

## PART B—CLASSIFIED INFORMATION

**§ 2671. Review of certain documents before declassification and release****(a) In general**

The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains Restricted Data.

**(b) Limitation on declassification**

The Secretary may not implement the automatic declassification provisions of Executive Order No. 13526 (50 U.S.C. 3161 note) if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing Restricted Data.

(Pub. L. 107–314, div. D, title XLV, § 4521, formerly Pub. L. 104–106, div. C, title XXXI, § 3155, Feb. 10, 1996, 110 Stat. 625; renumbered Pub. L. 107–314, div. D, title XLV, § 4521, by Pub. L. 108–136, div. C, title XXXI, § 3141(h)(11), Nov. 24, 2003, 117 Stat. 1774; amended Pub. L. 112–239, div. C, title XXXI, § 3131(p), Jan. 2, 2013, 126 Stat. 2183; Pub. L. 113–66, div. C, title XXXI, § 3146(a)(2)(G), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 113–291, div. C, title XXXI, § 3142(l), Dec. 19, 2014, 128 Stat. 3901.)

## CODIFICATION

Section was formerly set out as a note under section 2162 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

## AMENDMENTS

2014—Subsec. (b). Pub. L. 113–291 substituted “Executive Order No. 13526 (50 U.S.C. 3161 note)” for “Executive Order 12958”.

2013—Subsecs. (a), (b). Pub. L. 113–66 substituted “Restricted Data” for “restricted data”.

Subsec. (c). Pub. L. 112–239 struck out subsec. (c), which defined “restricted data”.

**§ 2672. Protection against inadvertent release of Restricted Data and Formerly Restricted Data****(a) Plan for protection against release**

The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 13526 (50 U.S.C. 3161 note).

**(b) Plan elements**

The plan under subsection (a) shall include the following:

- (1) The actions to be taken in order to ensure that records subject to Executive Order No. 13526 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

- (2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

- (3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.

- (4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.

- (5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.

- (6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.

- (7) The funding, personnel, and other resources required to carry out the plan.

- (8) A timetable for implementation of the plan.

**(c) Limitation on declassification of certain records**

- (1) Effective on October 17, 1998, and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.

- (2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.

- (3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

**(d) Submission of plan**

The Secretary of Energy shall submit the plan required under subsection (a) to the following:

- (1) The Committee on Armed Services of the Senate.

- (2) The Committee on Armed Services of the House of Representatives.

- (3) The Assistant to the President for National Security Affairs.

**(e) Submission of reviews**

The Secretary of Energy shall, in each even-numbered year, submit a summary of the results of the periodic reviews and evaluations specified in the plan pursuant to subsection (b)(5) to the

committees and Assistant to the President specified in subsection (d).

**(f) Report and notification regarding inadvertent releases**

(1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before October 17, 1998.

(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 13526 discovered in the two-year period preceding the submittal of the report.

(Pub. L. 107-314, div. D, title XLV, § 4522, formerly Pub. L. 105-261, div. C, title XXXI, § 3161, Oct. 17, 1998, 112 Stat. 2259; Pub. L. 106-65, div. A, title X, § 1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3193(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-480; renumbered Pub. L. 107-314, div. D, title XLV, § 4522, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(12), Nov. 24, 2003, 117 Stat. 1774; Pub. L. 110-417, div. C, title XXXI, § 3123, Oct. 14, 2008, 122 Stat. 4759; Pub. L. 113-66, div. C, title XXXI, § 3146(a)(2)(H), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 113-291, div. C, title XXXI, § 3142(m), Dec. 19, 2014, 128 Stat. 3901.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (f)(1), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly set out as a note under section 435 of this title prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291, § 3142(m)(1), substituted “Executive Order No. 13526 (50 U.S.C. 3161 note)” for “Executive Order No. 12958 (50 U.S.C. 435 note)”.

Subsec. (b)(1). Pub. L. 113-291, § 3142(m)(2), substituted “Executive Order No. 13526” for “Executive Order No. 12958”.

Subsec. (f)(2). Pub. L. 113-291, § 3142(m)(3), substituted “Executive Order No. 13526” for “Executive Order No. 12958”.

2013—Subsec. (g). Pub. L. 113-66 struck out subsec. (g) which defined “Restricted Data”.

2008—Subsec. (e). Pub. L. 110-417, § 3121(a)(1), (b), substituted “in each even-numbered year” for “on a periodic basis” and “subsection (b)(5)” for “subsection (b)(4)”.

Subsec. (f). Pub. L. 110-417, § 3123(a)(2), added par. (2) and struck out former par. (2) which read as follows: “Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary of Energy shall, on a quarterly basis, submit a report to the committees and Assistant to the President specified in subsection (d). The report shall state whether any inadvertent releases described in paragraph (1) occurred during the immediately preceding quarter and, if so, shall identify each such release.”

2003—Subsec. (c)(1). Pub. L. 108-136, § 3141(h)(12)(D)(i), substituted “October 17, 1998,” for “the date of the enactment of this Act”.

Subsec. (f)(1). Pub. L. 108-136, § 3141(h)(12)(D)(ii), substituted “October 17, 1998” for “the date of the enactment of this Act”.

Subsec. (f)(2). Pub. L. 108-136, § 3141(h)(12)(D)(iii), substituted “Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary” for “The Secretary”.

2000—Subsec. (f)(2). Pub. L. 106-398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Not later than 30 days after any such inadvertent release occurring after the date of the enactment of this Act, the Secretary of Energy shall notify the committees and Assistant to the President specified in subsection (d) of such releases.”

1999—Subsec. (d)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3193(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-481, provided that: “The amendment made by subsection (a) [amending this section] apply [sic] with respect to inadvertent releases of Restricted Data and Formerly Restricted Data that are discovered on or after the date of the enactment of this Act [Oct. 30, 2000].”

**§ 2673. Supplement to plan for declassification of Restricted Data and Formerly Restricted Data**

**(a) Supplement to plan**

The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement to the plan required under subsection (a) of section 2672 of this title.

**(b) Contents of supplement**

The supplement shall provide for the application of that plan (including in particular the element of the plan required by subsection (b)(1) of section 2672 of this title) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.

**(c) Limitation on declassification of records**

All records referred to in subsection (b) shall be treated, for purposes of subsection (c) of section 2672 of this title, in the same manner as records referred to in subsection (a) of such section.

**(d) Submission of supplement**

The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 2672 of this title.

(Pub. L. 107-314, div. D, title XLV, § 4523, formerly Pub. L. 106-65, div. C, title XXXI, § 3149, Oct. 5, 1999, 113 Stat. 938; renumbered Pub. L. 107-314, div. D, title XLV, § 4523, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(13), Nov. 24, 2003, 117 Stat. 1775.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (b), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly set out as a note under section 435 of this title prior to renumbering by Pub. L. 108-136.