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RATIFICATION OF JAPANESE TREATY

The Treaty of Peace with Japan, signed at San Francisco on Sept. 8, 1951, was ratified by the United States Senate on Mar. 20, 1952. For Resolution of Ratification, see Congressional Record, Vol. 98, No. 46, Thursday, Mar. 20, 1952, p. 2634. According to Proc. No. 2974, eff. Apr. 29, 1952, 17 F.R. 3813, 66 Stat. c31, terminating the national emergencies proclaimed on September 8, 1939, and May 27, 1941, and set out as a note preceding section 1 of the Appendix to this title, such treaty came into force on Apr. 28, 1952.

CROSS REFERENCES

Establishment of the National Security Council and the Central Intelligence Agency, see section 401 et seq. of this title.

Lease of buildings in time of war, see sections 4780 and 9780 of Title 10, Armed Forces.

Proclamations, etc., respecting war and neutrality, see notes preceding section 1 of Appendix to this title.

CHAPTER 1—COUNCIL OF NATIONAL DEFENSE

Sec.	
1.	Creation, purpose, and composition of council.
2.	Advisory commission.
3.	Duties of council.
4.	Rules and regulations; subordinate bodies and committees.
5.	Reports of subordinate bodies and committees; unvouchered expenditures.
6.	Repealed.

§ 1. Creation, purpose, and composition of council

A Council of National Defense is established, for the coordination of industries and resources for the national security and welfare, to consist of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor.

(Aug. 29, 1916, ch. 418, § 2, 39 Stat. 649; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Sections 1 to 5 of this title are from section 2 of act Aug. 29, 1916, popularly known as the Army Appropriation Act for the fiscal year 1916.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain membership functions, insofar as they pertain to Air Force, which functions were not previously transferred from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 40 [App. C(11)], July 22, 1949.

CROSS REFERENCES

National Security Council and Central Intelligence Agency, see section 401 et seq. of this title.

§ 2. Advisory commission

The Council of National Defense shall nominate to the President, and the President shall appoint, an advisory commission, consisting of not more than seven persons, each of whom shall have special knowledge of some industry, public utility, or the development of some natural resource, or be otherwise specially qualified, in the opinion of the council, for the performance of the duties hereinafter provided. The members of the advisory commission shall serve without compensation, but shall be allowed actual expenses of travel and subsistence when attending meetings of the commission or engaged in investigations pertaining to its activities. The advisory commission shall hold such meetings as shall be called by the council or be provided by the rules and regulations adopted by the council for the conduct of its work.

(Aug. 29, 1916, ch. 418, § 2, 39 Stat. 649.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3. Duties of council

It shall be the duty of the Council of National Defense to supervise and direct investigations and make recommendations to the President and the heads of executive departments as to the location of railroads with reference to the frontier of the United States so as to render possible expeditious concentration of troops and supplies to points of defense; the coordination of military, industrial, and commercial purposes in the location of branch lines of railroad; the utilization of waterways; the mobilization of military and naval resources for defense; the increase of domestic production of articles and materials essential to the support of armies and of the people during the interruption of foreign commerce; the development of seagoing transportation; data as to amounts, location, method and means of production, and availability of military supplies; the giving of information to producers and manufacturers as to the class of supplies needed by the military and other services of the Government, the requirements relating thereto, and the creation of relations which will render possible in time of need the immediate concentration and utilization of the resources of the Nation.

(Aug. 29, 1916, ch. 418, § 2, 39 Stat. 649; Nov. 9, 1921, ch. 119, § 3, 42 Stat. 212.)

CODIFICATION

The words "extensive highways and" which preceded "branch lines of railroad" omitted on authority of act Nov. 9, 1921, which transferred powers and duties of Council relating to highways to Secretary of Commerce.

