

material, means a level of classification for information in such material concerning or derived from intelligence sources, methods, or analytical processes that requires such information to be handled within formal access control systems established by the Director of Central Intelligence.

(Pub. L. 106-567, title III, §309, Dec. 27, 2000, 114 Stat. 2840.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 435a of this title prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of this title.

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.

§ 3346. Compilation and organization of previously declassified records

(a), (b) Omitted

(c) Compilation and organization of records

The Department of Defense may not be required, when conducting a special search, to compile or organize records that have already been declassified and placed into the public domain.

(d) Special searches

For the purpose of this section, the term "special search" means the response of the Department of Defense to any of the following:

- (1) A statutory requirement to conduct a declassification review on a specified set of agency records.
- (2) An Executive order to conduct a declassification review on a specified set of agency records.
- (3) An order from the President or an official with delegated authority from the President to conduct a declassification review on a specified set of agency records.

(Pub. L. 106-398, §1 [[div. A], title X, §1075], Oct. 30, 2000, 114 Stat. 1654, 1654A-280.)

Editorial Notes

REFERENCES IN TEXT

This section, referred to in subsec. (d), is section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. See Codification note below.

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

Section is comprised of section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. Subsec. (a) of section 1075 amended former section 230 of Title 10, Armed Forces and subsec. (b) of section 1075 was not classified to the Code.

§ 3347. Secrecy agreements used in intelligence activities

Notwithstanding any other provision of law not specifically referencing this section, a non-disclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum—

- (1) require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government; and
- (2) provide that the form or agreement does not bar—
 - (A) disclosures to Congress; or
 - (B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

(Pub. L. 104-93, title III, §306, Jan. 6, 1996, 109 Stat. 966.)

Editorial Notes

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

§ 3348. Reports relating to certain special access programs and similar programs

(a) In general

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to the congressional oversight committees a report on each special access program carried out in the department or agency.

(2) Each such report shall set forth—

(A) the total amount requested by the department or agency for special access programs within the budget submitted under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted; and

(B) for each program in such budget that is a special access program—

- (i) a brief description of the program;
- (ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;
- (iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and
- (iv) the estimated total cost of the program and the estimated cost of the program

for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(b) Newly designated programs

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to the congressional oversight committees a report that, with respect to each new special access program of that department or agency, provides—

- (A) notice of the designation of the program as a special access program; and
- (B) justification for such designation.

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

- (A) the current estimate of the total program cost for the program; and
- (B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term “new special access program” means a special access program that has not previously been covered in a notice and justification under this subsection.

(c) Revision in classification of programs

(1) Whenever a change in the classification of a special access program of a covered department or agency is planned to be made or whenever classified information concerning a special access program of a covered department or agency is to be declassified and made public, the head of the department or agency shall submit to the congressional oversight committees a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

(2) Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

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

(d) Revision of criteria for designating programs

Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered department or agency as a special access program, the head of

the department or agency shall promptly notify the congressional oversight committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e) Waiver of reporting requirement

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

(2) If the head of a department or agency exercises the authority provided under paragraph (1), the head of the department or agency shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, to the congressional oversight committees.

(f) Initiation of programs

A special access program may not be initiated by a covered department or agency until—

- (1) the congressional oversight committees are notified of the program; and
- (2) a period of 30 days elapses after such notification is received.

(g) Definitions

For purposes of this section:

(1) Congressional oversight committees

The term “congressional oversight committees” means—

- (A) congressional leadership and authorizing and appropriations congressional committees with jurisdiction or shared jurisdiction over a department or agency;
- (B) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (C) the Committee on Oversight and Government Reform of the House of Representatives.

(2) Covered department or agency

(A) Except as provided in subparagraph (B), the term “covered department or agency” means any department or agency of the Federal Government that carries out a special access program.

(B) Such term does not include—

- (i) the Department of Defense (which is required to submit reports on special access programs under section 119 of title 10);
- (ii) the National Nuclear Security Administration (which is required to submit reports on special access programs under section 2426 of this title); or
- (iii) an agency in the Intelligence Community (as defined in section 3003(4) of this title).

