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APPROVED
MAR 29 1976

83/29/76

THE WHITE HOUSE
WASHINGTON

ACTION

LAST DAY: March 30

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

H.R. 9570 - Disposal of Carbonyl
Chloride by the Defense Department

Attached for your consideration is H.R. 9570, sponsored by Representatives Price and Wilson, which authorizes the sale within the United States, and shipment incident to such sale, of the Defense Department's entire stock of carbonyl chloride or any of its commercial derivatives.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 9570 at Tab B.

Posted
3/30
To Archive
3/30





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAR 24 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 9570 - Disposal of
carbonyl chloride by the Defense Department
Sponsors - Rep. Price (D) Illinois and Rep.
Wilson (R) California

Last Day for Action

March 30, 1976 - Tuesday

Purpose

Authorizes the sale within the United States, and shipment incident to such sale, of the Defense Department's entire stock of the chemical substance carbonyl chloride or any of its commercial derivatives.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of Transportation	Approval
Environmental Protection Agency	Approval
Council on Environmental Quality	Defers to EPA

Discussion

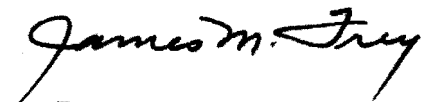
Carbonyl chloride is a chemical substance widely used commercially in the production of certain plastics, specialty rubber and paints. The Defense Department acquired its stocks of carbonyl chloride many years ago to serve as part of the United States chemical warfare capability. For several years, however, carbonyl chloride has been considered obsolete as a chemical warfare agent. Plans to dispose of the Department's stocks of the substance along with other obsolete chemical agents stored at Rocky Mountain Arsenal near Denver, Colorado, have been in effect for some time.



In 1967, Defense sold certain quantities of carbonyl chloride to private industry. Enactment of subsequent laws, however, placed severe restrictions on the movement and disposal of chemical warfare agents, including the requirement that such agents be detoxified prior to disposal. Defense concluded that continued sale of its carbonyl chloride stocks to industry was inconsistent with these laws. Accordingly, detoxification of the remaining carbonyl chloride stocks was scheduled to begin in the spring of 1977. The plans of the city of Denver to expand its airport near Rocky Mountain Arsenal, however, created a need to accelerate removal of remaining obsolete chemical stocks.

H.R. 9570, which is identical to a Defense draft proposal, would facilitate disposal of the carbonyl chloride stocks presently stored at the Arsenal. Notwithstanding the statutory restrictions noted above, the enrolled bill would authorize the Secretary of Defense to dispose of Defense's entire inventory of carbonyl chloride by sale within the United States and would permit any transportation incident to such sale. The bill would not exempt the sale and transportation of carbonyl chloride from any other laws. Thus, for example, any transportation incident to such sale would have to comply with the applicable standards of the Department of Transportation for commercial shipment of carbonyl chloride.

Enactment of H.R. 9570 would result in considerable savings of time and money (Defense has estimated savings of between \$2 million and \$3 million apart from any payments received from purchasers of carbonyl chloride). In addition, by eliminating the need to detoxify the carbonyl chloride prior to disposal, enactment of the bill would result in energy savings as well.



James M. Frey
Assistant Director for
Legislative Reference

Enclosure



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

19 MAR 1976

Honorable James T. Lynn

Director, Office of Management and Budget

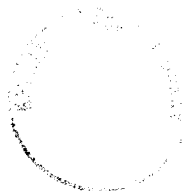
Dear Mr. Lynn:

The Secretary of Defense has delegated responsibility to the Department of the Army for reporting the views of the Department of Defense on enrolled enactment [H. R. 9570], 94th Congress, "To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense."

The Department of the Army on behalf of the Department of Defense recommends approval of the enrolled enactment.

This act provides for granting the Secretary of Defense authority to sell within the United States all stocks of the chemical labeled carbonyl chloride (also named phosgene), or any of its commercial derivatives. The authority to sell or transport carbonyl chloride as a result of this bill would not be restricted by any of the provisions in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441. This bill is required to authorize the sale because the Department of Defense procured carbonyl chloride as a chemical warfare agent and the law cited above prohibits the Secretary of Defense from disposing of a chemical warfare agent before it has been detoxified "unless immediate disposal is clearly necessary, in an emergency, to safeguard human life," nor can the chemical be transported to or from any military installation in the United States unless the Secretary of Defense determines that it is in the interest of national security. Only carbonyl chloride would be exempted from these requirements by this bill.

