

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.)

§ 2205. Construction

Nothing in this chapter shall apply to—

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

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

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

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

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

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

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§ 2301. Findings

Congress makes the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and

chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

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

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

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

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

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

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

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

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

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

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

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

SHORT TITLE OF 1996 AMENDMENT

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

SHORT TITLE

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.’”

UTILIZATION OF CONTRIBUTIONS TO SECOND LINE OF DEFENSE PROGRAM

Pub. L. 109-364, div. C, title XXXI, §3114, Oct. 17, 2006, 120 Stat. 2505, provided that:

“(a) IN GENERAL.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the Second Line of Defense program of the National Nuclear Security Administration.

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

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

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

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

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

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

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

“(f) EXPIRATION.—The authority to accept, retain, and use contributions under this section expires on December 31, 2013.”

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

Pub. L. 109-163, div. A, title X, §1052(a)-(c), Jan. 6, 2006, 119 Stat. 3434, reestablished the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack (see below) with the same membership that the Commission had as of the date the Commission's report was submitted, provided that Commissioners could elect to terminate service, and defined “Commission charter”.

Pub. L. 106-398, §1 [[div. A], title XIV], Oct. 30, 2000, 114 Stat. 1654, 1654A-345, as amended by Pub. L. 109-163, div. A, title X, §1052(d)-(j), Jan. 6, 2006, 119 Stat. 3434, 3435; Pub. L. 109-364, div. A, title X, §1073, Oct. 17, 2006, 120 Stat. 2403, established the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, directed the Commission to assess the vulnerability of electric-dependent military systems and other electric-dependent systems in the United States to an electromagnetic pulse attack and to submit to Congress, not later than Sept. 30, 2007, a final report on the assessment, and provided that the Commission terminate 30 days after submission of the report.

DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

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

“SEC. 1401. SHORT TITLE.

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

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

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

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

“SEC. 1403. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS

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

“SEC. 1404. THREAT AND RISK ASSESSMENTS.

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

“(b) CONDUCT OF ASSESSMENTS.—The Department of Justice, as lead Federal agency for domestic crisis

management in response to terrorism involving weapons of mass destruction, shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense,

the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency, or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

“(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

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

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

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

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

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

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

EXECUTIVE ORDER NO. 13328

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

§ 2302. Definitions

In this chapter:

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

through the release, dissemination, or impact of—

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

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

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

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

REFERENCES IN TEXT

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

SUBCHAPTER I—DOMESTIC PREPAREDNESS

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

(a) Enhanced response capability

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

- (1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and
- (2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) Report required

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

- (1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;
- (2) requirements for improvements in those capabilities; and
- (3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

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

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

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

§ 2313. Nuclear, chemical, and biological emergency response

(a) Department of Defense

The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination

of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.

(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 301,¹ \$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; Pub. L. 109–163, div. A, title X, § 1031, Jan. 6, 2006, 119 Stat. 3428.)

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

2006—Subsec. (a). Pub. L. 109–163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “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.”

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

¹ See References in Text note below.

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).”

§ 2314. Chemical, biological, radiological, nuclear, and high-yield explosives 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, radiological, nuclear, and high-yield explosives.

(b) Addition to Federal response plans

The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 312(6) of title 6, other 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 weap-

ons of mass destruction. The Secretary of Homeland Security shall carry out this subsection in coordination with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

(Pub. L. 104–201, div. A, title XIV, § 1414, Sept. 23, 1996, 110 Stat. 2720; Pub. L. 109–163, div. A, title X, § 1033, Jan. 6, 2006, 119 Stat. 3429.)

AMENDMENTS

2006—Pub. L. 109–163, § 1033(1), substituted “Chemical, biological, radiological, nuclear, and high-yield explosives response team” for “Chemical-biological emergency response team” in section catchline.

Subsec. (a). Pub. L. 109–163, § 1033(2), substituted “radiological, nuclear, and high-yield explosives” for “or related materials”.

Subsec. (b). Pub. L. 109–163, § 1033(3), in heading, substituted “plans” for “plan” and, in text, substituted “The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 312(6) of title 6, other existing Federal emergency response plans, and” for “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” in first sentence and “Secretary of Homeland Security” for “Director” and “coordination” for “consultation” in second sentence.

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

(a) Emergencies involving nuclear, radiological, chemical, or biological weapons

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

(2) The program shall include exercises to be carried out in accordance with sections 112(c) and 238(c)(1) of title 6.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Secretary of Defense, the Director of the Federal Bureau of Investigation, 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) Annual revisions of programs

The Secretary of Homeland Security shall revise the program developed under subsection (a) of this section not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the Secretary 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.

(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; Pub. L. 109–163, div. A, title X, § 1032, Jan. 6, 2006, 119 Stat. 3428.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163, § 1032(a)(1), substituted “nuclear, radiological, chemical, or” for “chemical or” in heading.

Subsec. (a)(1). Pub. L. 109-163, §1032(a)(2), substituted “Secretary of Homeland Security” for “Secretary of Defense” and “nuclear, radiological, biological, and” for “biological weapons and related materials and emergencies involving”.

Subsec. (a)(2). Pub. L. 109-163, §1032(a)(3), substituted “in accordance with sections 112(c) and 238(c)(1) of title 6” for “during each of fiscal years 1997 through 2013”.

