

(6) To review and approve the policies of the Federal agencies that ensure reciprocal recognition of eligibility for access to classified information or eligibility to hold a sensitive position among Federal agencies, and to act as the final authority to arbitrate and resolve disputes among such agencies involving the reciprocity of investigations and adjudications of eligibility.

(7) To execute all other duties assigned to the Security Executive Agent by law.

(c) Authorities

The Security Executive Agent shall—

(1) issue guidelines and instructions to the heads of Federal agencies to ensure appropriate uniformity, centralization, efficiency, effectiveness, timeliness, and security in processes relating to determinations by such agencies of eligibility for access to classified information or eligibility to hold a sensitive position, including such matters as investigations, polygraphs, adjudications, and reciprocity;

(2) have the authority to grant exceptions to, or waivers of, national security investigative requirements, including issuing implementing or clarifying guidance, as necessary;

(3) have the authority to assign, in whole or in part, to the head of any Federal agency (solely or jointly) any of the duties of the Security Executive Agent described in subsection (b) or the authorities described in paragraphs (1) and (2), provided that the exercise of such assigned duties or authorities is subject to the oversight of the Security Executive Agent, including such terms and conditions (including approval by the Security Executive Agent) as the Security Executive Agent determines appropriate; and

(4) define and set standards for continuous vetting for continued access to classified information and for eligibility to hold a sensitive position.

(July 26, 1947, ch. 343, title VIII, §803, as added Pub. L. 116-92, div. E, title LXVI, §6605(a)(2), Dec. 20, 2019, 133 Stat. 2213.)

PRIOR PROVISIONS

A prior section 803 of act July 26, 1947, ch. 343, was renumbered section 804 and is classified to section 3163 of this title.

§ 3163. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, §804, formerly §803, as added Pub. L. 103-359, title VIII, §802(a), Oct. 14, 1994, 108 Stat. 3437; renumbered §804, Pub. L. 116-92, div. E, title LXVI, §6605(a)(1), Dec. 20, 2019, 133 Stat. 2213.)

CODIFICATION

Section was formerly classified to section 437 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 804 of act July 26, 1947, ch. 343, was renumbered section 805 and is classified to section 3164 of this title.

EFFECTIVE DATE

Section effective 180 days after Oct. 14, 1994, see section 802(c) of Pub. L. 103-359, set out as a note under section 3161 of this title.

§ 3164. Definitions

For purposes of this subchapter—

(1) the term “authorized investigative agency” means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term “classified information” means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term “consumer reporting agency” has the meaning given such term in section 1681a of title 15;

(4) the term “employee” includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms “financial agency” and “financial institution” have the meanings given to such terms in section 5312(a) of title 31 and the term “holding company” has the meaning given to such term in section 3401(6) of title 12;

(6) the terms “foreign power” and “agent of a foreign power” have the same meanings as set forth in sections¹ 1801(a) and (b), respectively, of this title;

(7) the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and

(8) the term “computer” means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

(July 26, 1947, ch. 343, title VIII, §805, formerly §804, as added Pub. L. 103-359, title VIII, §802(a), Oct. 14, 1994, 108 Stat. 3438; amended Pub. L. 106-120, title III, §305(b), Dec. 3, 1999, 113 Stat. 1611; renumbered §805, Pub. L. 116-92, div. E, title LXVI, §6605(a)(1), Dec. 20, 2019, 133 Stat. 2213.)

¹ So in original. Probably should be “section”.

REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 12958, § 6.1(d), Apr. 17, 1995, 60 F.R. 19843.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 438 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1999—Par. (8). Pub. L. 106–120 added par. (8).

EFFECTIVE DATE

Section effective 180 days after Oct. 14, 1994, see section 802(c) of Pub. L. 103–359, set out as a note under section 3161 of this title.

SUBCHAPTER VII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

§ 3171. Stay of sanctions

Notwithstanding any provision of law identified in section 3174 of this title, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 3173 of this title that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 3172 of this title.

(July 26, 1947, ch. 343, title IX, §901, as added Pub. L. 104–93, title III, §303(a), Jan. 6, 1996, 109 Stat. 964.)

CODIFICATION

Section was formerly classified to section 441 of this title prior to editorial reclassification and renumbering as this section.

§ 3172. Extension of stay

Whenever the President determines and reports to Congress in accordance with section 3173 of this title that a stay of sanctions or related actions pursuant to section 3171 of this title has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 3171 of this title for successive periods of not more than 120 days each.

(July 26, 1947, ch. 343, title IX, §902, as added Pub. L. 104–93, title III, §303(a), Jan. 6, 1996, 109 Stat. 964.)

CODIFICATION

Section was formerly classified to section 441a of this title prior to editorial reclassification and renumbering as this section.

§ 3173. Reports

Reports to Congress pursuant to sections 3171 and 3172 of this title shall be submitted promptly upon determinations under this subchapter. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the congressional intelligence committees. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

(July 26, 1947, ch. 343, title IX, §903, as added Pub. L. 104–93, title III, §303(a), Jan. 6, 1996, 109 Stat. 964; amended Pub. L. 107–306, title III, §353(b)(2)(C), Nov. 27, 2002, 116 Stat. 2402.)

CODIFICATION

Section was formerly classified to section 441b of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2002—Pub. L. 107–306 substituted “congressional intelligence committees” for “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate”.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3174. Laws subject to stay

The President may use the authority of sections 3171 and 3172 of this title to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182) [22 U.S.C. 5601 et seq.]; the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (relating to the non-proliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102–484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103–87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103–306); and comparable provisions.