

5(e), and 6 of Executive Order 13836, sections 3(a), 4(a), and 4(b) of Executive Order 13837, and sections 3, 4(a), and 4(c) of Executive Order 13839.

On July 16, 2019, the United States Court of Appeals for the District of Columbia Circuit held that the District Court lacked jurisdiction and vacated its judgment, and the Court of Appeals has now issued the mandate making its judgment effective.

Provisions of the Executive Orders that had been subject to the District Court's injunction set presumptively reasonable goals that agencies must pursue during bargaining; directed agencies to refuse to bargain over permissive subjects of negotiation; and established Government-wide rules that displace agencies' duty to bargain with unions over contrary matters, regardless of whether the Federal Service Labor-Management Relations Statute would otherwise require bargaining absent those rules. Sections 4(c)(ii) and 8(a) of Executive Order 13837 and section 8(b) of Executive Order 13839, however, recognized agencies' ability to comply with collective bargaining agreements containing prohibited terms so long as such agreements were effective on the date of the Executive Orders.

While the District Court's injunction remained in effect, agencies retained the ability to bargain over subjects covered by the enjoined provisions. The Executive Orders, however, did not address collective bargaining agreements entered into during this period. As a result, it is necessary to clarify agencies' obligations with respect to such collective bargaining agreements.

Agencies shall adhere to the terms of collective bargaining agreements executed while the injunction was in effect. Agencies that remain engaged in collective bargaining negotiations, to the extent consistent with law, shall comply with the terms of the Executive Orders. However, where, between the date of the Executive Orders and the date of the Court of Appeals's mandate, the parties to collective bargaining negotiations have executed an agreement to incorporate into a new collective bargaining agreement specific terms prohibited by the Executive Orders, an agency may execute the new collective bargaining agreement containing such terms, and terms ancillary to those specific terms, notwithstanding the Executive Orders.

To the extent it is necessary, this memorandum should be construed to amend Executive Orders 13836, 13837, and 13839.

The Director of the Office of Personnel Management is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

### § 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

(Added Pub. L. 95-454, title VII, §701, Oct. 13, 1978, 92 Stat. 1192.)

#### PRIOR PROVISIONS

A prior section 7102, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523, related to right of employees to petition Con-

gress, prior to the general amendment of this chapter by Pub. L. 95-454. See section 7211 of this title.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Par. (2) of this section suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(b) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

### § 7103. Definitions; application

(a) For the purpose of this chapter—

(1) "person" means an individual, labor organization, or agency;

(2) "employee" means an individual—

(A) employed in an agency; or

(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

(i) an alien or noncitizen of the United States who occupies a position outside the United States;

(ii) a member of the uniformed services;

(iii) a supervisor or a management official;

(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communication Agency, the Agency for International Development, the Department of Agriculture, or the Department of Commerce; or

(v) any person who participates in a strike in violation of section 7311 of this title;

(3) "agency" means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Department of Veterans Affairs), the Library of Congress, the Government Publishing Office, and the Smithsonian Institution<sup>1</sup> but does not include—

(A) the Government Accountability Office;

(B) the Federal Bureau of Investigation;

(C) the Central Intelligence Agency;

(D) the National Security Agency;

(E) the Tennessee Valley Authority;

(F) the Federal Labor Relations Authority;

(G) the Federal Service Impasses Panel; or

(H) the United States Secret Service and the United States Secret Service Uniformed Division.

(4) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and

<sup>1</sup> So in original. Probably should be followed by a comma.

conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by an agency; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(5) “dues” means dues, fees, and assessments;

(6) “Authority” means the Federal Labor Relations Authority described in section 7104(a) of this title;

(7) “Panel” means the Federal Service Impasses Panel described in section 7119(c) of this title;

(8) “collective bargaining agreement” means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

(9) “grievance” means any complaint—

(A) by any employee concerning any matter relating to the employment of the employee;

(B) by any labor organization concerning any matter relating to the employment of any employee; or

(C) by any employee, labor organization, or agency concerning—

(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

(10) “supervisor” means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising such authority;

(11) “management official” means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

(12) “collective bargaining” means the performance of the mutual obligation of the rep-

resentative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

(13) “confidential employee” means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(14) “conditions of employment” means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;

(B) relating to the classification of any position; or

(C) to the extent such matters are specifically provided for by Federal statute;

(15) “professional employee” means—

(A) an employee engaged in the performance of work—

(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

(16) “exclusive representative” means any labor organization which—

(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

(B) was recognized by an agency immediately before the effective date of this chap-

ter as the exclusive representative of employees in an appropriate unit—

- (i) on the basis of an election, or
- (ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

