

(7) High confidence

The term “high confidence”, with respect to a determination, means that the determination is based on high-quality information from multiple sources.

(8) Moderate confidence

The term “moderate confidence”, with respect to a determination, means that a determination is credibly sourced and plausible but not of sufficient quality or corroborated sufficiently to warrant a higher level of confidence.

(9) Other appropriate congressional committees

The term “other appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.

(b) Determinations of significant foreign cyber intrusions and active measures campaigns

The Director of National Intelligence, the Director of the Federal Bureau of Investigation, and the Secretary of Homeland Security shall jointly carry out subsection (c) if such Directors and the Secretary jointly determine—

(1) that on or after December 20, 2019, a significant foreign cyber intrusion or active measures campaign intended to influence an upcoming election for any Federal office has occurred or is occurring; and

(2) with moderate or high confidence, that such intrusion or campaign can be attributed to a foreign state or to a foreign nonstate person, group, or other entity.

(c) Briefing**(1) In general**

Not later than 14 days after making a determination under subsection (b), the Director of National Intelligence, the Director of the Federal Bureau of Investigation, and the Secretary of Homeland Security shall jointly provide a briefing to the congressional leadership, the congressional intelligence committees and, consistent with the protection of sources and methods, the other appropriate congressional committees. The briefing shall be classified and address, at a minimum, the following:

(A) A description of the significant foreign cyber intrusion or active measures campaign, as the case may be, covered by the determination.

(B) An identification of the foreign state or foreign nonstate person, group, or other entity, to which such intrusion or campaign has been attributed.

(C) The desirability and feasibility of the public release of information about the cyber intrusion or active measures campaign.

(D) Any other information such Directors and the Secretary jointly determine appropriate.

(2) Electronic election infrastructure briefings

With respect to a significant foreign cyber intrusion covered by a determination under subsection (b), the Secretary of Homeland Security, in consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, shall offer to the owner or operator of any electronic election infrastructure directly affected by such intrusion, a briefing on such intrusion, including steps that may be taken to mitigate such intrusion. Such briefing may be classified and made available only to individuals with appropriate security clearances.

(3) Protection of sources and methods

This subsection shall be carried out in a manner that is consistent with the protection of sources and methods.

(Pub. L. 116–92, div. E, title LXV, § 6507, Dec. 20, 2019, 133 Stat. 2207.)

DEFINITIONS

For definition of “congressional intelligence committees”, referred to in subsec. (c)(1), see section 5003 of div. E of Pub. L. 116–92, set out as a note under section 3003 of this title.

§ 3371d. Designation of counterintelligence officer to lead election security matters**(a) In general**

The Director of National Intelligence shall designate a national counterintelligence officer within the National Counterintelligence and Security Center to lead, manage, and coordinate counterintelligence matters relating to election security.

(b) Additional responsibilities

The person designated under subsection (a) shall also lead, manage, and coordinate counterintelligence matters relating to risks posed by interference from foreign powers (as defined in section 1801 of this title) to the following:

(1) The Federal Government election security supply chain.

(2) Election voting systems and software.

(3) Voter registration databases.

(4) Critical infrastructure related to elections.

(5) Such other Government goods and services as the Director of National Intelligence considers appropriate.

(Pub. L. 116–92, div. E, title LXV, § 6508, Dec. 20, 2019, 133 Stat. 2208.)

§ 3372. Monitoring mineral investments under Belt and Road Initiative of People’s Republic of China**(a) Report required**

Not later than 1 year after December 27, 2020, the Director of National Intelligence (referred to in this section as the “Director”), in consultation with the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, the Secretary of Defense,

and the United States Trade Representative, shall submit to the appropriate congressional committees a report on investments in minerals under the Belt and Road Initiative of the People's Republic of China that includes an assessment of—

- (1) notable past mineral investments;
- (2) whether and how such investments have increased the extent of control of minerals by the People's Republic of China;
- (3) any efforts by the People's Republic of China to counter or interfere with the goals of the Energy Resource Governance Initiative of the Department of State; and
- (4) the strategy of the People's Republic of China with respect to mineral investments.

(b) Monitoring mechanism

In conjunction with each report required by subsection (a), the Director shall submit to the appropriate congressional committees a list of any minerals with respect to which—

- (1) the People's Republic of China, directly or through the Belt and Road Initiative—
 - (A) is increasing its concentration of extraction and processing;
 - (B) is acquiring significant mining and processing facilities;
 - (C) is maintaining or increasing export restrictions; or
 - (D) has achieved substantial control of the supply of minerals used within an industry or related minerals;
- (2) there is a significant difference between domestic prices in the People's Republic of China as compared to prices on international markets; or
- (3) there is a significant increase or volatility in price as a result of the Belt and Road Initiative of the People's Republic of China.

(c) Critical mineral evaluation

For any mineral included on the list required by subsection (b) that is not already designated as critical by the Secretary of the Interior pursuant to section 1606(c) of title 30, the Director shall—

- (1) determine, in consultation with the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, the Secretary of Defense, and the United States Trade Representative, whether the mineral is strategic and critical to the defense or national security of the United States; and
- (2) make a recommendation to the Secretary of the Interior regarding the designation of the mineral under section 1606(c) of title 30.

(d) Annual updates

The Director shall update the report required by subsection (a) and list required by subsection (b) not less frequently than annually.

(e) Form

Each report or list required by this section shall be submitted in unclassified form but may include a classified annex.

(f) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

(1) the Committee on Energy and Natural Resources, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Finance, the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Appropriations of the Senate; and

(2) the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Ways and Means, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.

(Pub. L. 116-260, div. Z, title VII, §7003, Dec. 27, 2020, 134 Stat. 2577.)

SUBCHAPTER V—MANAGEMENT OF COUNTERINTELLIGENCE ACTIVITIES

§ 3381. Coordination of counterintelligence activities

(a) Establishment of Counterintelligence Policy Board

There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

(b) Chairperson

The Director of the National Counterintelligence and Security Center appointed under section 902 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 3382) shall serve as the chairperson of the Board.

(c) Membership

The membership of the National Counterintelligence Policy Board shall consist of the following:

- (1) The Director of the National Counterintelligence and Security Center.
- (2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:
 - (A) The Department of Justice, including the Federal Bureau of Investigation.
 - (B) The Department of Defense, including the Joint Chiefs of Staff.
 - (C) The Department of State.
 - (D) The Department of Energy.
 - (E) The Central Intelligence Agency.
 - (F) Any other department, agency, or element of the United States Government specified by the President.

(d) Functions and discharge of functions

- (1) The Board shall—
 - (A) serve as the principal mechanism for—
 - (i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and
 - (ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and
 - (B) act as an interagency working group to—