§ 4. Rules and regulations; subordinate bodies and committees

The Council of National Defense shall adopt rules and regulations for the conduct of its work, which rules and regulations shall be subject to the approval of the President, and shall provide for the work of the advisory commission to the end that the special knowledge of such commission may be developed by suitable investigation, research, and inquiry and made available in conference and report for the use of the council; and the council may organize subordinate bodies for its assistance in special investigations, either by the employment of experts or by the creation of committees of specially qualified persons to serve without compensation, but to direct the investigations of experts so employed.

(Aug. 29, 1916, ch. 418, § 2, 39 Stat. 650.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a

commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§5. Reports of subordinate bodies and committees; unvouchered expenditures

Reports shall be submitted by all subordinate bodies and by the advisory commission to the council, and from time to time the council shall report to the President or to the heads of executive departments upon special inquiries or subjects appropriate thereto. When deemed proper the President may authorize, in amounts stipulated by him, unvouchered expenditures.

(Aug. 29, 1916, ch. 418, §2, 39 Stat. 650; Aug. 7, 1946, ch. 770, §1(53), 60 Stat. 870.)

CODIFICATION

Second sentence was from a proviso to the first sentence, which was affected by act Aug. 7, 1946.

AMENDMENTS

1946—Act Aug. 7, 1946, repealed all provisions requiring annual reports to Congress of the Council's activities and expenditures.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§6. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 644

Section, act June 5, 1920, ch. 235, 41 Stat. 886, placed a limit on salaries of officers and employees of Council of National Defense.

CHAPTER 2—BOARD OF ORDNANCE AND FORTIFICATION

§§11 to 15. Repealed. Dec. 16, 1930, ch. 14, §1, 46 Stat. 1029

Section 11, act Sept. 22, 1888, ch. 1028, §1, 25 Stat. 489, related to composition and duties of Board of Ordnance and Fortification.

Section 12, act Feb. 24, 1891, ch. 283, 26 Stat. 769, provided for a civilian member of Board.

Section 13, act Mar. 2, 1901, ch. 803, 31 Stat. 910, provided for additional members of Board.

Section 14, act Feb. 18, 1893, ch. 136, 27 Stat. 461, related to qualifications of Board Members.

Section 15, act Sept. 22, 1888, ch. 1028, §6, 25 Stat. 490, related to purchases and tests.

CHAPTER 3—ALIEN ENEMIES

Sec.
21. Restraint, regulation, and removal.
22. Time allowed to settle affairs and depart.
23. Jurisdiction of United States courts and judges.
24. Duties of marshals.

§21. Restraint, regulation, and removal

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety.

(R.S. §4067; Apr. 16, 1918, ch. 55, 40 Stat. 531.)

CODIFICATION

R.S. §4067 derived from act July 6, 1798, ch. 66, §1, 1 Stat. 577.

AMENDMENTS

1918—Act Apr. 16, 1918, struck out provision restricting this section to males.

WORLD WAR II PROCLAMATIONS

The following proclamations under this section were issued during World War II:

Proc. No. 2525, Dec. 7, 1941, 6 F.R. 6321, 55 Stat. Pt. 2, 1700.

Proc. No. 2526, Dec. 8, 1941, 6 F.R. 6323, 55 Stat. Pt. 2, 1705.

Proc. No. 2527, Dec. 8, 1941, 6 F.R. 6324, 55 Stat. Pt. 2, 1707.

Proc. No. 2533, Dec. 29, 1941, 7 F.R. 55, 55 Stat. Pt. 2, 1714.

Proc. No. 2537, Jan. 14, 1942, 7 F.R. 329, 56 Stat. Pt. 2, 1933, revoked by Proc. No. 2678, Dec. 29, 1945, 11 F.R. 221, 60 Stat. Pt. 2, 1336.

Proc. No. 2563, July 17, 1942, 7 F.R. 5535, 56 Stat. Pt. 2, 1970.

Proc. No. 2655, July 14, 1945, 10 F.R. 8947, 59 Stat. Pt. 2, 870.

Proc. No. 2674, Dec. 7, 1945, 10 F.R. 14945, 59 Stat. Pt. 2, 889.