The enactment of this measure is urgent because the plans of the City of Denver to expand the Stapleton International Airport created a need to accelerate the removal of obsolete stocks of chemicals from Rocky



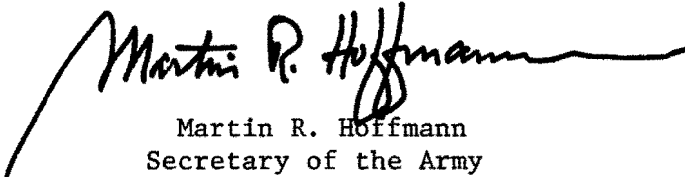
Honorable James T. Lynn

Mountain Arsenal. The disposition of phosgene was reprogramed for accomplishment concurrent with the disposal of the other chemical stocks at the Rocky Mountain Arsenal, which is to be completed in 1977. This bill, which authorizes the sale of carbonyl chloride by the Department of Defense, notwithstanding the provisions of Public Laws 91-121 and 91-441, would reduce significantly the cost to the taxpayer of disposal of carbonyl chloride. The savings as a result of the sale which would be authorized by this bill, apart from any payments to the government from the purchasers of the carbonyl chloride would be between \$2 and \$3 million.

Approval of this enactment will eliminate an alternative to reduce the phosgene by a chemical process to a non-toxic material and subsequently dispose of the product. This alternative could be expected to be not only expensive, but also quite time and fuel-energy consuming.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely,



Martin R. Hoffmann
Secretary of the Army



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

MAR 22 1973

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of this Department with respect to H.R. 9570, an enrolled bill

"To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense."

The bill would allow the Secretary of Defense to sell and dispose of its entire inventory of carbonyl chloride, better known as phosgene. This bill is an outgrowth of draft legislation prepared by the Department of Defense.

The Department of Transportation has jurisdiction over the safe shipment and transportation of carbonyl chloride and regulates the commodity under the Code of Federal Regulations, Title 49 - Transportation, Part 100 to Part 199.

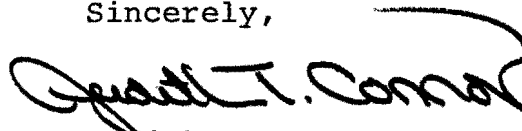
This Department was consulted during the preparation of the legislative proposal and was assured by the Department of Defense that the transportation incident to the sale of the phosgene will be made in containers which full comply with this Department's regulations for commercial shipment of phosgene, without the need for an exemption or special permit to waive any regulatory requirements.

The Hazardous Materials Regulations of the Department of Transportation classify phosgene as an "extremely dangerous poison-Class A" (§ 173.325(a)) and require this material to be shipped in Specification 33, 3D, 106A500 or 106A500X containers (§ 173.333). When shipped in Specification 106A500 or 106A500X tank car tanks, each container must be equipped with gas-tight valve protective cap, which must be approved by the Bureau of Explosives. Each container must be hydrostatically tested every five years. Containers must not be equipped with safety relief devices and they must have sufficient outage so as not to be liquid full at 130 degrees F.

Each container must be labeled with a "poison gas label" (§ 173.402(a)(8) and (§ 173.414(a)). Certain car placement regulations are imposed upon the rail carrier (§ 174.589(k)) and the shipper's documentation must indicate the name and classification of the commodity (§ 173.427(a) and § 174.584(a)). Each car must be placarded with the appropriate "poison gas placard" (§ 174.542 and § 174.557), and each car containing 106A500 or 106A500X tanks must be inspected by the originating carrier and by every carrier accepting the car in interchange (§ 174.596).

As we interpret the bill, the proposed sale of the carbonyl chloride would not be exempted from the provisions of any laws other than those provisions of Public Laws 91-121 and 91-441 which, among other things, require detoxification of chemical warfare agents prior to disposal. Therefore, any transportation incident to such sale would have to comply with the standards of the Department of Transportation for commercial shipment of carbonyl chloride. Accordingly, this Department recommends that the President approve the enrolled bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith T. Connor", with a large, sweeping flourish extending from the end of the name.

Judith T. Connor
Assistant Secretary for Environment,
Safety and Consumer Affairs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 24 1976

OFFICE OF THE
ADMINISTRATOR

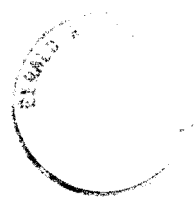
Dear Mr. Lynn:

This is in response to your request of March 17, 1976, for the Environmental Protection Agency's views and comments concerning H.R. 9570, an enrolled bill.

The bill would authorize the Secretary of Defense to sell and ship the entire inventory of the chemical substance carbonyl chloride or any of its commercially available derivatives within the United States, exempt from the provisions of section 409 of Public Law 91-121 (regarding HEW recommendations as to precautions) and section 506 of Public Law 91-441 (pertaining to limitations on its use for chemical warfare purposes).

