

managed under alternative compensatory control measures in the Department, provides—

(A) notice of the designation of the program as a program being managed under alternative compensatory control measures in the Department; and

(B) a justification for such designation.

(2) ADDITIONAL ELEMENTS.—A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the report.

(3) NEW PROGRAM BEING MANAGED UNDER ALTERNATIVE COMPENSATORY CONTROL MEASURES DEFINED.—In this subsection, the term “new program being managed under alternative compensatory control measures” means a program in the Department that has not previously been covered by a report under this subsection.

(c) REPORT ON CHANGE IN CLASSIFICATION OR DECLASSIFICATION OF PROGRAMS.—

(1) IN GENERAL.—Whenever a change in the classification of a program being managed under alternative compensatory control measures in the Department is planned to be made, or whenever classified information concerning a program being managed under alternative compensatory control measures in the Department is to be declassified and made public, the Secretary shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) DEADLINE FOR REPORT.—Except as provided in paragraph (3), a report required by paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement concerned is to occur.

(3) EXCEPTION.—If the Secretary determines that because of exceptional circumstances the requirement in paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a program covered by paragraph (1), the Secretary may submit the report required by that paragraph regarding the proposed change or public announcement at any time before the proposed change or public announcement is made, and shall include in the report an explanation of the exceptional circumstances.

(d) MODIFICATION OF CRITERIA OR POLICY FOR DESIGNATING PROGRAMS UNDER ACCMS.—Whenever there is a modification or termination of the policy or criteria used for designating a program as a program being managed under alternative compensatory control measures in the Department, the Secretary shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the

modification or termination and, in the case of a modification, the provisions of the policy or criteria as modified.

(e) WAIVER.—

(1) IN GENERAL.—The Secretary may waive any requirement in subsection (a), (b), or (c) that certain information be included in a report under such subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) NOTICE TO CONGRESS.—If the Secretary exercises the authority in paragraph (1), the Secretary shall provide the information described in the applicable subsection with respect to the program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) LIMITATION ON INITIATION OF PROGRAMS UNDER ACCMS.—

(1) NOTICE AND WAIT.—Except as provided in paragraph (2), a program to be managed under alternative compensatory control measures in the Department may not be initiated until—

(A) the congressional defense committees are notified of the program; and

(B) a period of 30 days elapses after such notification is received.

(2) EXCEPTION.—If the Secretary determines that waiting for the regular notification process before initiating a program as described in paragraph (1) would cause exceptionally grave damage to the national security, the Secretary may begin a program to be managed under alternative compensatory control measures in the Department before such waiting period elapses. The Secretary shall notify the congressional defense committees within 10 days of initiating a program under this paragraph, including a justification for the determination of the Secretary that waiting for the regular notification process would cause exceptionally grave damage to the national security.

(Added Pub. L. 114-328, div. A, title X, §1062(a), Dec. 23, 2016, 130 Stat. 2405.)

CHAPTER 3—GENERAL POWERS AND FUNCTIONS

Sec.	Regulations.
121.	Official registers.
122.	Public availability of Department of Defense reports required by law.
122a.	Authority to suspend officer personnel laws during war or national emergency.
123.	Suspension of end-strength and other strength limitations in time of war or national emergency.
123a.	Forces stationed abroad: limitation on number.
123b.	Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency.
124.	Functions, powers, and duties: transfer, reassignment, consolidation, or abolition.
125.	Transfer of funds and employees.
126.	Emergency and extraordinary expenses.
127.	Operations for which funds are not provided in advance: funding mechanisms.
127a.	

- Sec.
 127b. Department of Defense rewards program.
 127c. Purchase of weapons overseas: force protection.
 [127d. Renumbered.]
 127e. Support of special operations to combat terrorism.
 128. Control and physical protection of special nuclear material: limitation on dissemination of unclassified information.
 129. Civilian personnel management.
 129a. General policy for total force management.
 129b. Authority to procure personal services.
 129c. Medical personnel: limitations on reductions.
 129d. Disclosure to litigation support contractors.
 130. Authority to withhold from public disclosure certain technical data.
 [130a. Repealed.]
 130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information.
 130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations.
 130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.
 130e. Treatment under Freedom of Information Act of certain critical infrastructure security information.
 130f. Notification requirements for sensitive military operations.
 [130g. Renumbered.]
 130h. Prohibitions relating to missile defense information and systems.
 130i. Protection of certain facilities and assets from unmanned aircraft.
 [130j, 130k Renumbered.]

AMENDMENTS

2018—Pub. L. 115-232, div. A, title X, § 1081(a)(2), title XVI, § 1631(c)(1), Aug. 13, 2018, 132 Stat. 1983, 2123, struck out item 130g “Authorities concerning military cyber operations” and made technical correction to and struck out items 130j “Notification requirements for sensitive military cyber operations” and 130k “Notification requirements for cyber weapons”.

2017—Pub. L. 115-91, div. A, title XVI, § 1631(b), Dec. 12, 2017, 131 Stat. 1738, added items 130j and 130k.

2016—Pub. L. 114-328, div. A, title X, § 1036(f)(2), title XI, § 1101(b)(2), title XII, §§ 1203(a)(2), 1245(b), title XVI, §§ 1662(a)(3), 1682(a)(2), 1697(b), Dec. 23, 2016, 130 Stat. 2392, 2444, 2476, 2520, 2614, 2624, 2640, added items 127e, 128, 130f, 130h, and 130i, substituted “Civilian personnel management” for “Prohibition of certain civilian personnel management constraints” in item 129, and struck out former items 127d “Allied forces participating in combined operations: authority to provide logistic support, supplies, and services”, 128 “Physical protection of special nuclear material: limitation on dissemination of unclassified information”, 130f “Congressional notification of sensitive military operations”, and 130h “Prohibitions on providing certain missile defense information to Russian Federation”.