Proc. No. 2685, Apr. 11, 1946, 11 F.R. 4079, 60 Stat. Pt. 2, 1342, set out as a note preceding section 1 of Appendix to this title.

WORLD WAR I PROCLAMATIONS

Proclamations issued under this chapter during the years 1917 and 1918 will be found in 40 Stat. 1651, 1716, 1730, and 1772.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22 of this title; sections 9, 34, 1981, 1982 of Appendix to this title; title 5 section 8332.

§ 22. Time allowed to settle affairs and depart

When an alien who becomes liable as an enemy, in the manner prescribed in section 21 of this title, is not chargeable with actual hostility, or other crime against the public safety, he shall be allowed, for the recovery, disposal, and removal of his goods and effects, and for his departure, the full time which is or shall be stipulated by any treaty then in force between the United States and the hostile nation or government of which he is a native citizen, denizen, or subject; and where no such treaty exists, or is in force, the President may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

(R.S. § 4068.)

CODIFICATION

R.S. § 4068 derived from acts July 6, 1798, ch. 66, § 1, 1 Stat. 577; July 6, 1812, ch. 130, 2 Stat. 781.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9, 34, 1981, 1982 of Appendix to this title; title 5 section 8332.

§ 23. Jurisdiction of United States courts and judges

After any such proclamation has been made, the several courts of the United States, having criminal jurisdiction, and the several justices and judges of the courts of the United States, are authorized and it shall be their duty, upon complaint against any alien enemy resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President may have established, to cause such alien to be duly apprehended and conveyed before such court, judge, or justice; and after a full examination and hearing on such complaint, and sufficient cause appearing, to order such alien to be removed out of the territory of the United States, or to give sureties for his good behavior, or to be otherwise restrained, conformably to the proclamation or regulations established as aforesaid, and to imprison, or otherwise secure such alien, until the order which may be so made shall be performed.

(R.S. § 4069.)

CODIFICATION

R.S. § 4069 derived from act July 6, 1798, ch. 66, § 2, 1 Stat. 577.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9, 34, 1981, 1982 of Appendix to this title; title 5 section 8332.

§ 24. Duties of marshals

When an alien enemy is required by the President, or by order of any court, judge, or justice, to depart and to be removed, it shall be the duty of the marshal of the district in which he shall be apprehended to provide therefor and to execute such order in person, or by his deputy or other discreet person to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President, or of the court, judge, or justice ordering the same, as the case may be.

(R.S. § 4070.)

CODIFICATION

R.S. § 4070 derived from act July 6, 1798, ch. 66, § 3, 1 Stat. 578.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9, 34, 1981, 1982 of Appendix to this title; title 5 section 8332.

CHAPTER 4—ESPIONAGE

§§ 31 to 39. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 31, acts June 15, 1917, ch. 30, title I, § 1, 40 Stat. 217; Mar. 28, 1940, ch. 72, title I, § 1, 54 Stat. 79, related to unlawful obtaining or permitting to be obtained information affecting national defense. See section 793 of Title 18, Crimes and Criminal Procedure.

Section 32, act June 15, 1917, ch. 30, title I, § 2, 40 Stat. 218, related to unlawful disclosures affecting national defense. See section 794 of Title 18.

Section 33, act June 15, 1917, ch. 30, title I, § 3, 40 Stat. 219, related to seditious or disloyal acts or words in time of war. See section 2388 of Title 18. Section 33 was amended by act May 16, 1918, ch. 75, § 1, 40 Stat. 553, which was repealed and the original section reenacted by act Mar. 3, 1921, ch. 136, 41 Stat. 1359.

Section 34, act June 15, 1917, ch. 30, title I, § 4, 40 Stat. 219, related to conspiracy to violate sections 32 and 33 of this title. See sections 794 and 2388 of Title 18.

Section 35, acts June 15, 1917, ch. 30, title I, § 5, 40 Stat. 219; Mar. 28, 1940, ch. 72, § 2, 54 Stat. 79, related to the harboring or concealing of violators of the law. See sections 792 and 2388 of Title 18.