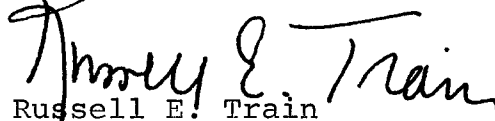
We commented to OMB on this bill when it was a draft proposal for the 93rd Congress on April 3, 1974, and again when it was proposed for the 94th Congress and advised that we would have no objection to its introduction in the Congress. A copy of our April 3, 1974 letter on the proposal is enclosed.

The EPA supports this legislation since it will have the effect of safely recovering a commercially useable product, thus avoiding the requirement of costly destruction of the chemical and attendant problems of solid waste disposal. The Defense Department's draft Environmental Assessment submitted with the original draft proposal indicates that safety precautions and procedures outlined in the assessment will be practiced by both Department of Defense and contracting



personnel, and that such a sale will also not adversely affect the environment. We therefore have no objections to H.R. 9570 and recommend it to the President for his signature.

Sincerely yours,


Russell E. Train
Administrator

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APP 3 1374

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Ash:

This responds to your request for the views of the Environmental Protection Agency on the Department of Defense draft proposal 93-80, "To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense."

As we understand it, the draft bill would authorize the Secretary of Defense to dispose by sale of that Department's inventory of 2,018,000 pounds of carbonyl chloride. This chemical is currently stored in 1,294 one-ton containers at Rocky Mountain Arsenal, Colorado. These stocks were acquired some years ago under the name "phosgene", as part of this country's chemical warfare program.

Carbonyl chloride, now obsolete for use as a chemical warfare agent, is widely used commercially in the manufacture of urethane plastics and related products.

We understand that detoxification of the stocks had been scheduled to begin in the Spring of 1977, but that plans of the City of Denver to expand its airport have prompted a need to accelerate the removal of the chemical from the arsenal. The Department of Defense draft would permit the sale and transfer of these stocks notwithstanding the requirements of P.L. 91-121 and P.L. 91-441 which place limitations on the shipment and disposal of toxic chemicals and biological agents, including the detoxification of any such agent prior to its transfer to another location.

In general, we view the proposed sale and private use of the stocks of carbonyl chloride as being both economically beneficial and energy saving. Sale of the

stocks would save detoxification and disposal costs associated with the disposition of the chemical by the Department of Defense. Such sale would also conserve the resources which would be required to produce an equivalent amount of the chemical once the Department's stocks are destroyed.

With regard to the specifics of the proposal, we have reviewed the Department's draft Environmental Assessment, "Disposal by Sale of Obsolete Stocks at Rocky Mountain Arsenal, October 1973", prepared for the proposed action. The draft assessment indicates that the proposed sale would not significantly affect the environment. It outlines the equipment and operational procedures to be followed during the transfer of the chemical to the contractor for conversion of the chemical and the manner in which the empty containers are to be disposed of after such transfer. The draft concludes that a full environmental impact statement would not be required.

Provided that the safety precautions and procedures so outlined in the draft assessment are adhered to by both Department of Defense personnel at the arsenal and by contracting personnel to ensure against any accident which may have an adverse impact upon the environment, we would have no objection to the introduction of this proposal in the Congress.

Sincerely yours, ..

/s/ Russell E. Train

Russell E. Train
Administrator

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C. 20503

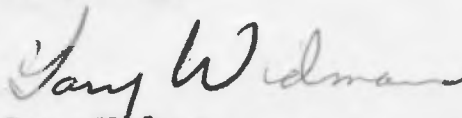
EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

MAR 19 1976

Dear Mr. Frey:

Thank you for your letter of March 17, 1976 inviting the Council on Environmental Quality to comment on H.R. 9570 an enrolled bill to authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense. In view of the fact that we are not directly involved, the Council defers to the Environmental Protection Agency on the subject bill.

Sincerely,



Gary Widman
General Counsel

Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503



RECEIVED
MAR 19 1976
OFFICE OF MANAGEMENT AND BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAR 24 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 9570 - Disposal of
carbonyl chloride by the Defense Department
Sponsors - Rep. Price (D) Illinois and Rep.
Wilson (R) California

Last Day for Action

March 30, 1976 - Tuesday

Purpose

Authorizes the sale within the United States, and shipment incident to such sale, of the Defense Department's entire stock of the chemical substance carbonyl chloride or any of its commercial derivatives.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of Transportation	Approval
Environmental Protection Agency	Approval
Council on Environmental Quality	Defers to EPA

Discussion

Carbonyl chloride is a chemical substance widely used commercially in the production of certain plastics, specialty rubber and paints. The Defense Department acquired its stocks of carbonyl chloride many years ago to serve as part of the United States chemical warfare capability. For several years, however, carbonyl chloride has been considered obsolete as a chemical warfare agent. Plans to dispose of the Department's stocks of the substance along with other obsolete chemical agents stored at Rocky Mountain Arsenal near Denver, Colorado, have been in effect for some time.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: March 25