(17) “firefighter” means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

(18) “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

(Added Pub. L. 95-454, title VII, §701, Oct. 13, 1978, 92 Stat. 1192; amended Pub. L. 96-465, title II, §2314(g), Oct. 17, 1980, 94 Stat. 2168; Pub. L. 102-54, §13(b)(1), June 13, 1991, 105 Stat. 274; Pub. L. 103-359, title V, §501(j), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104-201, div. A, title XVI, §1634(a), Sept. 23, 1996, 110 Stat. 2752; Pub. L. 105-220, title III, §341(e), Aug. 7, 1998, 112 Stat. 1092; Pub. L. 105-277, div. G, subd. A, title XIV, §1422(b)(1), Oct. 21, 1998, 112 Stat. 2681-792; Pub. L. 106-554, §1(a)(4) [div. B, title I, §139], Dec. 21, 2000, 114 Stat. 2763, 2763A-235; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113-235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

#### AMENDMENTS

2004—Subsec. (a)(3)(A). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2000—Subsec. (a)(3)(H). Pub. L. 106-554 added subpar. (H).

1998—Subsec. (a)(2)(B)(iv). Pub. L. 105-277 substituted “Agency for International Development” for “United States International Development Cooperation Agency”.

Subsec. (a)(3). Pub. L. 105-220, in introductory provisions, struck out “and” after “Library of Congress,” and inserted “and the Smithsonian Institution” after “Government Printing Office.”

1996—Subsec. (a)(3)(F) to (H). Pub. L. 104-201 inserted “or” at end of subpar. (F), substituted a period for “; or” at end of subpar. (G), and struck out subpar. (H) which read as follows: “the Central Imagery Office;”.

1994—Subsec. (a)(3)(H). Pub. L. 103-359 added subpar. (H).

1991—Subsec. (a)(3). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1980—Subsec. (a)(2)(iv). Pub. L. 96-465 struck out “the Agency for International Development, or” after “Department of State,” and inserted “the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce” after “Communication Agency”.

#### CHANGE OF NAME

International Communication Agency, referred to in subsec. (a)(2)(B)(iv), redesignated United States Information Agency and Director or any other official of International Communication Agency redesignated as Director or other official, as appropriate, of United States Information Agency by section 303 of Pub. L. 97-241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State by sections 6531 and 6532 of Title 22.

“Government Publishing Office” substituted for “Government Printing Office” in subsec. (a)(3) on authority of section 1301(b) of Pub. L. 113-235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of Title 22, Foreign Relations and Intercourse.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as a note under section 1593 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### EX. ORD. NO. 12171. EXCLUSIONS FROM COVERAGE OF PROGRAM

Ex. Ord. No. 12171, Nov. 19, 1979, 44 F.R. 66565, as amended by Ex. Ord. No. 12338, Jan. 11, 1982, 47 F.R. 1369; Ex. Ord. No. 12410, Mar. 28, 1983, 48 F.R. 13143; Ex. Ord. No. 12559, May 20, 1986, 51 F.R. 18761; Ex. Ord. No. 12632, Mar. 23, 1988, 53 F.R. 9852; Ex. Ord. No. 12666, Jan. 12, 1989, 54 F.R. 1921; Ex. Ord. No. 12671, Mar. 14, 1989, 54 F.R. 11157; Ex. Ord. No. 12681, July 6, 1989, 54 F.R. 28997; Ex. Ord. No. 12693, Sept. 29, 1989, 54 F.R. 40629; Ex. Ord. No. 13039, Mar. 11, 1997, 62 F.R. 12529; Ex. Ord. No. 13252, Jan. 7, 2002, 67 F.R. 1601; Ex. Ord. No. 13381, §5(b), June

27, 2005, 70 F.R. 37955; Ex. Ord. No. 13467, §3(d), June 30, 2008, 73 F.R. 38107; Ex. Ord. No. 13480, §§ 2-6, Nov. 26, 2008, 73 F.R. 73991, 73992; Ex. Ord. No. 13741, §3, Sept. 29, 2016, 81 F.R. 68291; Ex. Ord. No. 13760, §2, Jan. 12, 2017, 82 F.R. 5325; Ex. Ord. No. 13869, §3(b), Apr. 24, 2019, 84 F.R. 18130, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

#### 1-1. DETERMINATIONS

1-101. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby determined to have as a primary function intelligence, counter-intelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to those agencies or subdivisions in a manner consistent with national security requirements and considerations. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

1-102. Having determined that it is necessary in the interest of national security, the provisions of Chapter 71 of Title 5 of the United States Code are suspended with respect to any agency, installation, or activity listed in Section 1-3 of this Order. However, such suspension shall be applicable only to that portion of the agency, installation, or activity which is located outside the 50 States and the District of Columbia.

