

## CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

**§ 5962. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities**

**(a) Certification on use of facilities being constructed**

Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:

- (1) Whether or not such facility will be used for its intended purpose by the government of the state of the former Soviet Union in which the facility is constructed.
- (2) Whether or not the government of such state remains committed to the use of such facility for its intended purpose.
- (3) Whether those actions needed to ensure security at the facility, including secure transportation of any materials, substances, or weapons to, from, or within the facility, have been taken.

**(b) Applicability**

Subsection (a) of this section shall apply to—

- (1) any facility the construction of which commences on or after November 24, 2003; and
- (2) any facility the construction of which is ongoing as of November 24, 2003.

(Pub. L. 108–136, div. A, title XIII, § 1307, Nov. 24, 2003, 117 Stat. 1661.)

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## “CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 108–136, Nov. 24, 2003, 117 Stat. 1406. See note under section 101 of Title 10, Armed Forces.

**§ 5963. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union**

**(a) Authority**

Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:

- (1) That such project or activity will—
  - (A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Defense is the entity of the Federal Government that is most capable of carrying out such project or activity.

**(b) Scope of authority**

The authority in subsection (a) of this section to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

**(c) Limitation on availability of funds**

(1) The Secretary of Defense may not obligate funds for a project or activity under the authority in subsection (a) of this section until the Secretary of Defense, with the concurrence of the Secretary of State, makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) of this section for a project or activity, the Secretary of Defense and the Secretary of State shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

- (A) a justification for such determinations; and
- (B) a description of the scope and duration of such project or activity.

**(d) Additional limitations and requirements**

Except as otherwise provided in subsections (a) and (b) of this section, the exercise of the authority in subsection (a) of this section shall be subject to any requirement or limitation under another provision of law as follows:

- (1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.
- (2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.
- (3) Any limitation on Cooperative Threat Reduction projects or activities.

(Pub. L. 108–136, div. A, title XIII, § 1308, Nov. 24, 2003, 117 Stat. 1662; Pub. L. 110–53, title XVIII, § 1811(4), Aug. 3, 2007, 121 Stat. 493; Pub. L. 110–181, div. A, title XIII, § 1305, Jan. 28, 2008, 122 Stat. 413.)

## CODIFICATION

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## AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, § 1305(1), substituted “Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before

such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:" for "Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:".

Subsec. (c). Pub. L. 110-181, §1305(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) required the Secretary of Defense, with the concurrence of the Secretary of State, to make certain determinations before obligating funds under subsec. (a).

Pub. L. 110-181, §1305(2), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The amount that may be obligated in a fiscal year under the authority in subsection (a) of this section may not exceed \$50,000,000."

Subsecs. (d), (e). Pub. L. 110-181, §1305(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

2007—Subsec. (a). Pub. L. 110-53, §1811(4)(A), in introductory provisions, substituted "the Secretary of Defense may" for "the President may" and "if the Secretary of Defense, with the concurrence of the Secretary of State," for "if the President".

Subsec. (d)(1). Pub. L. 110-53, §1811(4)(B), substituted "The Secretary of Defense may not" for "The President may not" and "until the Secretary of Defense, with the concurrence of the Secretary of State," for "until the President".

Subsec. (d)(2). Pub. L. 110-53, §1811(4)(C), in introductory provisions, substituted "Not later than 15 days prior to" for "Not later than 10 days after" and "the Secretary of Defense shall notify the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate" for "the President shall notify Congress".

Subsec. (d)(3). Pub. L. 110-53, §1811(4)(D), added par. (3).

#### § 5964. Metrics for the Cooperative Threat Reduction Program

##### (a) Metrics required

The Secretary of Defense shall develop and implement metrics to measure the impact and effectiveness of activities of the Cooperative Threat Reduction Program of the Department of Defense to address threats arising from the proliferation of chemical, nuclear, and biological weapons and weapons-related materials, technologies, and expertise.

##### (b) Secretary of Defense report on metrics

Not later than 270 days after October 28, 2009, the Secretary of Defense shall submit to the appropriate congressional committees a report describing the metrics developed and implemented under subsection (a).

##### (c) National Academy of Sciences assessment and report on metrics

###### (1) Assessment

Not later than 30 days after the date on which the report is submitted by the Secretary of Defense under subsection (b), the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out an assess-

ment to review the metrics developed and implemented under subsection (a) and identify possible additional or alternative metrics, if necessary.

##### (2) Report

The National Academy of Sciences shall submit to the appropriate congressional committees and the Secretary of Defense a report on the results of the assessment carried out under paragraph (1).

##### (3) Secretary of Defense report

(A) Not later than 90 days after receipt of the report required by paragraph (2), the Secretary shall submit to the appropriate congressional committees a report on the assessment carried out by the National Academy of Sciences.

(B) The report under subparagraph (A) shall include the following:

(i) A summary of the results of the assessment carried out under paragraph (1).

(ii) An evaluation by the Secretary of the assessment.

(iii) A statement of the actions, if any, to be undertaken by the Secretary to implement any recommendations in the assessment.

(C) The report under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

##### (d) Funding

Of the amounts appropriated pursuant to the authorization of appropriations in section 301(20)<sup>1</sup> or otherwise made available for Cooperative Threat Reduction Programs for fiscal year 2010, not more than \$1,000,000 may be obligated or expended to carry out paragraphs (1) and (2) of subsection (c).

##### (e) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives; and

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

(Pub. L. 111-84, div. A, title XIII, §1304, Oct. 28, 2009, 123 Stat. 2558.)

##### REFERENCES IN TEXT

Section 301(20), referred to in subsec. (d), is section 301(20) of Pub. L. 111-84, div. A, title III, Oct. 28, 2009, 123 Stat. 2247, which is not classified to the Code.

##### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2010, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

##### DEFINITION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS FOR PURPOSES OF PUB. L. 111-84

Pub. L. 111-84, div. A, title XIII, §1301(a), Oct. 28, 2009, 123 Stat. 2555, provided that: "For purposes of section

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