Section 36, act June 15, 1917, ch. 30, title I, § 6, 40 Stat. 219, related to designation by proclamation of prohibited areas. See section 793 of Title 18.

Section 37, act June 15, 1917, ch. 30, title I, § 8, 40 Stat. 219, related to places subject to provisions of sections 31 to 42 of this title. See section 2388 of Title 18.

Section 38, act June 15, 1917, ch. 30, title I, § 7, 40 Stat. 219, related to jurisdiction of courts-martial and military commissions.

Section 39, act June 15, 1917, ch. 30, title XIII, § 2, 40 Stat. 231; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, related to jurisdiction of Canal Zone courts over offenses on high seas. See section 3241 of Title 18.

EFFECTIVE DATE OF REPEAL

Repeal of sections 31 to 39 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

§ 40. Transferred

CODIFICATION

Section, act June 15, 1917, ch. 30, title XIII, § 1, 40 Stat. 231, defined ''United States'' as used in act June 15, 1917, and was transferred to section 195 of this title.

§41. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862

Section, act June 15, 1917, ch. 30, title VIII, §4, 40 Stat. 226, defined ''Foreign government''. See section 11 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

§42. Transferred

CODIFICATION

Section, act June 15, 1917, ch. 30, title XIII, §4, 40 Stat. 231, related to savings provisions and is set out as a Separability note under section 191 of this title.

Section was formerly classified to section 536 of Title 18 prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683.

CHAPTER 4A—PHOTOGRAPHING, SKETCHING, MAPPING, ETC., DEFENSIVE INSTALLATIONS

§§45 to 45d. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862

Section 45, act Jan. 12, 1938, ch. 2, §1, 52 Stat. 3, related to photographing of defensive installations. See sections 795 to 797 of Title 18, Crimes and Criminal Procedure.

Section 45a, act Jan. 12, 1938, ch. 2, §2, 52 Stat. 3, related to photographing, etc., from aircraft. See section 796 of Title 18.

Section 45b, act Jan. 12, 1938, ch. 2, §3, 52 Stat. 3, related to reproducing, publishing, selling uncensored copies. See section 797 of Title 18.

Section 45c, act Jan. 12, 1938, ch. 2, §4, 52 Stat. 4, related to definitions of ''aircraft'', ''post'', ''camp'', and ''station''. See sections 795 and 796 of Title 18.

Section 45d, act Jan. 12, 1938, ch. 2, §5, 52 Stat. 4, related to geographical application of law.

EFFECTIVE DATE OF REPEAL

Repeal of sections 45 to 45d effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

CHAPTER 4B—DISCLOSURE OF CLASSIFIED INFORMATION

§§46 to 46b. Repealed. Oct. 31, 1951, ch. 655, §56(c), 65 Stat. 729

Section 46, act May 13, 1950, ch. 185, §2, 64 Stat. 159, related to unlawful disclosure of classified information. See section 798 of Title 18, Crimes and Criminal Procedure.

Section 46a, act May 13, 1950, ch. 185, §1, 64 Stat. 159, defined terms for use in this chapter.

Section 46b, act May 13, 1950, ch. 185, §3, 64 Stat. 160, related to penalties for improper disclosure.

SAVINGS PROVISION

Section 56(*l*) of act Oct. 31, 1951, provided that the repeal of sections 46 to 46b shall not affect any rights or liabilities existing hereunder on Oct. 31, 1951.

CHAPTER 4C—ATOMIC WEAPONS AND SPECIAL NUCLEAR MATERIALS INFORMATION REWARDS

Sec.
47a. Information concerning illegal introduction, manufacture, acquisition or export of special nuclear material or atomic weapons or conspiracies relating thereto; reward.
47b. Determination by Attorney General of entitlement and amount of reward; consultation; Presidential approval.
47c. Aliens; waiver of admission requirements.
47d. Hearings; rules and regulations; conclusiveness of determinations of Attorney General.
47e. Certification of award; approval; payment.
47f. Definitions.

