

“(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the policy required by subsection (a).

“(2) DOD GENERAL COUNSEL STATEMENT.—The Secretary shall include in the report under paragraph (1) a statement by the General Counsel of the Department of Defense as to whether the policy prescribed pursuant to subsection (a) is consistent with domestic and international law.

“(3) FORM.—The report required by paragraph (1) may be submitted in classified form.

“(d) BRIEFING ON POLICY.—Not later than 30 days after the date of the submittal of the report required by subsection (c), the Secretary shall provide the congressional defense committees a classified briefing on the policy prescribed pursuant to subsection (a). The briefing shall make use of vignettes designated to illustrate real world application of the policy in each [of] the circumstances enumerated in subsection (b)(1).”

DEADLINE FOR SUBMITTAL OF PROCEDURES

Pub. L. 113-66, div. A, title X, §1041(c), Dec. 26, 2013, 127 Stat. 857, provided that: “The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the procedures required under section 130f(b) of title 10, United States Code, as added by subsection (a), by not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013].”

[§ 130g. Renumbered § 394]

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

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

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

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

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

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

(e) SUNSET.—The prohibitions in subsections (a), (b), and (d) shall expire on January 1, 2026. (Added Pub. L. 114-92, div. A, title XVI, §1671(a)(1), Nov. 25, 2015, 129 Stat. 1129; amended

Pub. L. 114-328, div. A, title X, §1081(a)(1), title XVI, §1682(a)(1), (b), Dec. 23, 2016, 130 Stat. 2417, 2623, 2624; Pub. L. 115-232, div. A, title XVI, §1678, Aug. 13, 2018, 132 Stat. 2161; Pub. L. 116-283, div. A, title XVI, §1642, Jan. 1, 2021, 134 Stat. 4062.)

Editorial Notes

AMENDMENTS

2021—Subsec. (e). Pub. L. 116-283 substituted “January 1, 2026” for “January 1, 2021”.

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

CERTIFICATION REQUIRED FOR RUSSIA AND CHINA TO TOUR CERTAIN MISSILE DEFENSE SITES

Pub. L. 117-81, div. A, title XVI, §1667, Dec. 27, 2021, 135 Stat. 2106, provided that:

“(a) CERTIFICATION.—Before the Secretary of Defense makes a determination with respect to allowing a foreign national of Russia or China to tour a covered site, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a certification that—

“(1) the Secretary has determined that such tour is in the national security interest of the United States, including the justifications for such determination; and

“(2) the Secretary will not share any technical data relating to the covered site with the foreign nationals.

“(b) TIMING.—The Secretary may not conduct a tour described in subsection (a) until a period of 45 days has elapsed following the date on which the Secretary submits the certification for that tour under such subsection.

“(c) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this section shall be construed to supersede or otherwise affect section 130h of title 10, United States Code.

“(d) COVERED SITE.—In this section, the term ‘covered site’ means any of the following:

“(1) The combat information center of a naval ship equipped with the Aegis ballistic missile defense system.

“(2) An Aegis Ashore site.

“(3) A terminal high altitude area defense battery.

“(4) A ground-based midcourse defense interceptor silo.”

§ 130i. Protection of certain facilities and assets from unmanned aircraft

(a) AUTHORITY.—Notwithstanding section 46502 of title 49, or any provision of title 18, the Secretary of Defense may take, and may authorize members of the armed forces and officers and civilian employees of the Department of Defense with assigned duties that include safety, secu-

rity, or protection of personnel, facilities, or assets, to take, such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Defense, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Defense shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Defense is subject to forfeiture to the United States.

(d) REGULATIONS AND GUIDANCE.—(1) The Secretary of Defense and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(2)(A) The Secretary of Defense and the Secretary of Transportation shall coordinate in the development of guidance under paragraph (1).

(B) The Secretary of Defense shall coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance or otherwise implementing this section if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

(e) PRIVACY PROTECTION.—The regulations prescribed or guidance issued under subsection (d) shall ensure that—

(1) the interception or acquisition of, or access to, communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the fourth amendment to the Constitution and applicable provisions of Federal law;

(2) communications to or from an unmanned aircraft system are intercepted, acquired, or accessed only to the extent necessary to support a function of the Department of Defense;

(3) records of such communications are not maintained for more than 180 days unless the Secretary of Defense determines that maintenance of such records—

(A) is necessary to support one or more functions of the Department of Defense; or

(B) is required for a longer period to support a civilian law enforcement agency or by any other applicable law or regulation; and

(4) such communications are not disclosed outside the Department of Defense unless the disclosure—

(A) would fulfill a function of the Department of Defense;

(B) would support a civilian law enforcement agency or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory action with regard to, an action described in subsection (b)(1); or

(C) is otherwise required by law or regulation.

