

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

(e) 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.

(f) DEFINITION.—In this section, the term “Department of Defense critical infrastructure security information” means sensitive but unclassified information that, if disclosed, would reveal vulnerabilities in Department of Defense critical infrastructure that, if exploited, would likely result in the significant disruption, destruction, or damage of or to Department of Defense operations, property, or facilities, including information regarding the securing and safeguarding of explosives, hazardous chemicals, or pipelines, related to critical infrastructure or protected systems owned or operated by or on behalf of the Department of Defense, including vulnerability assessments prepared by or on behalf of the Department of Defense, explosives safety information (including storage and handling), and other site-specific information on or relating to installation security.

(Added Pub. L. 112-81, div. A, title X, §1091(a), Dec. 31, 2011, 125 Stat. 1604; amended Pub. L. 114-92, div. A, title X, §1081(a)(2), Nov. 25, 2015, 129 Stat. 1000; Pub. L. 114-328, div. A, title XVI, §1662(b), Dec. 23, 2016, 130 Stat. 2614.)

AMENDMENTS

2016—Subsecs. (b), (c), (f). Pub. L. 114-328 added subsecs. (b) and (c), redesignated former subsec. (c) as (f), and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “Department of Defense critical infrastructure security information covered by a written determination under subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense.”

2015—Pub. L. 114-92 substituted “Treatment under Freedom of Information Act of certain critical infrastructure security information” for “Treatment under Freedom of Information Act of critical infrastructure security information” in section catchline.

§ 130f. Notification requirements for sensitive military operations

(a) IN GENERAL.—The Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to

protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a sensitive military operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) BRIEFING REQUIREMENT.—The Secretary of Defense shall periodically brief the congressional defense committees on Department of Defense personnel and equipment assigned to sensitive military operations, including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(d) SENSITIVE MILITARY OPERATION DEFINED.—(1) Except as provided in paragraph (2), in this section, the term “sensitive military operation” means—

(A) a lethal operation or capture operation conducted by the armed forces or conducted by a foreign partner in coordination with the armed forces that targets a specific individual or individuals; or

(B) an operation conducted by the armed forces in self-defense or in defense of foreign partners, including during a cooperative operation.

(2) For purposes of this section, the term “sensitive military operation” does not include any operation conducted within Afghanistan, Syria, or Iraq.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(f) COLLECTIVE SELF-DEFENSE NOTIFICATION REQUIREMENT.—Not later than 48 hours after the date on which a foreign partner force has been designated as eligible for the provision of collective self-defense by the armed forces for the purposes of subsection (d)(1)(B), the Secretary of Defense shall provide to the congressional defense committees notice in writing of such designation.

(Added Pub. L. 113-66, div. A, title X, §1041(a)(1), Dec. 26, 2013, 127 Stat. 856; amended Pub. L. 114-92, div. A, title X, §1043, Nov. 25, 2015, 129 Stat. 977; Pub. L. 114-328, div. A, title X, §1036(a)-(f)(1), Dec. 23, 2016, 130 Stat. 2391, 2392; Pub. L. 115-91, div. A, title X, §1081(a)(6), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 115-232, div. A, title X, §1031(a), (b), Aug. 13, 2018, 132 Stat. 1953.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsecs. (c) and (e), is act July 26, 1947, ch. 343, 61 Stat. 495,

which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The War Powers Resolution, referred to in subsec. (e), is Pub. L. 93-148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-232, §1031(a), amended subsec. (d) generally. Prior to amendment, text read as follows: “The term ‘sensitive military operation’ means the following:

“(1) A lethal operation or capture operation—

“(A) conducted by the armed forces outside a declared theater of active armed conflict; or

“(B) conducted by a foreign partner in coordination with the armed forces that targets a specific individual or individuals.

“(2) An operation conducted by the armed forces outside a declared theater of active armed conflict in self-defense or in defense of foreign partners, including during a cooperative operation.”

Subsec. (f). Pub. L. 115-232, §1031(b), added subsec. (f). 2017—Subsec. (b)(1). Pub. L. 115-91 inserted period at end.