§47a. Information concerning illegal introduction, manufacture, acquisition or export of special nuclear material or atomic weapons or conspiracies relating thereto; reward

Any person who furnishes original information to the United States—

(a) leading to the finding or other acquisition by the United States of special nuclear material or an atomic weapon which has been introduced into the United States or manufactured or acquired therein contrary to the laws of the United States, or

(b) with respect to the introduction or attempted introduction into the United States or the manufacture or acquisition or attempted manufacture or acquisition of, or a conspiracy to introduce into the United States or to manufacture or acquire, special nuclear material or an atomic weapon contrary to the laws of the United States, or

(c) with respect to the export or attempted export, or a conspiracy to export, special nuclear material or an atomic weapon from the United States contrary to the laws of the United States,

shall be rewarded by the payment of an amount not to exceed $500,000.

(July 15, 1955, ch. 372, §2, 69 Stat. 365; Aug. 17, 1974, Pub. L. 93–377, §1(b), 88 Stat. 472.)

AMENDMENTS

1974—Pub. L. 93–377 in par. (a) made minor changes in phraseology, in par. (b) included information relating to the actual introduction, manufacture and acquisition, or conspiring to introduce into the United States or to manufacture or acquire special nuclear material or an atomic weapon as within the information for which a reward would be given, and added par. (c).

SHORT TITLE

Section 1 of act July 15, 1955, as amended by section 1(a) of Pub. L. 93–377, provided: ''That this Act [enacting this chapter] may be cited as the 'Atomic Weapons and Special Nuclear Materials Rewards Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47b of this title.

§47b. Determination by Attorney General of entitlement and amount of reward; consultation; Presidential approval

The Attorney General shall determine whether a person furnishing information to the United States is entitled to a reward and the amount to be paid pursuant to section 47a of this title. Before making a reward under this section the Attorney General shall advise and consult with the Atomic Energy Commission. A reward of $50,000 or more may not be made without the approval of the President.

(July 15, 1955, ch. 372, §3, 69 Stat. 365; Aug. 17, 1974, Pub. L. 93–377, §1(b), 88 Stat. 473.)

AMENDMENTS

1974—Pub. L. 93–377 substituted provisions authorizing the Attorney General, with the advice of the Atomic Energy Commission, to determine entitlement and the amount of reward for a person furnishing information to the United States, for provisions authorizing an Awards Board to determine entitlement and amount of such reward, setting forth the composition of the Board and criteria for reward.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47c, 47d, 47e of this title.

§ 47c. Aliens; waiver of admission requirements

If the information leading to an award under section 47b of this title is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(July 15, 1955, ch. 372, § 4, 69 Stat. 366.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

CROSS REFERENCES

Requirements for admission of aliens, see section 1182 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47f of this title.

§ 47d. Hearings; rules and regulations; conclusiveness of determinations of Attorney General

(a) The Attorney General is authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(b) A determination made by the Attorney General under section 47b of this title shall be final and conclusive and no court shall have power or jurisdiction to review it.

(July 15, 1955, ch. 372, § 5, 69 Stat. 366; Aug. 17, 1974, Pub. L. 93–377, § 1(b), 88 Stat. 473.)

AMENDMENTS

1974—Pub. L. 93–377 designated existing provisions as subsec. (a), substituted ''Attorney General'' for ''Board as administering agent'', and added subsec. (b).

§ 47e. Certification of award; approval; payment

Any awards granted under section 47b of this title shall be certified by the Attorney General and, together with the approval of the President in those cases where such approval is required, transmitted to the Director of Central Intelligence for payment out of funds appropriated or available for the administration of the National Security Act of 1947, as amended.

(July 15, 1955, ch. 372, § 6, 69 Stat. 366; Aug. 17, 1974, Pub. L. 93–377, § 1(c), 88 Stat. 473.)