(f) BUDGET.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2018, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Defense. The funding display shall be in unclassified form, but may contain a classified annex.

(g) SEMIANNUAL BRIEFINGS.—(1) On a semi-annual basis during the five-year period beginning March 1, 2018, the Secretary of Defense and the Secretary of Transportation, shall jointly provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section. Such briefings shall include—

(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

(B) a description of instances where actions described in subsection (b)(1) have been taken;

(C) how the Secretaries have informed the public as to the possible use of authorities under this section; and

(D) how the Secretaries have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

(2) Each briefing under paragraph (1) shall be in unclassified form, but may be accompanied by an additional classified briefing.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49; and

(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under this title.

(i) PARTIAL TERMINATION.—(1) Except as provided by paragraph (2), the authority to carry

out this section with respect to the covered facilities or assets specified in clauses (iv) through (viii) of subsection (j)(3)(C) shall terminate on December 31, 2023.

(2) The President may extend by 180 days the termination date specified in paragraph (1) if before November 15, 2023, the President certifies to Congress that such extension is in the national security interests of the United States.

(j) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” means—

(A) the congressional defense committees;

(B) the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate; and

(C) the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(3) The term “covered facility or asset” means any facility or asset that—

(A) is identified by the Secretary of Defense, in consultation with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section;

(B) is located in the United States (including the territories and possessions of the United States); and

(C) directly relates to the missions of the Department of Defense pertaining to—

(i) nuclear deterrence, including with respect to nuclear command and control, integrated tactical warning and attack assessment, and continuity of government;

(ii) missile defense;

(iii) national security space;

(iv) assistance in protecting the President or the Vice President (or other officer immediately next in order of succession to the office of the President) pursuant to the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);

(v) air defense of the United States, including air sovereignty, ground-based air defense, and the National Capital Region integrated air defense system;

(vi) combat support agencies (as defined in paragraphs (1) through (4) of section 193(f) of this title);

(vii) special operations activities specified in paragraphs (1) through (9) of section 167(k) of this title;

(viii) production, storage, transportation, or decommissioning of high-yield explosive munitions, by the Department; or

(ix) a Major Range and Test Facility Base (as defined in sections¹ 4173(i) of this title).

(4) The term “defense budget materials”, with respect to a fiscal year, means the mate-

rials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(5) The terms “electronic communication”, “intercept”, “oral communication”, and “wire communication” have the meanings given those terms in section 2510 of title 18.

(6) The terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 44801 of title 49.

(Added Pub. L. 114-328, div. A, title XVI, §1697(a), Dec. 23, 2016, 130 Stat. 2639; amended Pub. L. 115-91, div. A, title XVI, §1692, Dec. 12, 2017, 131 Stat. 1788; Pub. L. 116-92, div. A, title XVI, §1694, title XVII, §1731(a)(6), Dec. 20, 2019, 133 Stat. 1791, 1812; Pub. L. 116-283, div. A, title X, §1081(a)(8), title XVIII, §1845(c)(4), Jan. 1, 2021, 134 Stat. 3871, 4247.)

Editorial Notes

REFERENCES IN TEXT

The Presidential Protection Assistance Act of 1976, referred to in subsec. (j)(3)(C)(iv), is Pub. L. 94-524, Oct. 17, 1976, 90 Stat. 2475, which enacted and amended provisions set out as notes under section 3056 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2021—Subsec. (i)(1). Pub. L. 116-283, §1081(a)(8)(A), substituted “of subsection (j)(3)(C) shall” for “of subsection (j)(3)(C) shall”, resulting in no change in text. See 2019 Amendment notes and Coordination of Amendments by Pub. L. 116-92 note below.

Subsec. (j)(3)(C)(ix). Pub. L. 116-283, §1845(c)(4), substituted “sections 4173(i)” for “section 196(i)”.

Subsec. (j)(6). Pub. L. 116-283, §1081(a)(8)(B), inserted a period at end.

