“(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

“(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

“(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

“(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

“(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

“(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

“(iii) between the Federal Government and international organizations.

“(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

“(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

“(B) arrangements for coordinating the funding of United States nonproliferation activities;

“(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

“(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

“(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

“(F) the organization, management, and oversight of United States counterproliferation activities;

“(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation func-

tions of the Federal Government, including any problems in such activities;

“(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

“(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

“(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

“(4) RESTRICTIONS.—In carrying out the study under paragraph (1), making the assessments under paragraph (2), and addressing the matters identified in paragraph (3), the Commission shall not review, evaluate, or report on—

“(A) United States domestic response capabilities with respect to weapons of mass destruction; or

“(B) the adequacy or usefulness of United States laws that provide for the imposition of sanctions on countries or entities that engage in the proliferation of weapons of mass destruction.

“(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

“(c) REPORT.—(1) Not later than 18 months after January 18, 1998, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

“(2) The report shall be submitted in unclassified form, but may include a classified annex.

“SEC. 713. POWERS OF COMMISSION.

“(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

“(b) INFORMATION FROM FEDERAL AGENCIES.—

“(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

“(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

“(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

“SEC. 714. COMMISSION PERSONNEL MATTERS.

“(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule

under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(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) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

“(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive 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 for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

“(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(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 prescribed for level V of the Executive Schedule under section 5316 of such title.

“SEC. 715. TERMINATION OF COMMISSION.

“The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

“SEC. 716. DEFINITION.

“For purposes of this subtitle, the term ‘intelligence community’ shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“SEC. 717. PAYMENT OF COMMISSION EXPENSES.

“The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall not exceed \$1,000,000, and shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2354 of this title.

### § 2352. National Security Council Committee on Nonproliferation

#### (a) Establishment

The Committee on Nonproliferation (in this section referred to as the “Committee”) is established as a committee of the National Security Council.

#### (b) Membership

(1) The Committee shall be composed of representatives of the following:

- (A) The Secretary of State.
- (B) The Secretary of Defense.
- (C) The Director of Central Intelligence.
- (D) The Attorney General.
- (E) The Secretary of Energy.
- (F) The Administrator of the Federal Emergency Management Agency.
- (G) The Secretary of the Treasury.
- (H) The Secretary of Commerce.
- (I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

#### (c) Responsibilities

The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

(Pub. L. 104–201, div. A, title XIV, § 1442, Sept. 23, 1996, 110 Stat. 2727.)

## 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.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2353, 2354 of this title.

**§ 2353. Comprehensive preparedness program****(a) Program required**

The President, acting through the Committee on Nonproliferation established under section 2352 of this title, shall develop a comprehensive program for carrying out this chapter.

**(b) Content of program**

The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

**(c) Report**

(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a) of this section.

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b) of this section.

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

(Pub. L. 104-201, div. A, title XIV, § 1443, Sept. 23, 1996, 110 Stat. 2728.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

**§ 2354. Termination**

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 2351 of this title; and

(2) may terminate the Committee on Nonproliferation established under section 2352 of this title.

(Pub. L. 104-201, div. A, title XIV, § 1444, Sept. 23, 1996, 110 Stat. 2730; Pub. L. 105-261, div. A, title X, § 1069(c)(3), Oct. 17, 1998, 112 Stat. 2136.)

## AMENDMENTS

1998—Pub. L. 105-261 made technical amendments to references in original act which appear in par. (1) as reference to section 2351 of this title and in par. (2) as reference to section 2352 of this title.

**SUBCHAPTER IV—NONPROLIFERATION ASSISTANCE COORDINATION**

## CODIFICATION

Subchapter was enacted as part of the Nonproliferation Assistance Coordination Act of 2002, and also as part of the Security Assistance Act of 2002 and the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

**§ 2357. Findings**

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

(Pub. L. 107-228, div. B, title XIII, § 1332, Sept. 30, 2002, 116 Stat. 1448.)

#### SHORT TITLE

For short title of subtitle C (§§ 1331-1339) of title XIII of div. B of Pub. L. 107-228, which enacted this subchapter, as the “Nonproliferation Assistance Coordination Act of 2002”, see section 1331 of Pub. L. 107-228, set out as a note under section 2301 of this title.