Time: 1100am

FOR ACTION:

MSC/S *al*
Max Friedersdorf *h* cc (for information):
Judy Hope *al*
Ken Lazarus *h*

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date:

March 26

Time:

500pm

SUBJECT:

H.R. 9570 - Disposal of carbonyl chloride by the
Defense Department

ACTION REQUESTED:

☐ For Necessary Action☐ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

March 26, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *m.l.f.*
SUBJECT: H.R. 9570 - Disposal of carbonyl chloride
by the Defense Department

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

NATIONAL SECURITY COUNCIL

March 26, 1976

MEMORANDUM FOR: JAMES CANNON

FROM: Jeanne W. Day 

SUBJECT: H. R. 9570

The NSC Staff has no objection to H. R. 9570 - Disposal of carbonyl chloride by the Defense Department.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: March 25

Time: 1100am

FOR ACTION: NSC/S
Max Friedersdorf
Judy Hope
Ken Lazarus

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: March 26

Time: 500pm

SUBJECT:

H.R. 9570 - Disposal of carbonyl chloride by the
Defense Department

ACTION REQUESTED:

☐ For Necessary Action☐ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 3/29/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: March 25

Time: 1100am

FOR ACTION: NSC/S
Max Friedersdorf
Judy Hope
Ken Lazarus

cc (for information): Jack Marsh
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Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: March 26

Time: 500pm

SUBJECT:

H.R. 9570 - Disposal of carbonyl chloride by the
Defense Department

ACTION REQUESTED:

☐ For Necessary Action☐ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Approval. *JRH*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

AUTHORITY FOR DEPARTMENT OF DEFENSE TO SELL STOCKS OF THE CHEMICAL CARBONYL CHLORIDE

NOVEMBER 6, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PRICE, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany H.R. 9570]

The Committee on Armed Services, to whom was referred the bill (H.R. 9570) to authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the bill is to grant the Secretary of Defense authority to sell within the United States all stocks of the chemical labeled carbonyl chloride (also named phosgene), or any of its commercial derivatives. The authority to sell or transport carbonyl chloride as a result of this bill would not be restricted by any of the provisions in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441. This bill is required to authorize the sale because the Department of Defense procured carbonyl chloride as a chemical warfare agent and the law cited above prohibits the Secretary of Defense from disposing of a chemical warfare agent before it has been detoxified "unless immediate disposal is clearly necessary, in an emergency, to safeguard human life," nor can the chemical be transported to or from any military installation in the United States unless the Secretary of Defense determines that it is in the interest of national security. Only carbonyl chloride would be exempted from these requirements by this bill.

BACKGROUND

Carbonyl chloride was originally purchased by the Army as a chemical warfare agent. Presently, there are 1,294 one-ton containers (2,078,000 pounds) stored at Rocky Mountain Arsenal, Denver, Colorado. The remainder of the Army's supply of carbonyl chloride is a

one-ton container at Dugway Proving Ground, Utah, which is used for research. In the early 1960's this chemical was declared an obsolete agent and in 1964 the loaded ammunition was unloaded. In 1973, the Deputy Secretary of Defense declared all chemical material, including carbonyl chloride, stockpiled at Rocky Mountain Arsenal surplus. Accordingly, the Army has begun to detoxify the toxic chemicals stored at Rocky Mountain Arsenal. Linked with this detoxification program is a clearance being granted for the use of a new runway at Denver's Stapleton International Airport.

Large quantities of carbonyl chloride are produced annually. During 1975, the estimated production by domestic manufacturers is 1.4 billion pounds. This chemical which is identical to that stockpiled at Rocky Mountain Arsenal is used in the making of polyurethane foams, specialty rubber, and paints. Due to this large quantity which is used annually by the chemical industry and the Army's demilitarization operation, sale of the complete stockpile to industry is considered by the Department of Defense as the most efficient method of disposal. This decision is based on economics and time. The Army estimates the cost to sell the entire stockpile of carbonyl chloride to be \$5,019,000 as opposed to \$7,947,000 to detoxify the chemical. This sale will cost \$2,928,000 less than detoxification, this figure does not include the price paid by purchasers which is estimated at \$1,058,000. Finally, the estimated time to detoxify the stockpile will be 24 months as opposed to 12 months for sale. The \$5,019,000 and 12 months required for sale are needed primarily to provide certified shipping containers. The containers in which the chemical is presently stored are not certified and to meet the requirements of the Department of Transportation the containers must be emptied, tested, refilled and special covers installed before shipping.