2015—Pub. L. 114-92, div. A, title X, § 1042(d)(2), title XVI, §§ 1642(b), 1671(a)(2), Nov. 25, 2015, 129 Stat. 977, 1116, 1130, added items 130g and 130h and substituted “Department of Defense rewards program” for “Assistance in combating terrorism: rewards” in item 127b.

2014—Pub. L. 113-291, div. A, title X, § 1071(f)(2), Dec. 19, 2014, 128 Stat. 3510, 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 item 130e and “Congressional notification of sensitive military operations” for “Congressional notification regarding sensitive military operations” in item 130f.

2013—Pub. L. 113-66, div. A, title X, §§ 1041(a)(2), 1091(a)(2), Dec. 26, 2013, 127 Stat. 857, 875, added item 130f

and substituted “Treatment under Freedom of Information Act of critical infrastructure security information” for “Treatment under Freedom of Information Act of certain critical infrastructure security information” in item 130e.

2011—Pub. L. 112-81, div. A, title VIII, § 802(a)(2), title IX, § 931(b), title X, § 1091(b), Dec. 31, 2011, 125 Stat. 1485, 1543, 1605, added items 129d and 130e and substituted “General policy for total force management” for “General personnel policy” in item 129a.

Pub. L. 111-383, div. A, title X, § 1061(a)(2), Jan. 7, 2011, 124 Stat. 4362, added item 122a.

2008—Pub. L. 110-417, [div. A], title IV, § 416(c)(2), Oct. 14, 2008, 122 Stat. 4430, substituted “Suspension of end-strength and other strength limitations in time of war or national emergency” for “Suspension of end-strength limitations in time of war or national emergency” in item 123a.

Pub. L. 110-181, div. A, title X, § 1063(a)(1)(B), Jan. 28, 2008, 122 Stat. 321, which directed amendment of chapter 3 of title 10 “by revising the table of sections at the beginning of such chapter to reflect the redesignation and transfer made by paragraph (1)”, was executed to reflect the probable intent of Congress by amending the analysis to this chapter to reflect the redesignation and transfer made by section 1063(a)(1)(A) of Pub. L. 110-181, which redesignated the section 127c relating to allied forces participating in combined operations as 127d, and transferred it so as to appear immediately after section 127c relating to purchase of weapons overseas.

Pub. L. 110-181, div. A, title IX, § 901(a)(2), Jan. 28, 2008, 122 Stat. 272, struck out item 130a “Major Department of Defense headquarters activities personnel: limitation”.

2006—Pub. L. 109-364, div. A, title XII, § 1201(b), title XIV, § 1405(b), Oct. 17, 2006, 120 Stat. 2412, 2436, added items 127c, relating to allied forces participating in combined operations, and 130d.

Pub. L. 109-163, div. A, title XII, § 1231(b), Jan. 6, 2006, 119 Stat. 3468, added item 127c relating to purchase of weapons overseas.

2003—Pub. L. 108-136, div. A, title VIII, § 841(b)(2), Nov. 24, 2003, 117 Stat. 1552, substituted “Authority to procure personal services” for “Experts and consultants: authority to procure services of” in item 129b.

2002—Pub. L. 107-314, div. A, title X, § 1065(b), Dec. 2, 2002, 116 Stat. 2656, added item 127b.

2000—Pub. L. 106-398, § 1 [div. A], title X, § 1073(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-280, added item 130c.

1999—Pub. L. 106-65, div. A, title IX, § 921(a)(2), title X, § 1044(b), Oct. 5, 1999, 113 Stat. 723, 762, substituted “Major Department of Defense headquarters activities personnel: limitation” for “Management headquarters and headquarters support activities personnel: limitation” in item 130a and added item 130b.

1997—Pub. L. 105-85, div. A, title IX, § 911(a)(2), Nov. 18, 1997, 111 Stat. 1858, added item 130a.

1996—Pub. L. 104-106, div. A, title XV, § 1504(a)(8), Feb. 10, 1996, 110 Stat. 513, made technical correction to directory language of Pub. L. 103-337, § 1312(a)(2). See 1994 Amendment note below.

Pub. L. 104-106, div. A, title V, § 564(a)(2), title X, § 1003(a)(2), Feb. 10, 1996, 110 Stat. 326, 417, substituted “Operations for which funds are not provided in advance: funding mechanisms” for “Expenses for contingency operations” in item 127a and added item 129c.

1994—Pub. L. 103-337, div. A, title XVI, § 1671(b)(2), Oct. 5, 1994, 108 Stat. 3013, added item 123 and struck out former item 123 “Suspension of certain provisions of law relating to reserve commissioned officers”.

Pub. L. 103-337, div. A, title XIII, § 1312(a)(2), Oct. 5, 1994, 108 Stat. 2894, as amended by Pub. L. 104-106, div. A, title XV, § 1504(a)(8), Feb. 10, 1996, 110 Stat. 513, added item 123b.

1993—Pub. L. 103-160, div. A, title XI, § 1108(a)(2), Nov. 30, 1993, 107 Stat. 1752, added item 127a.

1990—Pub. L. 101-510, div. A, title XIV, §§ 1481(b)(2), 1483(c)(2), Nov. 5, 1990, 104 Stat. 1705, 1715, added items 123a, 129a, and 129b.