2019—Subsec. (i). Pub. L. 116-92, §1694(a), substituted “2023” for “2020” in two places.

Subsec. (i)(1). Pub. L. 116-92, §1731(a)(6)(A), inserted “(C)” after “subsection (j)(3)”.

Pub. L. 116-92, §1694(b)(1), which directed substitution of “of subsection (j)(3)(C)” for “of subsection (j)(3)”, resulted in no change in text because of prior execution of amendment by Pub. L. 116-92, §1731(a)(6)(A). See Amendment note above and Coordination of Amendments by Pub. L. 116-92 note below.

Subsec. (j)(6). Pub. L. 116-92, §1731(a)(6)(B), substituted “44802” for “40101”.

Pub. L. 116-92, §1694(b)(2), substituted “in section 44801 of title 49” for “in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 44802 note).”

2017—Pub. L. 115-91 amended section generally. Prior to amendment, section related to protection of certain facilities and assets from unmanned aircraft and consisted of provisions relating to authority of Secretary of Defense, authorized actions, forfeiture, regulations, and definitions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1845(c)(4) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

COORDINATION OF AMENDMENTS BY PUB. L. 116-92

Amendments to this section by section 1731 of Pub. L. 116-92 to be treated as having been enacted immediately before amendments by other provisions of Pub. L. 116-92, see section 1731(f) of Pub. L. 116-92, set out as

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

a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

[§§ 130j, 130k. Renumbered §§ 395, 396]

CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

- Sec.
131. Office of the Secretary of Defense.
132. Deputy Secretary of Defense.
[132a, 133. Repealed.]
- 133a. Under Secretary of Defense for Research and Engineering.
- 133b. Under Secretary of Defense for Acquisition and Sustainment.
134. Under Secretary of Defense for Policy.
[134a, 134b. Repealed.]
135. Under Secretary of Defense (Comptroller).
136. Under Secretary of Defense for Personnel and Readiness.
[136a. Repealed.]
137. Under Secretary of Defense for Intelligence and Security.
- 137a. Deputy Under Secretaries of Defense.
138. Assistant Secretaries of Defense.
[138a to 138d. Repealed.]
139. Director of Operational Test and Evaluation.
- 139a. Director of Cost Assessment and Program Evaluation.
- 139b. Secretariat for Special Operations; Special Operations Policy and Oversight Council.
[139c. Repealed.]
- [139d, 139e. Renumbered.]
140. General Counsel.
[140a to 140c. Renumbered.]
141. Inspector General.
142. Chief Information Officer.
143. Office of the Secretary of Defense personnel: limitation.
144. Director of Small Business Programs.
145. Principal Advisor on Countering Weapons of Mass Destruction.
[146. Renumbered.]
147. Chief Diversity Officer.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. A, title IX, §902(a)(4)(A), Dec. 27, 2021, 135 Stat. 1869, struck out item 146 “Office of Local Defense Community Cooperation”.

Pub. L. 116-283, div. A, title IX, §§901(a)(3), 902(b)(2), 905(a)(2), 913(a)(2), Jan. 1, 2021, 134 Stat. 3794, 3797, 3799, 3803, added items 146 and 147, substituted “Secretariat for Special Operations; Special Operations Policy and Oversight Council” for “Special Operations Policy and Oversight Council” in item 139b, and struck out item 132a “Chief Management Officer”.

2019—Pub. L. 116-92, div. A, title XVI, §1621(e)(1)(D), Dec. 20, 2019, 133 Stat. 1733, substituted “Under Secretary of Defense for Intelligence and Security” for “Under Secretary of Defense for Intelligence” in item 137.

2018—Pub. L. 115-232, div. A, title X, §1082(a)(2), Aug. 13, 2018, 132 Stat. 1988, added item 145.

2017—Pub. L. 115-91, div. A, title X, §1081(b)(1)(B), Dec. 12, 2017, 131 Stat. 1597, repealed Pub. L. 113-291, §901(l)(1)(A). See 2014 Amendment note below.

Pub. L. 115-91, div. A, title IX, §§906(f)(2), 910(a)(2), Dec. 12, 2017, 131 Stat. 1514, 1517, substituted “Chief Management Officer” for “Deputy Chief Management Officer” in item 132a and “Deputy Under Secretaries of Defense” for “Principal Deputy Under Secretaries of Defense” in item 137a.

