

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

How Current is This?

(a) In general

Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the “Secretary”) shall, in accordance with the provisions of this section, carry out the destruction of the United States’ stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(b) Date for completion

(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.

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

(3)

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

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.

(4) If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that projected delay.

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

(c) Environmental protection and use of facilities

(1) In carrying out the requirement of subsection (a) of this section, the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a) of this section; and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section shall, when no longer needed for the purposes for which they were constructed, be disposed of in accordance with applicable

laws and regulations and mutual agreements between the Secretary of the Army and the Governor of the State in which the facility is located.

(3)

(A) Facilities constructed to carry out this section may not be used for a purpose other than the destruction of the stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(B) The prohibition in subparagraph (A) shall not apply with respect to items designated by the Secretary of Defense as lethal chemical agents, munitions, or related materials after November 8, 1985, if the State in which a destruction facility is located issues the appropriate permit or permits for the destruction of such items at the facility.

(4)

(A) In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments and to tribal organizations (either directly or through the Federal Emergency Management Agency) to assist those governments and tribal organizations in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a) of this section. Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants.

(B) Additionally, the Secretary may provide funds through cooperative agreements with State and local governments, and with tribal organizations, for the purpose of assisting them in processing, approving, and overseeing permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.

(C) In this paragraph, the term “tribal organization” has the meaning given that term in section 450b (l) of title 25.

(5)

(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Director of the Federal Emergency Management Agency, the Director shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

(i) the storage of lethal chemical agents and munitions referred to in subsection (a) of this section at military installations in the continental United States; or

(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States’ stockpile of lethal chemical agents and munitions.

(C) Not later than December 15 of each year, the Director shall transmit a report to Congress on the activities carried out under this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.

(d) Requirement for strategic plan

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of the Army shall jointly prepare, and from time to time shall update as appropriate, a strategic plan for future activities for destruction of the United States’ stockpile of lethal chemical agents and munitions.

(2) The plan shall include, at a minimum, the following considerations:

- (A) Realistic budgeting for stockpile destruction and related support programs.
- (B) Contingency planning for foreseeable or anticipated problems.
- (C) A management approach and associated actions that address compliance with the obligations of the United States under the Chemical Weapons Convention treaty and that take full advantage of opportunities to accelerate destruction of the stockpile.
- (3) The Secretary of Defense shall each year submit to the Committee on the Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the strategic plan as most recently prepared and updated under paragraph (1). Such submission shall be made each year at the time of the submission to the Congress that year of the President's budget for the next fiscal year.

(e) Management organization

- (1) In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.
- (2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.
- (3) The Secretary shall designate a general officer or civilian equivalent as the director of the management organization established under paragraph (1). Such officer shall have—
 - (A) experience in the acquisition, storage, and destruction of chemical agents and munitions;
 - (B) training in chemical warfare defense operations; and
 - (C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) Identification of funds

- (1) Funds for carrying out this section, including funds for military construction projects necessary to carry out this section, shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.
- (2) Amounts appropriated to the Secretary for the purpose of carrying out subsection (c)(5) of this section shall be promptly made available to the Director of the Federal Emergency Management Agency.

(g) Periodic reports

- (1) Except as provided by paragraph (3), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.
- (2) Each annual report shall include the following:
 - (A) A site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation.
 - (B) A site-by-site description of actions taken to assist State and local governments (either directly or through the Federal Emergency Management Agency) in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(4) of this section.
 - (C) An accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—
 - (i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;
(iii) the dismantling or other closure of such facilities;
(iv) research and development;
(v) program management;
(vi) travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102-484 (50 U.S.C. 1521 note); and
(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(4) of this section.

(D) An assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

(i) an estimate on how much longer that stockpile can continue to be stored safely;
(ii) a site-by-site assessment of the safety of those agents and munitions; and
(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

(3) The Secretary shall transmit the final report under paragraph (1) not later than 120 days following the completion of activities under this section.

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

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

(2)

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

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

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

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

(j) Definitions

For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolition of such munitions or agents by incineration or by any other means;
or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) Operational verification

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

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

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

[1] So in original. Probably should be "agents".