#### 1-2. EXCLUSIONS

1-201. The Information Security Oversight Office, General Services Administration.

1-202. The Federal Research Division, Research Services, the Library of Congress.

1-203. Agencies or subdivisions of the Department of the Treasury:

(a) The Office of Terrorism and Financial Intelligence.

(b) The Financial Crimes Enforcement Network.

(c) Criminal Investigation, Internal Revenue Service.

(d) The Trade Analysis and Enforcement Division, Alcohol and Tobacco Tax and Trade Bureau.

1-204. Agencies or subdivisions of the Department of the Army, Department of Defense:

(a) Office of the Deputy Chief of Staff, G-2 (Intelligence), and all G-2 Intelligence offices within Army Commands, Army Service Component Commands, and Direct Reporting Units.

(b) United States Army Intelligence and Security Command.

(c) The following subdivisions of the United States Army Cyber Command (ARCYBER) and Second Army:

(1) Headquarters, United States ARCYBER and Second Army.

(2) Joint Forces Headquarters—Cyber.

(3) Army Cyber Operations and Integration Center.

(d) United States Army Intelligence Center of Excellence (USAICoE), United States Army Training and Doctrine Command (TRADOC).

(e) United States Army Cyber Protection Brigade, United States Army Network Enterprise Technology Command.

(f) 114th Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

(g) 302nd Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

(h) United States Army Criminal Investigation Command (USACIDC).

(i) United States Army Special Operations Command (USASOC).

(j) Rapid Equipping Force (REF), United States Army Training and Doctrine Command (TRADOC).

(k) Asymmetric Warfare Group (AWG), United States Army Training and Doctrine Command (TRADOC).

1-205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

(a) Office of the Director of Naval Intelligence, and all Intelligence offices within Navy Commands, Navy Service Component Commands, and Direct Reporting Units, including the following:

(1) Naval Intelligence Activity.

(2) Office of Naval Intelligence.

(3) Farragut Technical Analysis Center.

(4) Nimitz Operational Intelligence Center.

(5) Hopper Information Services Center.

(6) Kennedy Irregular Warfare Center.

(7) Brooks Center for Maritime Engagement.

(b) Naval Criminal Investigative Service.

(c) United States Fleet Cyber Command.

(d) Headquarters, Marine Corps Intelligence Department and subordinate activities, United States Marine Corps.

(e) Marine Forces Cyber Command, United States Marine Corps.

(f) Naval Computer and Telecommunications Station, San Diego, Detachment, Naval Strategic Communications Unit, Tinker Air Force Base.

(g) Naval Information Force Reserve, Navy Reserve Force.

(h) Center for Information Warfare Training, Naval Education and Training Command.

(i) Naval Special Warfare Command (NSW).

(j) Marine Special Operations Command (MARSOC).

(k) Navy Information Operations Commands and Detachments.

(l) Naval Communications Security Material System.

1-206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

(a) Headquarters, 24th Air Force and Air Forces Cyber, Joint Force Headquarters, Air Force Space Command [now United States Space Force], and the following elements under its operational control:

(1) 67th Cyberspace Wing.

(2) 624th Operations Center.

(3) The following subdivisions of the 688th Cyberspace Operations Wing:

(A) 318th Cyberspace Operations Group.

(B) 688th Cyberspace Operations Group.

(4) 5th Combat Communications Group.

(b) Headquarters, 25th Air Force, Air Combat Command, and the following wings, groups, and elements under the operational control of the 25th Air Force:

(1) 70th Intelligence, Surveillance and Reconnaissance Wing.

(2) 363rd Intelligence, Surveillance and Reconnaissance Wing.

(3) 480th Intelligence, Surveillance and Reconnaissance Wing.

(4) 625th Operations Center.

(5) The following subdivisions of the 9th Reconnaissance Wing:

(A) 9th Operations Group.

(B) 69th Reconnaissance Group.

(6) 55th Operations Group, 55th Wing.

(c) Air Force Technical Applications Center (AFTAC), 25th Air Force, Air Combat Command.

(d) Office of the Deputy Chief of Staff, Intelligence, Surveillance and Reconnaissance (A2), Headquarters, United States Air Force, and all A2 staff within Air Force Commands, Air Force Service Component Commands, Field Operating Agencies, and Direct Reporting Units.

(e) National Air and Space Intelligence Center and all elements under its operational control.

(f) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

(1) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

(A) Mission Support Group.

(B) Medical Group.