REFERENCES IN TEXT

The National Security Act of 1947, as amended, referred to in text, is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

1974—Pub. L. 93–377 substituted ''Attorney General'' for ''Awards Board''.

§ 47f. Definitions

As used in this chapter—

(a) The term ''atomic energy'' means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) The term ''atomic weapon'' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) The term ''special nuclear material'' means plutonium, or uranium enriched in the isotope 233 or in the isotope 235, or any other material which is found to be special nuclear material pursuant to the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.].

(d) The term ''United States,'' when used in a geographical sense, includes Puerto Rico, all Territories and possessions of the United States and the Canal Zone; except that in section 47c of this title, the term ''United States'' when so used shall have the meaning given to it in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(July 15, 1955, ch. 372, § 7, 69 Stat. 366.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, as amended, which is classified generally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Immigration and Nationality Act, referred to in subsec. (d), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

CHAPTER 5—ARSENALS, ARMORIES, ARMS, AND WAR MATERIAL GENERALLY

SUBCHAPTER I—ARSENALS, ARMORIES, ARMS, AND WAR MATERIALS

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CROSS REFERENCES

Acquisition of sites for armories, nitrate plants, and so forth, see section 2663 of Title 10, Armed Forces.

SUBCHAPTER I—ARSENALS, ARMORIES, ARMS, AND WAR MATERIALS

§§ 51 to 57. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 51, act Aug. 5, 1882, ch. 395, 22 Stat. 299, related to pay of master amorer at Springfield Armory.

Section 52, act June 23, 1874, ch. 486, 18 Stat. 282, related to pay of clerks at Springfield Armory.

Section 53, R.S. § 1665, required an annual account of expenses of national armories, together with an account of arms made and repaired thereon.

Section 54, acts Aug. 18, 1890, ch. 797, § 2, 26 Stat. 320; Aug. 7, 1946, ch. 770, § 1(52), 60 Stat. 870, related to accounts of cost of type and experimental manufacture of guns and other articles.

Section 55, R.S. § 1666, authorized Secretary of War to abolish useless or unnecessary arsenals. See section 4532 of Title 10, Armed Forces.

Section 56, R.S. § 1669, provided for forfeitures by reason of misconduct of workmen in armories.

Section 57, R.S. § 1671, exempted from jury duty all artificers and workmen employed in armories and arsenals, of the United States.

§ 58. Repealed. Sept. 1, 1954, ch. 1208, title III, § 305(d), 68 Stat. 1114

Section, act July 17, 1912, ch. 236, 37 Stat. 193, related to awards. See section 4501 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Sept. 1, 1954, see section 307 of act Sept. 1, 1954.

§§ 59 to 66. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 59, act July 26, 1886, ch. 781, § 1, 24 Stat. 151, related to testing of rifled cannon for Navy.

Section 60, act July 8, 1918, ch. 137, 40 Stat. 817, authorized transfer of naval ordnance and ordnance material from Navy Department to Department of War.

Section 61, acts Mar. 3, 1879, ch. 183, 20 Stat. 412; Apr. 14, 1937, ch. 79, 50 Stat. 63, authorized issuance of arms and ammunition to protect public property, provided for reimbursement. See section 4655 of Title 10, Armed Forces.

Section 62, acts Feb. 10, 1920, ch. 64, 41 Stat. 403; June 5, 1920, ch. 240, 41 Stat. 976; May 26, 1952, ch. 334, 66 Stat. 94, authorized loan of rifles to organizations of honorably discharged soldiers. See section 4683 of Title 10.

Section 62a, act June 30, 1906, ch. 3938, 34 Stat. 817, authorized loan of ordnance to schools and State homes for veterans' orphans. See sections 4685 and 9685 of Title 10.

Section 62b, act Dec. 15, 1926, ch. 10, 44 Stat. 922, authorized Secretary of War to relieve posts or camps or organizations composed of honorably discharged soldiers, sailors, or marines, and sureties on bonds, from liability on account of loss or destruction of rifles, slings, and cartridge belts loaned to such organizations. See section 4683 of Title 10.