DEPARTMENT POSITION

The bill is part of the demilitarization program being carried out at Rocky Mountain Arsenal, as is indicated in the following letters which are hereby made a part of this report:

DEPARTMENT OF THE ARMY,
Washington, D.C., August 4, 1975.

HON. CARL ALBERT,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am transmitting herewith on behalf of the Department of Defense a draft of proposed legislation which would authorize the Secretary of Defense to dispose by sale within the United States the Defense Department's entire inventory of the chemical substance carbonyl chloride and to arrange such transportation as may be necessary incident to such sale. Enactment of this legislation is requested by the Department of Defense as a part of its program to dispose of all chemical warfare agents and munitions presently stored at Rocky Mountain Arsenal.

Carbonyl chloride is a chemical substance widely used commercially in the manufacture of urethane plastics and other products. Currently there are 18 domestic industrial producers of carbonyl chloride with a projected production of over 1.4 billion pounds per year. The present market value of carbonyl chloride is \$0.20 per pound.

The Department of the Army has stored at the Rocky Mountain Arsenal just outside Denver, Colorado, 1,294 one-ton containers (2,078,000 pounds) of carbonyl chloride. These stocks were acquired many years ago to serve as a part of the United States chemical warfare capability, under the name of phosgene. This phosgene has for several years been considered obsolete insofar as possible use for purposes of chemical warfare is concerned.

In 1967, the Defense Supply Agency contracted to sell to two private companies approximately 3,850 tons of carbonyl chloride. About three-fourths of the phosgene containers had been shipped by rail and delivered to the purchasers before the Department of Transportation cancelled the special permits which had been granted to the purchasers for transportation of the containers. The subsequent enactment of Public Laws 91-121 and 91-441 placed severe restrictions on the movement and disposal of toxic chemical and biological agents. The Defense Supply Agency studied the sale of phosgene to industry with respect to these laws and determined that such sale would be inconsistent with Section 506(d) of Public Law 91-441 (84 Stat. 913), which requires that any chemical warfare agent be detoxified prior to disposal. Therefore, plans to detoxify the remaining 1,039 tons of phosgene at Rocky Mountain Arsenal were approved by the Deputy Secretary of Defense on June 8, 1970. Detoxification of these stocks was scheduled to begin in the spring of 1977.

The plans of the City of Denver to expand the Stapleton International Airport created a need to accelerate the removal of obsolete stocks of chemicals from Rocky Mountain Arsenal. The disposition of phosgene was reprogrammed for accomplishment concurrent with the disposal of the other chemical stocks at the Rocky Mountain Arsenal, which is to be completed in 1977. This bill, which authorizes the sale of carbonyl chloride by the Department of Defense, notwithstanding the provisions of Public Laws 91-121 and 91-441, would reduce significantly the cost to the taxpayer of disposal of carbonyl chloride. The savings as a result of the sale which would be authorized by this bill, apart from any payments to the government from the purchasers of the carbonyl chloride would be between \$2.0 and \$3.0 million.

An alternative to sale of the carbonyl chloride in its present form would be conversion by the Army of the carbonyl chloride into one of its common commercial derivatives, such as hydrochloric acid, and the sale of that derivative. Such a conversion and sale would also be exempted by this bill from the restrictions of Public Law 91-121 and Public Law 91-441.

This proposed legislation would not exempt the proposed sale of carbonyl chloride by the Department of Defense from the provisions of any applicable laws other than Public Laws 91-121 and 91-441. Thus, for example, any transportation incident to such sale would have to comply with the applicable standards of the Department of Transportation for commercial shipment of carbonyl chloride. This legislation would, therefore, not expose the public to any greater risk of injury than that to which it is routinely exposed incident to the commercial production, shipment, and use of carbonyl chloride. An environmental assessment of the proposed sale has been prepared by the Department of the Army. This assessment concludes that the proposed sale would not significantly affect the quality of the human

environment and that a detailed environmental impact statement is not required.

For the foregoing reasons, the Department of Defense requests expeditious enactment of this proposed legislation.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposed legislation for the consideration of the Congress.

Sincerely,

NORMAN R. AUGUSTINE,
Acting Secretary of the Army.

A BILL To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. The Secretary of Defense is authorized to dispose of the entire inventory of the chemical substance carbonyl chloride under his jurisdiction by sale within the United States of the carbonyl chloride or of any commercially available derivative thereof.

SEC. 2. Nothing contained in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441, shall be deemed to restrict any sale authorized by section 1 hereof, or any transportation incident to such sale.

The Secretary of the Army, subsequent to the above request, further urged the passage of this bill in the following letter which is hereby made a part of this report:

SECRETARY OF THE ARMY,
Washington, D.C., October 28, 1975.

HON. MELVIN PRICE,
*Chairman, Subcommittee on Research and Development,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: My purpose at this writing is to invite your personal attention to the Army's interest in H.R. 9570, recently referred to your Subcommittee on Research and Development.