(2) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

- (A) Mission Support Group.
- (B) Medical Group.
- (g) Air Force Office of Special Investigations.
- (h) 17th Training Wing, Air Education and Training Command, Goodfellow Air Force Base, Texas.
- 1-207. Defense Intelligence Agency, Department of Defense.
- 1-208. The Defense Counterintelligence and Security Agency, Department of Defense.
- 1-209. Agencies or subdivisions of the Department of Justice:
  - a. The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration.
  - b. The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in Offices of the United States Marshals in the United States Marshals Service.
  - (c) United States Attorneys' Offices.
  - (d) Criminal Division.
  - (e) INTERPOL—U.S. National Central Bureau.
  - (f) National Drug Intelligence Center.
  - (g) National Security Division.
  - (h) Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- 1-210. Agencies or subdivisions of the Department of Energy:
  - (a) The National Nuclear Security Administration.
  - (b) The Office of Intelligence.
  - (c) The Office of Counterintelligence.
  - (d) The Office of Intelligence and Counterintelligence.
  - (e) The Savannah River Operations Office.
- 1-211. Offices within the Agency for International Development:
  - (a) The Immediate Office of the Auditor General.
  - (b) The Office of Inspections and Investigations.
  - (c) The Office of Security.
  - (d) The Office of the Area Auditor General/Washington.
- 1-212. Agencies or subdivisions under the authority of the Chairman of the Joint Chiefs of Staff and the Commanders of the Combatant Commands, Department of Defense.
  - (a) Office of the Chairman of the Joint Chiefs of Staff (OCJCS) and the Joint Staff.
  - (b) United States Africa Command (USAFRICOM).
  - (c) United States Central Command (USCENTCOM).
  - (d) United States European Command (USEUCOM).
  - (e) United States Pacific Command (USPACOM) [now United States Indo-Pacific Command].
  - (f) United States Southern Command (USSOUTHCOM).
  - (g) North American Aerospace Defense Command (NORAD).
  - (h) United States Northern Command (USNORTHCOM).
  - (i) Headquarters, United States Transportation Command (USTRANSCOM), and its subordinate command, the Joint Enabling Capabilities Command.
  - (j) United States Strategic Command (USSTRATCOM) and all components, centers, or sub-unified commands currently assigned to USSTRATCOM, including the following:
    - (1) United States Cyber Command (USCYBERCOM).
    - (2) Joint Functional Component Command—Global Strike (JFCC GS).
    - (3) Joint Functional Component Command—Space (JFCC Space).
    - (4) Joint Functional Component Command—Integrated Missile Defense (JFCC IMD).
    - (5) Joint Functional Component Command—Intelligence, Surveillance and Reconnaissance (JFCC ISR).
    - (6) USSTRATCOM Center for Combating Weapons of Mass Destruction (SCC WMD).
    - (7) Standing Joint Force Headquarters for Elimination (SJFHQ-E).
  - (8) Joint Warfare Analysis Center (JWAC).
  - (k) United States Special Operations Command (USSOCOM) and all components and sub-unified commands under its administrative and operational control, including the following:
    - (1) Components:
      - (A) Marine Special Operations Command (MARSOC).
      - (B) Naval Special Warfare Command (NSW).
      - (C) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:
        - (i) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:
          - (I) Mission Support Group.
          - (II) Medical Group.
        - (ii) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:
          - (I) Mission Support Group.
          - (II) Medical Group.
      - (D) United States Army Special Operations Command (USASOC).
    - (2) Sub-unified Commands:
      - (A) Joint Special Operations Command (JSOC).
      - (B) Special Operations Command Korea (SOCKOR).
      - (C) Special Operations Command Europe (SOCEUR).
      - (D) Special Operations Command South (SOCSOUTH).
      - (E) Special Operations Command Pacific (SOCPAC).
      - (F) Special Operations Command Africa (SOCAFRICA).
      - (G) Special Operations Command Central (SOCCENT).
      - (H) Special Operations Command North (SOCNORTH).
- 1-213. The following subdivision of the Federal Aviation Administration (FAA), Department of Transportation: National Security Coordination Division, Office of Emergency Operations and Investigations, FAA Office of Security and Hazardous Materials.
- 1-214. Agencies or subdivisions of the Department of Homeland Security:
  - (a) Office of the Military Advisor.
  - (b) The following office within the Management Directorate:
    - (1) Office of Security.
    - (c) Office of Operations Coordination.
    - (d) Office of Counternarcotics Enforcement.
    - (e) Office of Intelligence and Analysis.
    - (f) Domestic Nuclear Detection Office [now Countering Weapons of Mass Destruction Office].
    - (g) The following offices and subdivisions within the United States Coast Guard:
      - (1) Maritime Intelligence Fusion Centers, Atlantic.
      - (2) Pacific Area Intelligence Division.
      - (3) Intelligence Coordination Center.
      - (4) Coast Guard Investigative Service.
      - (5) Coast Guard Security Center.
    - (h) The following offices and subdivisions within United States Immigration and Customs Enforcement:
      - (1) The Office of Investigations.
      - (2) The Office of International Affairs.
      - (3) The Office of Intelligence.
      - (4) The National Incident Response Unit.
    - (i) The following office within the Transportation Security Administration:
      - (1) The Office of Law Enforcement/Federal Air Marshal Service.
    - (j) The following office within United States Customs and Border Protection:
      - (1) The Office of Intelligence and Operations Coordination.
    - (k) The following offices and subdivisions within the Federal Emergency Management Agency:
      - (1) The following offices and subdivisions within the Office of National Continuity Programs:
        - (A) The Office of the Assistant Administrator.
        - (B) The Operations Division.
        - (C) The Continuity of Operations Division.

