

under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

(Pub. L. 95-511, title I, § 111, Oct. 25, 1978, 92 Stat. 1796.)

**§ 1812. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted**

(a) Except as provided in subsection (b), the procedures of chapters 119, 121, and 206 of title 18 and this chapter shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this chapter or chapters 119, 121, or 206 of title 18 shall constitute an additional exclusive means for the purpose of subsection (a).

(Pub. L. 95-511, title I, § 112, as added Pub. L. 110-261, title I, § 102(a), July 10, 2008, 122 Stat. 2459.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

**§ 1813. Procedures for the retention of incidentally acquired communications**

**(a) Definitions**

In this section:

**(1) Covered communication**

The term “covered communication” means any nonpublic telephone or electronic communication acquired without the consent of a person who is a party to the communication, including communications in electronic storage.

**(2) Head of an element of the intelligence community**

The term “head of an element of the intelligence community” means, as appropriate—

(A) the head of an element of the intelligence community; or

(B) the head of the department or agency containing such element.

**(3) United States person**

The term “United States person” has the meaning given that term in section 1801 of this title.

**(b) Procedures for covered communications**

**(1) Requirement to adopt**

Not later than 2 years after December 19, 2014, each head of an element of the intel-

ligence community shall adopt procedures approved by the Attorney General for such element that ensure compliance with the requirements of paragraph (3).

**(2) Coordination and approval**

The procedures required by paragraph (1) shall be—

(A) prepared in coordination with the Director of National Intelligence; and

(B) approved by the Attorney General prior to issuance.

**(3) Procedures**

**(A) Application**

The procedures required by paragraph (1) shall apply to any intelligence collection activity not otherwise authorized by court order (including an order or certification issued by a court established under subsection (a) or (b) of section 1803 of this title), subpoena, or similar legal process that is reasonably anticipated to result in the acquisition of a covered communication to or from a United States person and shall permit the acquisition, retention, and dissemination of covered communications subject to the limitation in subparagraph (B).

**(B) Limitation on retention**

A covered communication shall not be retained in excess of 5 years, unless—

(i) the communication has been affirmatively determined, in whole or in part, to constitute foreign intelligence or counterintelligence or is necessary to understand or assess foreign intelligence or counterintelligence;

(ii) the communication is reasonably believed to constitute evidence of a crime and is retained by a law enforcement agency;

(iii) the communication is enciphered or reasonably believed to have a secret meaning;

(iv) all parties to the communication are reasonably believed to be non-United States persons;

(v) retention is necessary to protect against an imminent threat to human life, in which case both the nature of the threat and the information to be retained shall be reported to the congressional intelligence committees not later than 30 days after the date such retention is extended under this clause;

(vi) retention is necessary for technical assurance or compliance purposes, including a court order or discovery obligation, in which case access to information retained for technical assurance or compliance purposes shall be reported to the congressional intelligence committees on an annual basis; or

(vii) retention for a period in excess of 5 years is approved by the head of the element of the intelligence community responsible for such retention, based on a determination that retention is necessary to protect the national security of the United States, in which case the head of such element shall provide to the congressional in-