The proposed legislation would authorize the Secretary of Defense to dispose of, by public sale, the entire inventory of its stocks of the chemical substance carbonyl chloride, industrially known as phosgene. The Army retains in storage about two million pounds of the chemical and the entire amount is stored at Rocky Mountain Arsenal in Colorado.

Based on a decision by the Deputy Secretary of Defense in 1973, all chemical materiel, including the phosgene, stockpiled at Rocky Mountain Arsenal need no longer be retained and we are working to demilitarize and dispose of it. All plans and milestones in this massive effort are being met except those to dispose of the carbonyl chloride. In the case of the phosgene, we have consistently planned for public sale of the chemical rather than the expensive methods involved in detoxification. As you know, the phosgene in its present state as an industrial chemical could readily be used by plastics manufacturers and we have received numerous queries concerning its availability for public sale.

Having been acquired by the Army as a "chemical warfare agent," the chemical comes under the provisions of the Public Law 91-121 amended by PL 91-441 which prohibits its shipment. It is for this reason that excepting legislation was requested.

Failing in securing the appropriate exception to the law, the Army will, at the estimated cost of \$6 million, be required to chemically reduce the phosgene to a non-toxic material and subsequently dispose of the product. This alternative can be expected to be not only expensive, but also quite time and fuel-energy consuming. In addition, I fully expect that the alternative would slip our completion date for the removal of all chemical munitions stocks beyond the current December 1977 target date.

This is the pacing action in our demilitarization and detoxification efforts at Rocky Mountain Arsenal. Without the passage of this legislation our program will be delayed beyond the announced completion date.

Sincerely,

MARTIN R. HOFFMAN.

COMMITTEE POSITION

The Committee on Armed Services, on November 4, 1975, a quorum being present, approved H.R. 9570, by voice vote without objection.

FISCAL DATA

The enactment of this legislation is a part of the demilitarization program at Rocky Mountain Arsenal that is in progress in fiscal years 1976 and 1977, and it is the estimate of the Department of Defense that the legislation will result in no increase in the budgetary requirements for the Department of Defense.

COMPLIANCE WITH CLAUSE 2(1)(3)(C) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

With reference to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee on Armed Services has not received an estimate and comparison by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

INFLATION-IMPACT STATEMENT

Because, as is indicated above, there will be no increase in the budgetary requirements of the Department of Defense as a result of the enactment of this legislation, the committee does not consider that the bill contains an inflation factor. It is the belief of the committee that the legislation will not have a significant effect on the national economy.

OVERSIGHT FINDINGS

With reference to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, there is herewith printed in parallel columns the text of existing law which would be repealed, amended or waived by the various provision of the bill as reported.

EXISTING LAW

Public Law 91-121, section 409

(a) The Secretary of Defense shall submit semiannual reports to the Congress on or before January 31 and on or before July 31 of each year setting forth the amounts spent during the preceding six-month period for research, development, test and evaluation and procurement of all lethal and nonlethal chemical and biological agents. The Secretary shall include in each report a full explanation of each expenditure, including the purpose and the necessity therefor.

(b) None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, or the open air testing of any such agent within the United States until the following procedures have been implemented:

(1) the Secretary of Defense (hereafter referred to in this section as the "Secretary") has determined that the transportation or testing proposed to be made is necessary in the interests of national security;

(2) the Secretary has brought the particulars of the proposed transportation or testing to the attention of the Secretary of Health, Education, and Welfare, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation or testing may pose and to recommend what precautionary measures are necessary to protect the public health and safety;

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including, where practicable, the detoxification of any such agent, if such agent is to be transported to or from a military installation for disposal): *Provided, however,* That in the event the Secretary finds the recommendations submitted by the Surgeon General would have the effect of preventing the proposed transportation or testing, the President may determine that overriding considerations of national security require such transportation or testing be conducted. Any transportation or testing conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable; and

(4) the Secretary has provided notification that the transportation or testing will take place, except where

THE BILL AS REPORTED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. The Secretary of Defense is authorized to dispose of the entire inventory of the chemical substance carbonyl chloride under his jurisdiction by sale within the United States of the carbonyl chloride or of any commercially available derivative thereof.

SEC. 2. Nothing contained in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441, shall be deemed to restrict any sale authorized by section 1 hereof, or any transportation incident to such sale.

a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

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

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

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

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

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

(d) Unless otherwise indicated, as used in this section the term "United States" means the several States, the District of Columbia, and the territories and possessions of the United States.

(e) After the effective date of this Act, the operation of this section, or any portion thereof, may be suspended by the President during the period of any war declared by Congress and during the period of any national emergency declared by Congress or by the President.