(D) The Readiness Division.  
 (E) The Integrated Public Alert and Warning Systems Division.

(2) The following subdivisions within the Disaster Operations Directorate:

(A) The Mobile Emergency Response Support Operations, including Mobile Emergency Response Support Detachments.

(B) The FEMA Operations Center.

(C) The Alternate FEMA Operations Center.

Sec. 1-215. National Geospatial-Intelligence Agency (NGA), Department of Defense.

1-216. Agencies or subdivisions of the Office of Personnel Management:

(a) The Federal Investigative Services.

(b) The National Background Investigations Bureau.

(c) Units with a primary Suitability Executive Agent mission, including adjudicating suitability investigations and conducting related policy, advisory services, operations support, and agency oversight.

(d) Units with a primary mission of engineering, information technology, and cybersecurity support for personnel background investigations and adjudications.

1-217. Defense Advanced Research Projects Agency, Department of Defense.

1-218. National Reconnaissance Office, Department of Defense.

1-219. Office of the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security], Department of Defense.

1-220. Field Detachment, Defense Contract Audit Agency, Department of Defense.

1-221. Special Programs Directorate, Defense Contract Management Agency, Department of Defense.

1-222. The following subdivisions of the Defense Information Systems Agency, Department of Defense:

(a) Joint Force Headquarters—Department of Defense Information Networks.

(b) White House Communications Agency.

1-223. The following subdivisions of the Defense Logistics Agency, Department of Defense:

(a) Defense Logistics Agency Intelligence.

(b) Joint Logistics Operations Center.

(c) Computer Emergency Response Team and Incident Response Branch.

1-224. Strategic Capabilities Office, Department of Defense.

### 1-3. UNITS OUTSIDE THE 50 STATES AND THE DISTRICT OF COLUMBIA

1-301. The Drug Enforcement Administration, Department of Justice.

[Ex. Ord. No. 13741, §3, which directed amendment of section 1-216 of Ex. Ord. No. 12171, set out above, by substituting "Agencies or subdivisions of the Office of Personnel Management:" and subsections (a) to (d) for "The Federal Investigative Services Division", was executed by making the substitution for "The Federal Investigative Services Division., Office of Personnel Management."]

#### EX. ORD. NO. 12391. PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b)(2) of Title 5 and Section 301 of Title 3 of the United States Code, and having determined that it is necessary in the interest of national security to suspend certain labor-management relations provisions with respect to overseas activities of the Department of Defense, it is hereby ordered as follows:

SECTION 1. *Suspensions*. With regard to United States citizen employees of the Department of Defense, including the Military Departments, who are employed outside the United States as defined in 5 U.S.C. 7103(a)(18), with the exception of those employed in the Republic of Panama:

(a) The provisions of 5 U.S.C. 7105(a)(2)(D), (E), (G), and (H) and of 5 U.S.C. 7123(b) are suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(b) The provisions of 5 U.S.C. 7102(2), 7114(a)(1), 7114(a)(4), 7116(a)(5), and 7117(c) are suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(c) The provisions of 5 U.S.C. 7116(a)(7) and 7117(b) are suspended with regard to any regulation governing the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nations; and

(d) The provisions of 5 U.S.C. 7121(b)(3)(C) are suspended with respect to any grievance involving the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation.

SEC. 2. *Disputes*. Disputes between a labor organization and the United States Forces as to whether a particular matter is covered by one or more of the suspensions set forth in this Order shall be referred to the Secretary of Defense. The decision of the Secretary in such disputes shall be made after consultation with the Secretary of State and shall be final. The Secretary of Defense may delegate this authority, but only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. The functions assigned to the Secretary of State may not be delegated or assigned to anyone below the rank of an Assistant Secretary of State.