2016—Pub. L. 114-328, §1036(f)(1), amended section catchline generally, substituting “Notification requirements for sensitive military operations” for “Congressional notification of sensitive military operations”.

Subsec. (a). Pub. L. 114-328, §1036(a), (c)(1), inserted “no later than 48 hours” before “following such operation” and struck out at end “Department of Defense support to operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.) is addressed in the classified annex prepared to accompany the National Defense Authorization Act for Fiscal Year 2014.”

Subsec. (b)(1). Pub. L. 114-328, §1036(b)(1), inserted at end “The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes”.

Subsec. (b)(3). Pub. L. 114-328, §1036(b)(2), added par. (3).

Subsec. (c). Pub. L. 114-328, §1036(c)(2), inserted before period at end “, including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.)”.

Subsec. (d). Pub. L. 114-328, §1036(d), substituted “means the following:” and pars. (1) and (2) for “means a lethal operation or capture operation conducted by the armed forces outside the United States and outside a theater of major hostilities pursuant to—

“(1) the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note); or

“(2) any other authority except—

“(A) a declaration of war; or

“(B) a specific statutory authorization for the use of force other than the authorization referred to in paragraph (1).”

Subsecs. (e), (f). Pub. L. 114-328, §1036(e), redesignated subsec. (f) as (e) and struck out former subsec. (e) which provided exception to notification requirement.

2015—Subsec. (e). Pub. L. 114-92 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Pub. L. 113-66, div. A, title X, §1041(b), Dec. 26, 2013, 127 Stat. 857, provided that: “Section 130f of title 10, United States Code, as added by subsection (a), shall apply with respect to any sensitive military operation (as defined in subsection (d) of such section) executed on or after the date of the enactment of this Act [Dec. 26, 2013].”

DEADLINE FOR SUBMITTAL OF PROCEDURES

Pub. L. 113-66, div. A, title X, §1041(c), Dec. 26, 2013, 127 Stat. 857, provided that: “The Secretary of Defense

shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the procedures required under section 130f(b) of title 10, United States Code, as added by subsection (a), by not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013].”

[§ 130g. Renumbered § 394]

§ 130h. Prohibitions relating to missile defense information and systems

(a) CERTAIN “HIT-TO-KILL” TECHNOLOGY AND TELEMETRY DATA.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation with “hit-to-kill” technology and telemetry data for missile defense interceptors or target vehicles.

(b) OTHER SENSITIVE MISSILE DEFENSE INFORMATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation with—

(1) information relating to velocity at burn-out of missile defense interceptors or targets of the United States; or

(2) classified or otherwise controlled missile defense information.

(c) EXCEPTION.—The prohibitions in subsections (a) and (b) shall not apply to the United States providing to the Russian Federation information regarding ballistic missile early warning.

(d) INTEGRATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be obligated or expended to integrate a missile defense system of the Russian Federation or a missile defense system of the People’s Republic of China into any missile defense system of the United States.

(e) SUNSET.—The prohibitions in subsections (a), (b), and (d) shall expire on January 1, 2021.

(Added Pub. L. 114-92, div. A, title XVI, §1671(a)(1), Nov. 25, 2015, 129 Stat. 1129; amended Pub. L. 114-328, div. A, title X, §1081(a)(1), title XVI, §1682(a)(1), (b), Dec. 23, 2016, 130 Stat. 2417, 2623, 2624; Pub. L. 115-232, div. A, title XVI, §1678, Aug. 13, 2018, 132 Stat. 2161.)

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-232 substituted “January 1, 2021” for “January 1, 2019”.

2016—Pub. L. 114-328, §1682(a)(1)(C), added section catchline and struck out former section catchline which read as follows: “Prohibitions on providing certain missile defense information to Russian Federation”.

Subsec. (c). Pub. L. 114-328, §1081(a)(1), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

Subsec. (d). Pub. L. 114-328, §1682(a)(1)(B), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 114-328, §1081(a)(1), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

Subsec. (e). Pub. L. 114-328, §1682(a)(1)(A), (b), redesignated subsec. (d) as (e) and amended it generally. Prior to amendment, text read as follows: “The prohibitions in subsections (a) and (b) shall expire on January 1, 2017.”