(f) None of the funds authorized to be appropriated by this Act may be used for the procurement of any delivery system specifically designed to disseminate any lethal chemical or any biological warfare agent, or for the procurement of any part or component of any such delivery system, unless the President shall certify to the Congress

that such procurement is essential to the safety and security of the United States.

Public Law 91-441, section 506

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

(b) (1) Section 409(b) of Public Law 91-121, approved November 19, 1969 (83 Stat. 209), is amended—

(A) by striking out "or the open air testing of any such agent within the United States" in the material immediately preceding paragraph (1) and inserting in lieu thereof the following: the open air testing of any such agent within the United States, or the disposal of any such agent within the United States";

(B) by striking out "transportation or testing" each time it appears in paragraphs (2), (3), and (4) and inserting in lieu thereof "transportation, testing, or disposal"; and

(C) by inserting "or disposal" immediately after "such testing" in paragraph (4) (A).

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(2) Section 409(c) (1) of such public law is amended—

(A) by striking out "deployment, or storage, or both," and inserting in lieu thereof "deployment, storage, or disposal"; and

(B) by striking out "deployment or storage" immediately after "unless prior notice of" and inserting in lieu thereof "deployment, storage, or disposal".

(3) The first sentence of section 409(c) (2) of such public law is amended by inserting "or for the disposal of any munitions in international waters," immediately after "outside the United States".

(4) Section 409 of such public law is further amended by adding at the end thereof a new subsection as follows:

"(g) Nothing contained in this section shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, in emergency situations either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this section would clearly endanger the health or safety of any person."

(c) (1) The Secretary of Defense shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation to determine (A) the ecological and physiological dangers inherent in the use of herbicides, (B) the ecological and physiological effects of the defoliation program carried out by the Department of Defense in South Vietnam.

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(2) Of the funds authorized by this Act for research, development, testing, and evaluation of chemical warfare agents and for defense against biological warfare agents, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Secretary of Defense shall request that the National Academy of Sciences submit a final report containing the results of its study and investigation to the Secretary not later than January 31, 1972. The Secretary shall transmit copies of such report to the President and the Congress, together with such comments and recommendations as he deems appropriate, not later than March 1, 1972.

(d) On and after the date of enactment of this Act, no chemical or biological warfare agent shall be disposed of within or outside the United States unless such agent has been detoxified or made harmless to man and his environment unless immediate disposal is clearly necessary, in an emergency, to safeguard human life. An immediate report should be made to Congress in the event of such disposal.

(The restrictions on disposal and transportation of chemical warfare agents contained in section 409 of Public Law 91-121, as amended, and in section 506 of Public Law 91-441 have been codified in chapter 32, title 50, United States Code.)

SUMMARY

PURPOSE

The purpose of the bill is to allow the Secretary of Defense to sell within the United States to commercial users the Department of Defense's complete stock of carbonyl chloride (phosgene) or any of its commercial derivatives. Carbonyl chloride was originally purchased by the Department of Defense as a chemical warfare agent and has since been declared obsolete. This bill exempts the Department of Defense, for this sale only, from the restrictions of disposal and transportation of chemical warfare agents contained in section 409 of Public Law 91-121, as amended, and in section 506 of Public Law 91-441 (the sections of the Public Laws cited above are codified in chapter 32, title 50, United States Code.)

FISCAL DATA

There will be no increase in the budgetary requirements of the Department of Defense as a result of enactment of this legislation.

DEPARTMENT POSITION

The Department of Defense favors the enactment of H.R. 9570.

COMMITTEE POSITION

The Committee on Armed Services, on November 4, 1975, a quorum being present, approved H.R. 9570.

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AUTHORIZATION OF SALE AND SHIPMENT OF CARBONYL CHLORIDE

MARCH 11, 1976.—Ordered to be printed

Mr. CANNON, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany H.R. 9570]

The Committee on Armed Services, to which was referred the bill (H.R. 9570) to authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the Secretary of Defense authority to sell within the United States all stocks of the chemical labeled carbonyl chloride (also named phosgene), or any of its commercial derivatives. The authority to sell or transport carbonyl chloride as a result of this bill would not be restricted by any of the provisions in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441. This bill is required to authorize the sale because the Department of Defense procured carbonyl chloride as a chemical warfare agent and the law cited above prohibits the Secretary of Defense from disposing of a chemical warfare agent before it has been detoxified "unless immediate disposal is clearly necessary, in an emergency, to safeguard human life," nor can the chemical be transported to or from any military installation in the United States unless the Secretary of Defense determines that it is in the interest of national security. Only carbonyl chloride would be exempted from these requirements by this bill.