RONALD REAGAN.

#### EX. ORD. NO. 12632. EXCLUSIONS FROM FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 12632, Mar. 23, 1988, 53 F.R. 9852, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations*. The agencies or subdivisions thereof set forth in Section 3 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to these agencies or subdivisions in a manner consistent with national security requirements and considerations. These agencies or subdivisions thereof are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

SEC. 2. *Relationship to Executive Order No. 12559*. The determinations set forth in Section 1 of this Order are the same determinations that I made at the time of and as a predicate to my issuance on May 20, 1986, of Executive Order No. 12559 [amending Ex. Ord. No. 12171, set out as a note above], which was issued for the same purpose as this Order. On July 10, 1987, Executive Order No. 12559 was held by a United States District Court to be incomplete as a matter of form, and therefore invalid, because it did not expressly set forth these determinations. *AFGE v. Reagan*, Civil No. 86-1587 (D.D.C.). These determinations were not expressly set forth in the text of Executive Order No. 12559 because all that Order did was amend Executive Order No. 12171 [set out as a note above] by adding the agencies or subdivisions referred to in Section 1 of this Order to the list in Exec-

utive Order No. 12171 of entities excluded from coverage of the Federal Labor-Management Relations Program, and these determinations were already expressly set forth in the text of Executive Order No. 12171, which remains in effect (as amended). This Order is not intended to reflect any belief that the form of Executive Order No. 12559 was invalid, but is intended solely to accomplish the purpose of that Order.

SEC. 3. *Amendment of Executive Order No. 12171.* Executive Order No. 12171 is amended by deleting Section 1-209 and inserting in its place:

SEC. 1-209. *Agencies or subdivisions of the Department of Justice.* (a) The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration.

(b) The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in Offices of the United States Marshals in the United States Marshals Service.

RONALD REAGAN.

EX. ORD. NO. 13252. EXCLUSIONS FROM THE FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 13252, Jan. 7, 2002, 67 F.R. 1601, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7103(b)(1) of title 5, United States Code, and in order to exempt certain subdivisions of the Department of Justice from coverage under the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations.* The subdivisions of the Department of Justice set forth in section 2 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is further determined that chapter 71 of title 5, United States Code, cannot be applied to these subdivisions in a manner consistent with national security requirements and considerations.

SEC. 2. *Amendment of Executive Order 12171.* Executive Order 12171 of November 19, 1979, as amended, [set out above] is further amended by adding to the end of section 1-209 the following new subsections:

- “(c) United States Attorneys’ Offices.
- “(d) Criminal Division.
- “(e) INTERPOL—U.S. National Central Bureau.
- “(f) National Drug Intelligence Center.
- “(g) Office of Intelligence Policy and Review.”

GEORGE W. BUSH.

EX. ORD. NO. 13760. EXCLUSIONS FROM THE FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Ex. Ord. No. 13760, Jan. 12, 2017, 82 F.R. 5325, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7103(b)(1) of title 5, United States Code, and in order to reflect the effects of the reorganization and restructuring of the Department of Defense on its agencies and subdivisions exempted from coverage under the Federal Labor-Management Relations Program, it is hereby ordered as follows:

SECTION 1. *Determinations.* The agencies and subdivisions of the Department of Defense set forth in section 2 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is further determined that chapter 71 of title 5, United States Code, cannot be applied to these subdivisions in a manner consistent with national security requirements and considerations.

SEC. 2. *Department of Defense.* Executive Order 12171 of November 19, 1979, as amended, is further amended by:

- (a) revising section 1-204 to read as follows:
  - “1-204. Agencies or subdivisions of the Department of the Army, Department of Defense:
    - “(a) Office of the Deputy Chief of Staff, G-2 (Intelligence), and all G-2 Intelligence offices within Army

Commands, Army Service Component Commands, and Direct Reporting Units.

“(b) United States Army Intelligence and Security Command.

“(c) The following subdivisions of the United States Army Cyber Command (ARCYBER) and Second Army:

“(1) Headquarters, United States ARCYBER and Second Army.

“(2) Joint Forces Headquarters—Cyber.

“(3) Army Cyber Operations and Integration Center.

“(d) United States Army Intelligence Center of Excellence (USAICoE), United States Army Training and Doctrine Command (TRADOC).

“(e) United States Army Cyber Protection Brigade, United States Army Network Enterprise Technology Command.

“(f) 114th Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

“(g) 302nd Signal Battalion, 21st Signal Brigade, United States Army Network Enterprise Technology Command.