2016—Pub. L. 114-328, div. A, title IX, §901(g)(2), Dec. 23, 2016, 130 Stat. 2342, effective on Feb. 1, 2018, added items 133a and 133b and struck out item 133 “Under Sec-

retary of Defense for Acquisition, Technology, and Logistics”.

Pub. L. 114-328, div. A, title IX, §§901(g)(1), 922(b)(2), Dec. 23, 2016, 130 Stat. 2342, 2356, added item 139b and struck out former item 139b “Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance” and item 139c “Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy”.

2014—Pub. L. 113-291, div. A, title IX, §901(l)(1)(B), (C), Dec. 19, 2014, 128 Stat. 3468, added item 142 and struck out items 138a “Assistant Secretary of Defense for Logistics and Materiel Readiness”, 138b “Assistant Secretary of Defense for Research and Engineering”, 138c “Assistant Secretary of Defense for Operational Energy Plans and Programs”, and 138d “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”.

Pub. L. 113-291, div. A, title IX, §901(l)(1)(A), Dec. 19, 2014, 128 Stat. 3468, which directed substitution of “Under Secretary of Defense for Business Management and Information” for “Deputy Chief Management Officer” in item 132a, was repealed by Pub. L. 115-91, §1081(b)(1)(B).

2013—Pub. L. 112-239, div. A, title X, §1076(f)(2), Jan. 2, 2013, 126 Stat. 1952, struck out item 133b “Deputy Under Secretary of Defense for Logistics and Materiel Readiness”.

2011—Pub. L. 111-383, div. A, title IX, §901(k)(2)(A), Jan. 7, 2011, 124 Stat. 4325, added items 132a, 137a, 138b to 138d, and 139a to 139c, and struck out former items 133a “Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics”, 134a “Principal Deputy Under Secretary of Defense for Policy”, 136a “Principal Deputy Under Secretary of Defense for Personnel and Readiness”, 137a “Deputy Under Secretaries of Defense”, 139a “Director of Defense Research and Engineering”, 139b “Director of Operational Energy Plans and Programs”, 139c “Director of Cost Assessment and Program Evaluation”, 139d “Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance”, and 142 “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs”.

2009—Pub. L. 111-84, div. A, title IX, §§905(a)(2), 906(c)(3), Oct. 28, 2009, 123 Stat. 2425, 2427, added items 133a, 134a, 136a, 137a, and 138a and struck out former items 133a “Deputy Under Secretary of Defense for Acquisition and Technology”, 134a “Deputy Under Secretary of Defense for Policy”, 134b “Deputy Under Secretary of Defense for Technology Security Policy”, and 136a “Deputy Under Secretary of Defense for Personnel and Readiness”.

Pub. L. 111-23, title I, §§101(a)(2), 102(a)(2), May 22, 2009, 123 Stat. 1706, 1713, added items 139c and 139d.

2008—Pub. L. 110-417, [div. A], title IX, §902(b), Oct. 14, 2008, 122 Stat. 4566, added item 139b.

2006—Pub. L. 109-163, div. A, title IX, §904(b)(2), Jan. 6, 2006, 119 Stat. 3400, added item 144.

2002—Pub. L. 107-314, div. A, title IX, §901(b)(2), Dec. 2, 2002, 116 Stat. 2619, added items 137 and 139a and struck out former item 137 “Director of Defense Research and Engineering”.

2001—Pub. L. 107-107, div. A, title IX, §901(a)(2), Dec. 28, 2001, 115 Stat. 1194, added item 136a.

1999—Pub. L. 106-65, div. A, title IX, §911(d)(3), Oct. 5, 1999, 113 Stat. 719, added items 133 and 133b and struck out former item 133 “Under Secretary of Defense for Acquisition and Technology”.

1998—Pub. L. 105-261, div. A, title XV, §1521(b)(2), Oct. 17, 1998, 112 Stat. 2179, added item 134b.

1997—Pub. L. 105-85, div. A, title IX, §911(d)(2), Nov. 18, 1997, 111 Stat. 1859, added item 143.

1996—Pub. L. 104-106, div. A, title IX, §904(a)(2), Feb. 10, 1996, 110 Stat. 403, substituted “Nuclear and Chemical and Biological Defense Programs” for “Atomic Energy” in item 142.

Pub. L. 104-106, div. A, title IX, §903(a), (e)(3), Feb. 10, 1996, 110 Stat. 401, 402, which directed amendment of