

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

funded by, the Department of Defense or other Federal department or agency to advance the national security of the United States, or a federally funded research and development center.

(C) A reduction in the employment of United States persons whose knowledge and skills are necessary for the continued production in the United States of an item 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.

(Pub. L. 115-232, div. A, title XVII, § 1756, Aug. 13, 2018, 132 Stat. 2217.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) to (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.

§ 4816. Compliance assistance

(a) System for seeking assistance

The President may authorize the Secretary to establish a system to provide United States persons with assistance in complying with this subchapter, which may include a mechanism for providing information, in classified form as appropriate, to persons who are potential customers, suppliers, or business partners with respect to items controlled under this subchapter, in order to further ensure the prevention of the export, reexport, or in-country transfer of items that may pose a threat to the national security or foreign policy of the United States.

(b) Security clearances

In order to carry out subsection (a), the President may issue appropriate security clearances to persons described in that subsection who are responsible for complying with this subchapter.

(c) Assistance for certain businesses

(1) In general

Not later than 120 days after August 13, 2018, the President shall develop and submit to Congress a plan to assist small- and medium-sized United States businesses in export licensing and other processes under this subchapter.

(2) Contents

The plan shall include, among other things, arrangements for the Department of Commerce to provide counseling to businesses described in paragraph (1) on filing applications and identifying items controlled under this subchapter, as well as proposals for seminars and conferences to educate such businesses on export controls, licensing procedures, and related obligations.

(Pub. L. 115-232, div. A, title XVII, § 1757, Aug. 13, 2018, 132 Stat. 2218; Pub. L. 116-283, div. A, title X, § 1081(d)(7), Jan. 1, 2021, 134 Stat. 3874.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, 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.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 inserted “to persons” before “who are potential”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title X, § 1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(7) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115-232.

Executive Documents

DELEGATION OF AUTHORITIES UNDER SECTION 1757 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2019

Memorandum of President of the United States, Nov. 26, 2018, 83 F.R. 61503, provided:

Memorandum for the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of Commerce the functions and authorities vested in the President by section 1757 of the [John S. McCain] National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) [50 U.S.C. 4816].

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as the provision referenced in this memorandum.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 4817. Requirements to identify and control the export of emerging and foundational technologies

(a) Identification of technologies

(1) In general

The President shall establish and, in coordination with the Secretary, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the heads of other Federal agencies as appropriate, lead, a regular, ongoing interagency process to identify emerging and foundational technologies that—

(A) are essential to the national security of the United States; and

(B) are not critical technologies described in clauses (i) through (v) of section 4565(a)(6)(A) of this title.

(2) Process

The interagency process established under subsection (a) shall—

(A) be informed by multiple sources of information, including—

(i) publicly available information;

(ii) classified information, including relevant information provided by the Director of National Intelligence;