

ligence activity that is not otherwise authorized by law or Executive order.

(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

(2) In this subsection, the term “United States person” means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 436. Regulations

The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to section 433(b) of this title, or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

(4) designate a single office within the Department of Defense to be responsible for the oversight of all activities authorized under this subchapter;

(5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and

(6) provide for appropriate internal audit controls and oversight for such activities.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439; amended Pub. L. 113–66, div. A, title IX, §921(b), Dec. 26, 2013, 127 Stat. 827.)

Editorial Notes

AMENDMENTS

2013—Par. (4). Pub. L. 113–66 substituted “Department of Defense” for “Defense Intelligence Agency” and “oversight” for “management and supervision”.

§ 437. Congressional oversight

(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to congressional defense committees and the congressional intelligence committees not less than 30 days before they take effect.

(b) CURRENT INFORMATION.—The Secretary of Defense shall ensure that congressional defense committees and the congressional intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 440; amended Pub. L. 107–306, title VIII, §811(b)(4)(A), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108–136, div. A, title X, §1031(a)(7), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 108–375, div. A, title X, §1084(d)(3), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112–81, div. A, title X, §1061(5), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113–66, div. A, title IX, §921(c), Dec. 26, 2013, 127 Stat. 827.)

Editorial Notes

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66, §921(c)(1), substituted “congressional defense committees and the congressional intelligence committees” for “the intelligence committees”.

Subsec. (b). Pub. L. 113–66, §921(c)(2), substituted “The Secretary” for “Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary” and “congressional defense committees and the congressional intelligence committees” for “the intelligence committees”.

Subsec. (c). Pub. L. 113–66, §921(c)(3), added subsec. (c).

2011—Subsec. (c). Pub. L. 112–81 struck out subsec. (c) which related to submission of an annual report on certain authorized commercial activities.

2004—Subsec. (c). Pub. L. 108–375 inserted “(50 U.S.C. 415b)” after “National Security Act of 1947”.

2003—Subsec. (b). Pub. L. 108–136, §1031(a)(7)(A), struck out at end “The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.”

Subsec. (c). Pub. L. 108–136, §1031(a)(7)(B), substituted “report) the following:” for “report)—” in introductory provisions, “A” for “a” in pars. (1) to (3), a period for the semicolon at end of par. (1) and for “; and” at end of par. (2), and added par. (4).

2002—Subsec. (c). Pub. L. 107–306, §811(b)(4)(A)(i), in introductory provisions, substituted “Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))” for “Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress”.

Subsec. (d). Pub. L. 107–306, §811(b)(4)(A)(ii), struck out heading and text of subsec. (d). Text read as follows: “In this section, the term ‘intelligence committees’ means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.”