### § 2357a. Definitions

#### (a) Independent states of the former Soviet Union

In this subchapter, the term “independent states of the former Soviet Union” has the meaning given the term in section 5801 of title 22.

#### (b) Appropriate committees of Congress

In this subchapter, the term “the appropriate committees of Congress” means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

(Pub. L. 107-228, div. B, title XIII, § 1333, Sept. 30, 2002, 116 Stat. 1449.)

### § 2357b. Establishment of Committee on Nonproliferation Assistance

#### (a) In general

The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United

States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

#### (b) Membership

The coordination mechanism established pursuant to subsection (a) of this section shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

#### (c) Level of representation

To the maximum extent possible, each department<sup>1</sup> or agency’s representative designated pursuant to subsection (b)(1) of this section shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

#### (d) Chair

The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a) of this section. The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

(Pub. L. 107-228, div. B, title XIII, § 1334, Sept. 30, 2002, 116 Stat. 1449.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2357c, 2357d, 2357e, 2357f, 2357g of this title.

### § 2357c. Purposes and authority

#### (a) Purposes

##### (1) In general

The primary purpose of the coordination mechanism established pursuant to section 2357b of this title should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

##### (2) Program monitoring and coordination

The coordination mechanism established pursuant to section 2357b of this title should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

<sup>1</sup> So in original. Probably should be “department’s”.

(B) coordinating the implementation of United States policy with respect to such efforts.

**(b) Authority**

In carrying out the responsibilities described in subsection (a) of this section, the coordination mechanism established pursuant to section 2357b of this title should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

(Pub. L. 107-228, div. B, title XIII, §1335, Sept. 30, 2002, 116 Stat. 1450.)

**§ 2357d. Administrative support**

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant to section 2357b of this title, in carrying out its functions and activities under this subchapter.

(Pub. L. 107-228, div. B, title XIII, §1336, Sept. 30, 2002, 116 Stat. 1451.)

**§ 2357e. Confidentiality of information**

Information which has been submitted to or received by the coordination mechanism established pursuant to section 2357b of this title in confidence shall not be publicly disclosed, except to the extent required by law, and such in-

formation shall be used by it only for the purpose of carrying out the functions set forth in this subchapter.

(Pub. L. 107-228, div. B, title XIII, §1337, Sept. 30, 2002, 116 Stat. 1451.)

**§ 2357f. Statutory construction**

Nothing in this subchapter—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 2357b of this title shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(Pub. L. 107-228, div. B, title XIII, §1338, Sept. 30, 2002, 116 Stat. 1451.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in par. (2), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§413 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

**§ 2357g. Reporting and consultation**

**(a) Presidential report**

Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 2357b of this title, to achieve those objectives.

**(b) Consultation**

The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 2357b of this title in achieving its stated objectives.

(Pub. L. 107-228, div. B, title XIII, §1339, Sept. 30, 2002, 116 Stat. 1451.)

SUBCHAPTER V—MISCELLANEOUS

**§ 2361. Sense of Congress concerning contracting policy**

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subchapter III of this chapter; and

(B) substantially expedite completion of the programs referred to in subchapter III of this chapter; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

(Pub. L. 104-201, div. A, title XIV, § 1451, Sept. 23, 1996, 110 Stat. 2730.)

**§ 2362. Transfers of allocations among cooperative threat reduction programs**

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

(Pub. L. 104-201, div. A, title XIV, § 1452, Sept. 23, 1996, 110 Stat. 2730.)

SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS

Section 1501 of Pub. L. 104-201, as amended by Pub. L. 105-261, div. A, title XIII, § 1301(a)(2), Oct. 17, 1998, 112 Stat. 2161, provided that:

“(a) IN GENERAL.—For purposes of section 301 [110 Stat. 2475] and other provisions of this Act [see Tables for classification], Cooperative Threat Reduction programs are the programs specified in subsection (b).

“(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

“(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

“(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

“(3) Programs to prevent the proliferation of weapons, weapons components, materials, and weapons-related technology and expertise.

“(4) Programs to expand military-to-military and defense contacts.”