“(h) United States Army Criminal Investigation Command (USACIDC).

“(i) United States Army Special Operations Command (USASOC).

“(j) Rapid Equipping Force (REF), United States Army Training and Doctrine Command (TRADOC).

“(k) Asymmetric Warfare Group (AWG), United States Army Training and Doctrine Command (TRADOC).”;

(b) revising section 1-205 to read as follows: “1-205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

“(a) Office of the Director of Naval Intelligence, and all Intelligence offices within Navy Commands, Navy Service Component Commands, and Direct Reporting Units, including the following:

- “(1) Naval Intelligence Activity.
- “(2) Office of Naval Intelligence.
- “(3) Farragut Technical Analysis Center.
- “(4) Nimitz Operational Intelligence Center.
- “(5) Hopper Information Services Center.
- “(6) Kennedy Irregular Warfare Center.
- “(7) Brooks Center for Maritime Engagement.

“(b) Naval Criminal Investigative Service.

“(c) United States Fleet Cyber Command.

“(d) Headquarters, Marine Corps Intelligence Department and subordinate activities, United States Marine Corps.

“(e) Marine Forces Cyber Command, United States Marine Corps.

“(f) Naval Computer and Telecommunications Station, San Diego, Detachment, Naval Strategic Communications Unit, Tinker Air Force Base.

“(g) Naval Information Force Reserve, Navy Reserve Force.

“(h) Center for Information Warfare Training, Naval Education and Training Command.

“(i) Naval Special Warfare Command (NSW).

“(j) Marine Special Operations Command (MARSOC).

“(k) Navy Information Operations Commands and Detachments.

“(1) Naval Communications Security Material System.”;

(c) revising section 1-206 to read as follows: “1-206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

“(a) Headquarters, 24th Air Force and Air Forces Cyber, Joint Force Headquarters, Air Force Space Command [now United States Space Force], and the following elements under its operational control:

- “(1) 67th Cyberspace Wing.
- “(2) 624th Operations Center.
- “(3) The following subdivisions of the 688th Cyber-space Operations Wing:
  - “(A) 318th Cyberspace Operations Group.
  - “(B) 688th Cyberspace Operations Group.

["(4) 5th Combat Communications Group.

["(b) Headquarters, 25th Air Force, Air Combat Command, and the following wings, groups, and elements under the operational control of the 25th Air Force:

["(1) 70th Intelligence, Surveillance and Reconnaissance Wing.

["(2) 363rd Intelligence, Surveillance and Reconnaissance Wing.

["(3) 480th Intelligence, Surveillance and Reconnaissance Wing.

["(4) 625th Operations Center.

["(5) The following subdivisions of the 9th Reconnaissance Wing:

["(A) 9th Operations Group.

["(B) 69th Reconnaissance Group.

["(6) 55th Operations Group, 55th Wing.

["(c) Air Force Technical Applications Center (AFTAC), 25th Air Force, Air Combat Command.

["(d) Office of the Deputy Chief of Staff, Intelligence, Surveillance and Reconnaissance (A2), Headquarters, United States Air Force, and all A2 staff within Air Force Commands, Air Force Service Component Commands, Field Operating Agencies, and Direct Reporting Units.

["(e) National Air and Space Intelligence Center and all elements under its operational control.

["(f) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

["(1) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

["(A) Mission Support Group.

["(B) Medical Group.

["(2) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

["(A) Mission Support Group.

["(B) Medical Group.

["(g) Air Force Office of Special Investigations.

["(h) 17th Training Wing, Air Education and Training Command, Goodfellow Air Force Base, Texas.”;

(d) revising section 1-207 to read as follows:

“1-207. Defense Intelligence Agency, Department of Defense.”;

(e) revising section 1-208 to read as follows:

“1-208. Defense Security Service, Department of Defense.”;

(f) revising section 1-212 to read as follows:

“1-212. Agencies or subdivisions under the authority of the Chairman of the Joint Chiefs of Staff and the Commanders of the Combatant Commands, Department of Defense.

["(a) Office of the Chairman of the Joint Chiefs of Staff (OCJCS) and the Joint Staff.

["(b) United States Africa Command (USAFRICOM).

["(c) United States Central Command (USCENTCOM).

["(d) United States European Command (USEUCOM).

["(e) United States Pacific Command (USPACOM) [now United States Indo-Pacific Command].

["(f) United States Southern Command (USSOUTHCOM).

["(g) North American Aerospace Defense Command (NORAD).

["(h) United States Northern Command (USNORTHCOM).

["(i) Headquarters, United States Transportation Command (USTRANSCOM), and its subordinate command, the Joint Enabling Capabilities Command.