BACKGROUND

The background of this legislation requirement is put forth quite succinctly in the letter from the Department of Army, dated August 4, 1976, to the President of the Senate requesting enactment of the legislation:

Carbonyl chloride is a chemical substance widely used commercially in the manufacture of urethane plastics and other products. Currently there are 18 domestic industrial producers of carbonyl chloride with a projected production of over 1.4 billion pounds per year. The present market value of carbonyl chloride is \$0.20 per pound.

The Department of the Army has stored at the Rocky Mountain Arsenal, just outside Denver, Colo., 1,294 one-ton containers (2,078,000 pounds) of carbonyl chloride. These stocks were acquired many years ago to serve as a part of the U.S. chemical warfare capability, under the name phosgene. This phosgene has for several years been considered obsolete insofar as possible use for purposes of chemical warfare is concerned.

In 1967, the Defense Supply Agency contracted to sell to two private companies approximately 3,850 tons of carbonyl chloride. About three-fourths of the phosgene containers had been shipped by rail and delivered to the purchasers before the Department of Transportation canceled the special permits which had been granted to the purchasers for transportation of the containers. The subsequent enactment of Public Laws 91-121 and 91-441 placed severe restrictions on the movement and disposal of toxic chemical and biological agents. The Defense Supply Agency studied the sale of phosgene to industry with respect to these laws and determined that such sale would be inconsistent with section 406(d) of Public Law 91-441 (84 Stat. 913), which requires that any chemical warfare agent be detoxified prior to disposal. Therefore, plans to detoxify the remaining 10,039 tons of phosgene at Rocky Mountain Arsenal were approved by the Deputy Secretary of Defense on June 8, 1970. Detoxification of these stocks was scheduled to begin in the spring of 1977.

The plans of the city of Denver to expand the Stapleton International Airport created a need to accelerate the removal of obsolete stocks of chemicals from Rocky Mountain Arsenal. The disposition of phosgene was reprogrammed for accomplishment concurrent with the disposal of the other chemical stocks at the Rocky Mountain Arsenal, which is to be completed in 1977. This bill, which authorizes the sale of carbonyl chloride by the Department of Defense, notwithstanding the provisions of Public Laws 91-121 and 91-441, would reduce significantly the cost to the taxpayer of disposal of carbonyl chloride. The savings as a result of the sale which would be authorized by this bill, apart from any payments to the government from the purchasers of the carbonyl chloride would be between \$2 and \$3 million.

An alternative to sale of the carbonyl chloride in its present form would be conversion by the Army of the carbonyl chloride into one of its common commercial derivatives, such as hydrochloric acid, and the sale of that derivative. Such a conversion and sale would also be exempted by this bill from the restrictions of Public Law 91-121 and Public Law 91-441.

This proposed legislation would not exempt the proposed sale of carbonyl chloride by the Department of Defense from the provisions of any applicable laws other than Public Laws 91-121 and 91-441. Thus, for example, any transportation incident to such sale would have to comply with the applicable standards of the Department of Transportation for commercial shipment of carbonyl chloride. This legislation would, therefore, not expose the public to any greater risk of injury than that to which it is routinely exposed incident to the commercial production, shipment, and use of carbonyl chloride. An environmental assessment of the proposed sale has been prepared by the Department of the Army. This assessment concludes that the proposed sale would not significantly affect the quality of the human environment and that a detailed environmental impact statement is not required."

COMMITTEE ACTION

The Subcommittee on National Stockpile and Naval Petroleum Reserves of the Senate Armed Services Committee held open hearings on November 24, 1975, in Commerce City, Colo., Senator Gary Hart presiding, to review the legislative proposal with Army officials and local citizens who would be affected by the action.

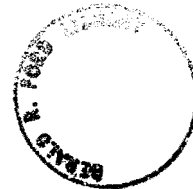
Subsequent to the hearings the Subcommittee on National Stockpile and Naval Petroleum Reserves agreed unanimously to recommend that H.R. 9570 be reported favorably, without amendment, to the committee.

COMMITTEE POSITION

On March 11, 1976, the full committee met in closed session to discuss and vote on H.R. 9570. Senator Cannon presented the subcommittee's findings and recommendations.

The Committee on Armed Services, a quorum being present, approved H.R. 9570, by a voice vote without objection.

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H. R. 9570

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of Defense is authorized to dispose of the entire inventory of the chemical substance carbonyl chloride under his jurisdiction by sale within the United States of the carbonyl chloride or of any commercially available derivative thereof.

SEC. 2. Nothing contained in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441, shall be deemed to restrict any sale authorized by section 1 hereof, or any transportation incident to such sale.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

March 18, 1976

Dear Mr. Director:

The following bills were received at the White House on March 18th:

✓ S. 611
✓ S. 1545
✓ H.R. 9570

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C.