**§ 2363. Sense of Congress concerning assistance to states of former Soviet Union**

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.) should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

(Pub. L. 104-201, div. A, title XIV, § 1453, Sept. 23, 1996, 110 Stat. 2730; Pub. L. 105-261, div. A, title X, § 1069(c)(4), Oct. 17, 1998, 112 Stat. 2136.)

REFERENCES IN TEXT

Title XIV of the National Defense Authorization Act for Fiscal Year 1993, referred to in par. (1), is title XIV

of div. A of Pub. L. 102-484, Oct. 23, 1992, 106 Stat. 2563, known as the Former Soviet Union Demilitarization Act of 1992, which is classified generally to chapter 68 (§ 5901 et seq.) of Title 22, Foreign Relations and Inter-course.

AMENDMENTS

1998—Par. (1). Pub. L. 105-261 substituted “title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.)” for “the National Defense Authorization Act for Fiscal Years 1993 and 1994”.

SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAM

For specification of Cooperative Threat Reduction programs, see section 1501(b) of Pub. L. 104-201, set out as a note under section 2362 of this title.

**§ 2364. Purchase of low-enriched uranium derived from Russian highly enriched uranium**

**(a) Sense of Congress**

It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

**(b) Actions by Secretary of State**

Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

(Pub. L. 104-201, div. A, title XIV, § 1454, Sept. 23, 1996, 110 Stat. 2730.)

**§ 2365. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft**

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

(Pub. L. 104-201, div. A, title XIV, § 1455, Sept. 23, 1996, 110 Stat. 2731.)

**§ 2366. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions**

**(a) Reports**

The Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and

other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

**(b) Submittal dates**

(1) The report required by subsection (a) of this section shall be submitted each year to the congressional intelligence committees and the congressional leadership on a semiannual basis on the dates provided in section 415b of this title.

(2) In this subsection:

(A) The term “congressional intelligence committees” has the meaning given that term in section 401a of this title.

(B) The term “congressional leadership” means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

**(c) Form of reports**

Each report submitted under subsection (a) of this section shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 104-293, title VII, § 721, Oct. 11, 1996, 110 Stat. 3474; Pub. L. 107-306, title VIII, § 811(b)(5)(C), Nov. 27, 2002, 116 Stat. 2424.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1997, and also as part of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-306, § 811(b)(5)(C)(i), substituted “The Director” for “Not later than 6 months after October 11, 1996, and every 6 months thereafter, the Director”.

Subsec. (b). Pub. L. 107-306, § 811(b)(5)(C)(iii), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107-306, § 811(b)(5)(C)(ii), (iv), redesignated subsec. (b) as (c) and substituted “Each report” for “The reports”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415b, 2369 of this title.

**§ 2367. Annual report on threat posed to United States by weapons of mass destruction, ballistic missiles, and cruise missiles**

**(a) Annual report**

The Secretary of Defense shall submit to Congress by January 30 of each year a report on the threats posed to the United States and allies of the United States—

(1) by weapons of mass destruction, ballistic missiles, and cruise missiles; and

(2) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.

**(b) Consultation**

Each report submitted under subsection (a) of this section shall be prepared in consultation with the Director of Central Intelligence.

**(c) Matters to be included**

Each report submitted under subsection (a) of this section shall include the following:

(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(2) A description of the means by which any foreign country and non-State organization that has achieved capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.

(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.

(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.

(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballistic missiles, and cruise missiles, taking into account the probability of whether the Russian Federation and the People’s Republic of China will comply with the Missile Technology Control Regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.

(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of November 18, 1997, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(8) For each foreign country or non-State organization that has not achieved the capability to target members of the United States Armed Forces deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of November 18, 1997, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

**(d) Classification**

Each report under subsection (a) of this section shall be submitted in classified and unclassified form.

(Pub. L. 105–85, div. A, title II, §234, Nov. 18, 1997, 111 Stat. 1664.)

## CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

**§ 2368. Annual reports on the proliferation of missiles and essential components of nuclear, biological, chemical, and radiological weapons**

**(a) Report**

Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as “NBC weapons”) to any country other than a country referred to in subsection (d) of this section that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

**(b) Matters to be included**

Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

**(c) Content of report**

Each such report shall include the following with respect to preceding<sup>1</sup> calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary

use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after September 30, 2002, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 2410b(b)(4) of the Appendix to this title and under section 2797b(d) of title 22.