(3) Special access program

The term “special access program” means any program that, under the authority of Executive Order 12356 (or any successor Execu-

tive order), is established by the head of a department or agency whom the President has designated in the Federal Register as an original “secret” or “top secret” classification authority that imposes “need-to-know” controls or access controls beyond those controls normally required (by regulations applicable to such department or agency) for access to information classified as “confidential”, “secret”, or “top secret”.

(Pub. L. 103-160, div. A, title XI, §1152, Nov. 30, 1993, 107 Stat. 1758; Pub. L. 106-65, div. C, title XXXII, §3294(e)(2), Oct. 5, 1999, 113 Stat. 970; Pub. L. 115-390, title I, §103, Dec. 21, 2018, 132 Stat. 5177.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 12356, referred to in subsec. (g)(3), is Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, which prescribed a uniform system for classifying, declassifying, and safeguarding national security information, and 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.

CODIFICATION

Section 103 of Pub. L. 115-390, which directed amendment of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 3348), was executed to this section, which is section 1152 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160), to reflect the probable intent of Congress. See 2018 Amendment notes below.

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

AMENDMENTS

2018—Subsecs. (a) to (e). Pub. L. 115-390, §103(1), substituted “the congressional oversight committees” for “Congress” wherever appearing. See Codification note above.

Subsec. (f)(1). Pub. L. 115-390, §103(2), substituted “congressional oversight committees” for “appropriate oversight committees”. See Codification note above.

Subsec. (g). Pub. L. 115-390, §103(3), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively. See Codification note above.

1999—Subsec. (g)(1)(B)(ii). Pub. L. 106-65 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the Department of Energy, with respect to special access programs carried out under the atomic energy defense activities of that department (for which the Secretary of Energy is required to submit reports under section 2122a of title 42); or”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of this title.

§ 3349. Notification regarding the authorized public disclosure of national intelligence

(a) Notification

In the event of an authorized disclosure of national intelligence or intelligence related to na-

tional security to the persons or entities described in subsection (b), the government official responsible for authorizing the disclosure shall submit to the congressional intelligence committees on a timely basis a notification of the disclosure if—

- (1) at the time of the disclosure—
 - (A) such intelligence is classified; or
 - (B) is declassified for the purpose of the disclosure; and

- (2) the disclosure will be made by an officer, employee, or contractor of the Executive branch.

(b) Persons or entities described

The persons or entities described in this subsection are as follows:

- (1) Media personnel.
- (2) Any person or entity, if the disclosure described in subsection (a) is made with the intent or knowledge that such information will be made publicly available.

(c) Content

Each notification required under subsection (a) shall—

- (1) provide the specific title and authority of the individual authorizing the disclosure;
- (2) if applicable, provide the specific title and authority of the individual who authorized the declassification of the intelligence disclosed; and
- (3) describe the intelligence disclosed, including the classification of the intelligence prior to its disclosure or declassification and the rationale for making the disclosure.

(d) Exception

The notification requirement in this section does not apply to a disclosure made—

- (1) pursuant to any statutory requirement, including to section 552 of title 5 (commonly referred to as the “Freedom of Information Act”);
- (2) in connection with a civil, criminal, or administrative proceeding;
- (3) as a result of a declassification review process under Executive Order 13526 (50 U.S.C. 435 note) [now 50 U.S.C. 3161 note] or any successor order; or
- (4) to any officer, employee, or contractor of the Federal government or member of an advisory committee to an element of the intelligence community who possesses an active security clearance and a need to know the specific national intelligence or intelligence related to national security, as defined in section 3003(5) of this title.

(Pub. L. 112-277, title V, §504, Jan. 14, 2013, 126 Stat. 2477; Pub. L. 113-126, title III, §328, July 7, 2014, 128 Stat. 1405.)

Editorial Notes

AMENDMENTS

2014—Subsec. (e). Pub. L. 113-126 struck out subsec. (e). Text read as follows: “The notification requirements of this section shall cease to be effective for any disclosure described in subsection (a) that occurs on or after the date that is one year after January 14, 2013.”