Subsec. (a)(3). Pub. L. 109-163, §1032(a)(4), inserted “the Secretary of Defense,” before “the Director of the Federal Bureau of Investigation” and struck out “the Director of the Federal Emergency Management Agency,” before “the Secretary of Energy.”

Subsecs. (b), (c). Pub. L. 109-163, §1032(b), (c), redesignated subsec. (c) as (b), substituted “The Secretary of Homeland Security shall revise the program developed under subsection (a) of this section” for “The official responsible for carrying out a program developed under subsection (a) or (b) of this section shall revise the program” in first sentence and “the Secretary” for “the official” in second sentence, and struck out heading and text of former subsec. (b) which related to emergencies involving nuclear and radiological weapons.

Subsecs. (d), (e). Pub. L. 109-163, §1032(d), struck out heading and text of subsecs. (d) and (e) which related to option to transfer responsibility for programs under this section and to funding, respectively.

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”.

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 [former 50 U.S.C. 2312] and 1415 [50 U.S.C. 2315] of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997).”

§ 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 enforcement 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 Administrator 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 Administrator of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared 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 Administrator 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 subsection¹ to respond to emergencies involving weapons of mass destruction.

(d) Database on chemical and biological materials

The Administrator of the Federal Emergency Management Agency, in consultation with the

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

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 Administrator 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; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” wherever appearing in text on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 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 301,¹ \$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).

(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 importa-

tion, 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 sentencing guidelines set out as a note 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) Other countries

The Secretary of Defense may carry out programs under subsection (a) of this section in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.

(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 independ-

¹ See References in Text note below.

ent 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; Pub. L. 108-375, div. A, title XII, § 1211(a), Oct. 28, 2004, 118 Stat. 2087.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-375 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Of the total amount authorized to be appropriated by section 301, \$15,000,000 is available for carrying out the programs referred to in subsection (a) of this section.”

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(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.

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.

§ 2334. Training program

The Secretary of Defense may participate in a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, states of the former Soviet Union, and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition.

(Pub. L. 103-337, div. A, title XV, § 1504(e)(3)(A), Oct. 5, 1994, 108 Stat. 2918; Pub. L. 108-375, div. A, title XII, § 1211(b), Oct. 28, 2004, 118 Stat. 2087.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

AMENDMENTS

2004—Pub. L. 108-375 substituted “The Secretary of Defense may participate in a” for “The training program referred to in paragraph (1)(B) is a”, inserted “of” after “acquisition”, struck out “and” after “coun-

tries.”, and inserted before period at end “, and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition”.

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

§ 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.

(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)¹ 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,

¹ See References in Text note below.

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)¹ 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

¹ See References in Text note below.

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)¹ 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 Nuclear 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)¹ 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.

¹ See References in Text note below.

¹ See References in Text note below.

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 301,¹ \$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, established the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction, directed the Commission to carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combating the proliferation of weapons of mass destruction and, not later than 18 months after Jan. 18, 1998, to submit to Congress a report containing a detailed state-

¹ See References in Text note below.

ment of its findings and conclusions, and provided that the Commission terminate 60 days after the date on which it submitted such report.

§ 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 en-

forcement, 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.)

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 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, bio-

logical, 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 sub-

chapter, 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.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 department¹ 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.)

§ 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
- (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

¹ So in original. Probably should be “department’s”.

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 information 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 an annual 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; Pub. L. 108-177, title III, § 361(k), Dec. 13, 2003, 117 Stat. 2626.)

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

2003—Subsec. (b)(1). Pub. L. 108-177 substituted “an annual” for “a semiannual”.

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”.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108-177, set out as a note under section 1611 of Title 10, Armed Forces.

§ 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.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.

§ 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 preceding¹ 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 Sec-

retary 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 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—

¹ So in original. Probably should be preceded by “the”.

(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.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

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.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.

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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- 2403. Principal Deputy Administrator for Nuclear Security.
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SUBCHAPTER I—ESTABLISHMENT AND ORGANIZATION

§ 2401. Establishment and mission

(a) Establishment

There is established within the Department of Energy a separately organized agency to be known as the National Nuclear Security Administration (in this chapter referred to as the "Administration").

(b) Mission

The mission of the Administration shall be the following:

- (1) To enhance United States national security through the military application of nuclear energy.
- (2) To maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile, including the ability to design, produce, and test, in order to meet national security requirements.
- (3) To provide the United States Navy with safe, militarily effective nuclear propulsion plants and to ensure the safe and reliable operation of those plants.
- (4) To promote international nuclear safety and nonproliferation.
- (5) To reduce global danger from weapons of mass destruction.
- (6) To support United States leadership in science and technology.

(c) Operations and activities to be carried out consistent with certain principles

In carrying out the mission of the Administration, the Administrator shall ensure that all operations and activities of the Administration are consistent with the principles of protecting the environment and safeguarding the safety and health of the public and of the workforce of the Administration.

(Pub. L. 106-65, div. C, title XXXII, §3211, Oct. 5, 1999, 113 Stat. 957.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 106-65, div. C, title XXXII, §3299, Oct. 5, 1999, 113 Stat. 971, provided that: