

military flight operations quality assurance system of a military department from disclosure under section 552(b)(3) of title 5, upon a written determination that—

(A) the information is sensitive information concerning military aircraft, units, or aircrew; and

(B) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(2) In this section, the term “data file” means a file of the military flight operations quality assurance (in this section referred to as “MFOQA”) system that contains information acquired or generated by the MFOQA system, including—

(A) any data base containing raw MFOQA data; and

(B) any analysis or report generated by the MFOQA system or which is derived from MFOQA data.

(3) Information that is exempt under paragraph (1) from disclosure under section 552(b)(3) of title 5 shall be exempt from such disclosure even if such information is contained in a data file that is not exempt in its entirety from such disclosure.

(4) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section and which specifically cites and repeals or modifies those provisions.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall ensure consistent application of the authority in subsection (a) across the military departments.

(c) DELEGATION.—The Secretary of Defense may delegate the authority to make a determination under subsection (a) to the Director of Administration and Management of the Department.

(d) TRANSPARENCY.—Each determination of the Secretary, or the Secretary’s designee, under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request, through the Office of the Director of Administration and Management.

(Added Pub. L. 112–81, div. A, title X, §1082(a)(1), Dec. 31, 2011, 125 Stat. 1600.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(4), is the date of enactment of Pub. L. 112–81, which was approved Dec. 31, 2011.

#### EFFECTIVE DATE

Pub. L. 112–81, div. A, title X, §1082(b), Dec. 31, 2011, 125 Stat. 1601, provided that: “Section 2254a of title 10, United States Code, as added by subsection (a), shall apply to any information entered into any data file of the military flight operations quality assurance system before, on, or after the date of the enactment of this Act [Dec. 31, 2011].”

### § 2255. Aircraft accident investigation boards: composition requirements

(a) REQUIRED MEMBERSHIP OF BOARDS.—Whenever the Secretary of a military department

convenes an aircraft accident investigation board to conduct an accident investigation (as described in section 2254(a)(2) of this title) with respect to a Class A accident involving an aircraft under the jurisdiction of the Secretary, the Secretary shall select the membership of the board so that—

(1) a majority of the members (or in the case of a board consisting of a single member, the member) is selected from units other than the mishap unit or a unit subordinate to the mishap unit; and

(2) in the case of a board consisting of more than one member, at least one member of the board is a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(b) EXCEPTION.—The Secretary of the military department concerned may waive the requirement of subsection (a)(1) in the case of an aircraft accident if the Secretary determines that—

(1) it is not practicable to meet the requirement because of—

(A) the remote location of the aircraft accident;

(B) an urgent need to promptly begin the investigation; or

(C) a lack of available persons outside of the mishap unit who have adequate knowledge and expertise regarding the type of aircraft involved in the accident; and

(2) the objectivity and independence of the aircraft accident investigation board will not be compromised.

(c) CONSULTATION REQUIREMENT.—In the case of an aircraft accident investigation board consisting of a single member, the member shall consult with a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(d) DESIGNATION OF CLASS A ACCIDENTS.—Not later than 60 days after an aircraft accident involving an aircraft under the jurisdiction of the Secretary of a military department, the Secretary shall determine whether the aircraft accident should be designated as a Class A accident for purposes of this section.

(e) DEFINITIONS.—In this section:

(1) The term “Class A accident” means an accident involving an aircraft that results in—

(A) the loss of life or permanent disability;

(B) damages to the aircraft, other property, or a combination of both, in an amount in excess of the amount specified by the Secretary of Defense for purposes of determining Class A accidents; or

(C) the destruction of the aircraft.

(2) The term “mishap unit”, with respect to an aircraft accident investigation, means the unit of the armed forces (at the squadron or battalion level or equivalent) to which was assigned the flight crew of the aircraft that sustained the accident that is the subject of the investigation.

(Added Pub. L. 104–201, div. A, title IX, §911(a)(1), Sept. 23, 1996, 110 Stat. 2621; amended Pub. L.

108-136, div. A, title X, § 1031(a)(13), Nov. 24, 2003, 117 Stat. 1597.)

#### AMENDMENTS

2003—Subsec. (b). Pub. L. 108-136 struck out par. (1) designation before “The Secretary”, redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, redesignated cls. (i) to (iii) of former subpar. (A) as subpars. (A) to (C), respectively, of par. (1), and struck out par. (2) which read as follows: “The Secretary shall notify Congress of a waiver exercised under this subsection and the reasons therefor.”

#### EFFECTIVE DATE

Pub. L. 104-201, div. A, title IX, § 911(b), Sept. 23, 1996, 110 Stat. 2622, provided that: “Section 2255 of title 10, United States Code, as added by subsection (a), shall apply with respect to any aircraft accident investigation board convened by the Secretary of a military department after the end of the six-month period beginning on the date of the enactment of this Act [Sept. 23, 1996].”

#### § 2257. Use of recruiting materials for public relations

The Secretary of Defense may use for public relations purposes of the Department of Defense any advertising materials developed for use for recruitment and retention of personnel for the armed forces. Any such use shall be under such conditions and subject to such restrictions as the Secretary of Defense shall prescribe.

(Added Pub. L. 106-65, div. A, title V, § 574(a), Oct. 5, 1999, 113 Stat. 624.)

#### § 2259. Transit pass program: personnel in poor air quality areas

(a) ESTABLISHMENT OF PROGRAM.—To encourage Department of Defense personnel assigned to duty, or employed, in poor air quality areas to use means other than single-occupancy motor vehicles to commute to or from the location of their duty assignments, the Secretary of Defense shall exercise the authority provided in section 7905 of title 5 to establish a program to provide a transit pass benefit under subsection (b)(2)(A) of that section for members of the Army, Navy, Air Force, and Marine Corps who are assigned to duty, and to Department of Defense civilian officers and employees who are employed, in a poor air quality area.

(b) POOR AIR QUALITY AREAS.—In this section, the term “poor air quality area” means an area—

(1) that is subject to the national ambient air quality standards promulgated by the Administrator of the Environmental Protection Agency under section 109 of the Clean Air Act (42 U.S.C. 7409); and

(2) that, as determined by the Administrator of the Environmental Protection Agency, is a nonattainment area with respect to any of those standards.

(Added Pub. L. 106-398, § 1 [[div. A], title X, § 1082(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-285.)

#### TIME FOR IMPLEMENTATION

Pub. L. 106-398, § 1 [[div. A], title X, § 1082(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-285, provided that: “The Secretary of Defense shall prescribe the effective date for the transit pass program required under section 2259 of

title 10, United States Code, as added by subsection (a). The effective date so prescribed may not be later than the first day of the first month that begins on or after the date that is 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

#### § 2260. Licensing of intellectual property: retention of fees

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

(b) DESIGNATED MARKS.—The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

(c) LICENSES FOR QUALIFYING COMPANIES.—(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.

(2) For purposes of paragraph (1), a qualifying company is any United States company that—

(A) is a toy or hobby manufacturer; and

(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.

(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.

(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.

(5) A license under this subsection shall not be an exclusive license.

(d) USE OF FEES.—The Secretary concerned shall use fees retained under this section for the following purposes:

(1) For payment of the following costs incurred by the Secretary:

(A) Costs of securing trademark registrations.

(B) Costs of operating the licensing program under this section.

(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

(e) AVAILABILITY.—Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

(f) DEFINITIONS.—In this section:

(1) The terms “trademark”, “service mark”, “certification mark”, and “collective mark”