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

**(d) Exclusions**

The countries excluded under subsection (a) of this section are Australia, Belgium, Canada, the

<sup>1</sup> So in original. Probably should be preceded by “the”.

Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

**(e) Classification of report**

The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

**(f) Definitions**

In this section:

**(1) Designated congressional committees**

The term “designated congressional committees” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

**(2) Missile; MTCR; MTCR equipment or technology**

The terms “missile”, “MTCR”, and “MTCR equipment or technology” have the meanings given those terms in section 2797c of title 22.

**(3) Person**

The term “person” means any United States or foreign individual, partnership, corporation, or other form of association, or any of its successor entities, parents, or subsidiaries.

**(4) Weaponize; weaponization**

The term “weaponize” or “weaponization” means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(Pub. L. 107-228, div. B, title XIII, § 1308, Sept. 30, 2002, 116 Stat. 1439.)

REFERENCES IN TEXT

The Iran-Iraq Arms Non-Proliferation Act of 1992, referred to in subsec. (c)(10), is title XVI of div. A of Pub. L. 102-484, Oct. 23, 1992, 106 Stat. 2571, as amended, which is set out as a note under section 1701 of this title.

CODIFICATION

Section is comprised of section 1308 of Pub. L. 107-228. Subsec. (g) of section 1308 of Pub. L. 107-228 repealed section 5606 of Title 22, Foreign Relations and Intercourse, amended provisions set out as notes under section 1701 of this title and section 2656 of Title 22, and repealed provisions set out as a note under section 2751 of Title 22.

Section was enacted as part of the Security Assistance Act of 2002, and also as part of the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

DEFINITIONS

For definition of “Secretary” as used in this section, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of Title 22, Foreign Relations and Intercourse.

**§ 2369. Semiannual report on contributions of foreign persons to weapons of mass destruction and delivery systems efforts of countries of proliferation concern**

**(a) Reports**

The Director of Central Intelligence shall submit to Congress a semiannual report identifying each foreign person that, during the period covered by the report, made a material contribution to the research, development, production, or acquisition by a country of proliferation concern of—

- (1) weapons of mass destruction (including nuclear weapons, chemical weapons, or biological weapons); or
- (2) ballistic or cruise missile systems.

**(b) Period of semiannual reports**

Semiannual reports under subsection (a) of this section shall be submitted as follows:

(1) One semiannual report shall cover the first six months of the calendar year and shall be submitted not later than January 1 of the following year.

(2) The other semiannual report shall cover the second six months of the calendar year and shall be submitted not later than July 1 of the following year.

**(c) Form of reports**

(1) A report under subsection (a) of this section may be submitted in classified form, in whole or in part, if the Director of Central Intelligence determines that submittal in that form is advisable.

(2) Any portion of a report under subsection (a) of this section that is submitted in classified form shall be accompanied by an unclassified summary of such portion.

**(d) Definitions**

In this section:

(1) The term “foreign person” means any of the following:

(A) A natural person who is not a citizen of the United States.

(B) A corporation, business association, partnership, society, trust, or other non-governmental entity, organization, or group that is organized under the laws of a foreign country or has its principal place of business in a foreign country.

(C) Any foreign government or foreign governmental entity operating as a business enterprise or in any other capacity.

(D) Any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

(2) The term “country of proliferation concern” means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(A) in the most recent report under section 2366 of this title; or

(B) in any successor report on the acquisition by foreign countries of dual-use and

other technology useful for the development or production of weapons of mass destruction.

(Pub. L. 104-293, title VII, §722, as added Pub. L. 107-314, div. A, title XII, §1209(a), Dec. 2, 2002, 116 Stat. 2668.)

#### CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1997, and also as part of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

#### EFFECTIVE DATE

Pub. L. 107-314, div. A, title XII, §1209(b), Dec. 2, 2002, 116 Stat. 2669, provided that: "Section 722 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 [50 U.S.C. 2369], as added by subsection (a), shall take effect with the report with respect to the first six months of 2003 required to be submitted under that section not later than January 1, 2004."

### CHAPTER 41—NATIONAL NUCLEAR SECURITY ADMINISTRATION

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