["(j) United States Strategic Command (USSTRATCOM) and all components, centers, or sub-unified commands currently assigned to USSTRATCOM, including the following:

["(1) United States Cyber Command (USCYBERCOM).

["(2) Joint Functional Component Command—Global Strike (JFCC GS).

["(3) Joint Functional Component Command—Space (JFCC Space).

["(4) Joint Functional Component Command—Integrated Missile Defense (JFCC IMD).

["(5) Joint Functional Component Command—Intelligence, Surveillance and Reconnaissance (JFCC ISR).

["(6) USSTRATCOM Center for Combating Weapons of Mass Destruction (SCC WMD).

["(7) Standing Joint Force Headquarters for Elimination (SJFHQ-E).

["(8) Joint Warfare Analysis Center (JWAC).

["(k) United States Special Operations Command (USSOCOM) and all components and sub-unified commands under its administrative and operational control, including the following:

["(1) Components:

["(A) Marine Special Operations Command (MARSO).

["(B) Naval Special Warfare Command (NSW).

["(C) Air Force Special Operations Command (AFSOC), with the exception of the following subdivisions:

["(i) The following groups of the 1st Special Operations Wing, Hurlburt Field, Florida:

["(I) Mission Support Group.

["(II) Medical Group.

["(ii) The following groups of the 27th Special Operations Wing, Cannon Air Force Base, New Mexico:

["(I) Mission Support Group.

["(II) Medical Group.

["(D) United States Army Special Operations Command (USASOC).

["(2) Sub-unified Commands:

["(A) Joint Special Operations Command (JSOC).

["(B) Special Operations Command Korea (SOCKOR).

["(C) Special Operations Command Europe (SOCEUR).

["(D) Special Operations Command South (SOCSOUTH).

["(E) Special Operations Command Pacific (SOCPAC).

["(F) Special Operations Command Africa (SOCAFRICA).

["(G) Special Operations Command Central (SOCCENT).

["(H) Special Operations Command North (SOCNORTH).”;

(g) revising section 1-215 to read as follows:

“Sec. 1-215. National Geospatial-Intelligence Agency (NGA), Department of Defense.”; and

(h) inserting after section 1-216 the following new sections:

“1-217. Defense Advanced Research Projects Agency, Department of Defense.

["1-218. National Reconnaissance Office, Department of Defense.

["1-219. Office of the Under Secretary of Defense for Intelligence, Department of Defense.

["1-220. Field Detachment, Defense Contract Audit Agency, Department of Defense.

["1-221. Special Programs Directorate, Defense Contract Management Agency, Department of Defense.

["1-222. The following subdivisions of the Defense Information Systems Agency, Department of Defense:

["(a) Joint Force Headquarters—Department of Defense Information Networks.

["(b) White House Communications Agency.

["1-223. The following subdivisions of the Defense Logistics Agency, Department of Defense:

["(a) Defense Logistics Agency Intelligence.

["(b) Joint Logistics Operations Center.

["(c) Computer Emergency Response Team and Incident Response Branch.

["1-224. Strategic Capabilities Office, Department of Defense.”.

SEC. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof, or the status of that department or agency within the Federal Government; or



(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

#### § 7104. Federal Labor Relations Authority

(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.

(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of—

- (1) the date on which the member's successor takes office, or
- (2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may—

- (A) investigate alleged unfair labor practices under this chapter,
- (B) file and prosecute complaints under this chapter, and
- (C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

(Added Pub. L. 95-454, title VII, §701, Oct. 13, 1978, 92 Stat. 1196; amended Pub. L. 98-224, §3, Mar. 2, 1984, 98 Stat. 47.)

#### AMENDMENTS

1984—Subsec. (b). Pub. L. 98-224, §3(a), inserted provision directing that Chairman be chief executive and administrative officer.

Subsec. (c). Pub. L. 98-224, §3(b), substituted provision that a member of Authority be appointed for a term of 5 years and an individual chosen to fill a vacancy be appointed for unexpired term of member replaced for provision that one original member of Authority be appointed for a term of 1 year, one for a term of 3 years, and Chairman for a term of 5 years, and thereafter each member be appointed for a term of 5 years.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsection (e) of this section relating to transmittal to Congress of an annual report on cases heard and decisions rendered, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 171 of House Document No. 103-7.

#### DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74935, provided:

Memorandum for the Chairman of the Federal Labor Relations Authority

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to the member who has been designated by the President as Chairman the functions conferred upon the President by 5 U.S.C. 7104(e) to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### § 7105. Powers and duties of the Authority

(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the accord of exclusive recognition to labor organizations;

(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;