

foreign country, person, or entity to which such transfer would be made;

(v) an analysis of the manner in which the proposed export, reexport, or in-country transfer would affect the relative military strengths of countries in the region to which the items that are the subject of such export, reexport, or in-country transfer would be delivered and whether other countries in the region have comparable kinds and amounts of items; and

(vi) an analysis of the impact of the proposed export, reexport, or in-country transfer on the relations of the United States with the countries in the region to which the items that are the subject of such export, reexport, or in-country transfer would be delivered.

### (3) Publication in Federal Register

Each determination of the Secretary of State under paragraph (1)(A)(i) shall be published in the Federal Register, except that the Secretary of State may exclude confidential information and trade secrets contained in such determination.

### (4) Rescission of determination

A determination of the Secretary of State under paragraph (1)(A)(i) may not be rescinded unless the President submits to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Affairs, and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for acts of international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

### (d) Enhanced controls

#### (1) In general

In furtherance of section 4812(a) of this title, the President shall, except to the extent authorized by a statute or regulation administered by a Federal department or agency other than the Department of Commerce, require a United States person, wherever located, to apply for and receive a license from the Department of Commerce for—

(A) the export, reexport, or in-country transfer of items described in paragraph (2),

including items that are not subject to control under this subchapter; and

(B) other activities that may support the design, development, production, use, operation, installation, maintenance, repair, overhaul, or refurbishing of, or for the performance of services relating to, any such items.

### (2) Items described

The items described in this paragraph include—

(A) nuclear explosive devices;

(B) missiles;

(C) chemical or biological weapons;

(D) whole plants for chemical weapons precursors; and

(E) foreign maritime nuclear projects that would pose a risk to the national security or foreign policy of the United States.

### (e) Additional prohibitions

The Secretary may inform United States persons, either individually by specific notice or through amendment to any regulation or order issued under this subchapter, that a license from the Bureau of Industry and Security of the Department of Commerce is required to engage in any activity if the activity involves the types of movement, service, or support described in subsection (d). The absence of any such notification does not excuse the United States person from compliance with the license requirements of subsection (d), or any regulation or order issued under this subchapter.

### (f) License review standards

The Secretary shall deny an application to engage in any activity described in subsection (d) if the activity would make a material contribution to any of the items described in subsection (d)(2).

(Pub. L. 115-232, div. A, title XVII, § 1754, Aug. 13, 2018, 132 Stat. 2212.)

### Editorial Notes

#### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (b), (d)(1)(A), and (e), was in the original “this part”, meaning part I (§§ 1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (a)(13), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

IEEPA, referred to in subsec. (b), is the International Emergency Economic Powers Act, title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

## § 4814. Administration of export controls

### (a) In general

The President shall rely on, including through delegations, as appropriate, the Secretary, the

Secretary of Defense, the Secretary of State, the Secretary of Energy, the Director of National Intelligence, and the heads of other Federal agencies as appropriate, to exercise the authority to carry out the purposes set forth in subsection (b).

**(b) Purposes**

The purposes of this section include to—

(1) advise the President with respect to—

(A) identifying specific threats to the national security and foreign policy that the authority of this subchapter may be used to address; and

(B) exercising the authority under this subchapter to implement policies, regulations, procedures, and actions that are necessary to effectively counteract those threats;

(2) review and approve—

(A) criteria for including items on, and removing such an item from, a list of controlled items established under this subchapter;

(B) an interagency procedure for compiling and amending any list described in subparagraph (A);

(C) criteria for including a person on a list of persons to whom exports, reexports, and in-country transfers of items are prohibited or restricted under this subchapter;

(D) standards for compliance by persons subject to controls under this subchapter; and

(E) policies and procedures for the end-use monitoring of exports, reexports, and in-country transfers of items controlled under this subchapter; and

(3) benefit from the inherent equities, experience, and capabilities of the Federal officials described in subsection (a).

**(c) Sense of Congress**

It is the sense of Congress that the administration of export controls under this subchapter should be consistent with the procedures relating to export license applications described in Executive Order 12981 (1995).

(Pub. L. 115-232, div. A, title XVII, §1755, Aug. 13, 2018, 132 Stat. 2216.)

**Editorial Notes**

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b)(1), (2) and (c), was in the original “this part”, meaning part I (§§1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

Executive Order 12981, referred to in subsec. (c), is Ex. Ord. No. 12981, Dec. 5, 1995, 60 F.R. 62981, which is set out as a note under former section 4603 of this title.

**§ 4815. Licensing**

**(a) In general**

The Secretary shall, consistent with delegations as described in section 4814 of this title, establish a procedure to license or otherwise au-

thorize the export, reexport, and in-country transfer of items controlled under this subchapter in order to carry out the policy set forth in section 4811 of this title and the requirements set forth in section 4812(b) of this title. The procedure shall ensure that—

(1) license applications and other requests for authorization are considered and decisions made with the participation of appropriate Federal agencies, as appropriate; and

(2) licensing decisions are made in an expeditious manner, with transparency to applicants on the status of license and other authorization processing and the reason for denying any license or request for authorization.

**(b) Sense of Congress**

It is the sense of Congress that the Secretary should make best efforts to ensure that an accurate, consistent, and timely evaluation and processing of licenses or other requests for authorization to export, reexport, or in-country transfer items controlled under this subchapter is generally accomplished within 30 days from the date of such license request.

**(c) Fees**

No fee may be charged in connection with the submission, processing, or consideration of any application for a license or other authorization or other request made in connection with any regulation in effect under the authority of this subchapter.

**(d) Additional procedural requirements**

**(1) In general**

The procedure required under subsection (a) shall provide for the assessment of the impact of a proposed export of an item on the United States defense industrial base and the denial of an application for a license or a request for an authorization of any export that would have a significant negative impact on such defense industrial base, as described in paragraph (3).

**(2) Information from applicant**

The procedure required under subsection (a) shall also require an applicant for a license to provide the information necessary to make the assessment provided under paragraph (1), including whether the purpose or effect of the export is to allow for the significant production of items relevant for the defense industrial base outside the United States.

**(3) Significantly negative impact defined**

A significant negative impact on the United States defense industrial base is the following:

(A) A reduction in the availability of an item produced in the United States that is likely to be acquired by the Department of Defense or other Federal department or agency for the advancement of the national security of the United States, or for the production of an item in the United States for the Department of Defense or other agency for the advancement of the national security of the United States.

(B) A reduction in the production in the United States of an item that is the result of research and development carried out, or