Section 62c, acts May 29, 1934, ch. 369, 48 Stat. 815; Aug. 30, 1935, ch. 826, 49 Stat. 1013, authorized Secretary of War to donate Army equipment loaned under authority of section 62 of this title.

Section 63, act May 11, 1908, ch. 163, 35 Stat. 125, authorized sales of ordnance property to schools and State homes for veterans' orphans. See sections 4625 and 9625 of Title 10, Armed Forces.

Section 64, acts May 28, 1908, ch. 215, § 14, 35 Stat. 443; June 28, 1950, ch. 383, title IV, § 402(g), 64 Stat. 273; Oct. 31, 1951, ch. 654, § 2(26), 65 Stat. 707, authorized sale of obsolete small arms to patriotic organizations. See sections 4684 and 9684 of Title 10.

Section 64a, act Mar. 3, 1875, ch. 130, 18 Stat. 388, provided for sale of useless ordnance materials, appropriated an amount equal to net proceeds of sale for purpose of procuring a supply of material, and limited expenditures to not more than $75,000 in any one year.

Section 65, acts Apr. 23, 1904, ch. 1485, 33 Stat. 276; Aug. 1, 1953, ch. 305, title VI, § 645, 67 Stat. 357, authorized sale of serviceable ordnance and ordnance stores to American designers.

Section 66, acts Feb. 8, 1889, ch. 116, 25 Stat. 657; Mar. 3, 1899, ch. 423, 30 Stat. 1073; May 26, 1900, ch. 586, 31 Stat. 216; June 28, 1950, ch. 383, title IV, § 402(e), 64 Stat. 273; Oct. 31, 1951, ch. 654, § 2(27), 65 Stat. 707, authorized issuance of condemned ordnance to State homes for soldiers and sailors. See sections 4686 and 9686 of Title 10.

§ 67. Transferred

CODIFICATION

Section, acts May 22, 1896, ch. 231, 29 Stat. 133; May 26, 1928, ch. 785, 45 Stat. 773; Feb. 28, 1933, ch. 137, 47 Stat. 1369; June 19, 1940, ch. 398, § 1, 54 Stat. 491; July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37; Oct. 31, 1951, ch. 654, § 2(2), 65 Stat. 706, which authorized loans or gifts of condemned or obsolete equipment, was transferred to section 150p of former Title 5, Executive Departments and Government Officers and Employees, and subsequently repealed and reenacted as section 2572 of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, §§ 1, 53, 70A Stat. 143, 641.

§§ 68 to 71. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 68, acts Mar. 4, 1909, ch. 319, § 47, 35 Stat. 1075; June 28, 1950, ch. 383, title IV, § 402(i), 64 Stat. 273; Oct. 31, 1951, ch. 654, § 2(28), 65 Stat. 708, authorized sale of obsolete ordnance for public parks, public buildings and soldiers' monuments purposes. See sections 4684 and 9684 of Title 10, Armed Forces.

Section 69, act Mar. 2, 1905, ch. 1307, 33 Stat. 841, authorized sale of individual pieces of armament. See section 2574 of Title 10.

Section 70, acts Mar. 3, 1909, ch. 252, 35 Stat. 751; June 28, 1950, ch. 383, title IV, § 402(h), 64 Stat. 273, authorized sale of ordnance property to officers of the Navy and Marine Corps. See section 4625 and 9625 of Title 10.

Section 71, act Mar. 3, 1909, ch. 252, 35 Stat. 750, authorized sale of ordnance stores to civilian employees of Army and to American National Red Cross. See sections 4625 and 9625 of Title 10.

§ 72. Repealed. May 1, 1937, ch. 146, § 5(i), 50 Stat. 126

Section, act Aug. 29, 1916, ch. 418, § 1, 39 Stat. 643, related to sale of ordnance and stores to Cuba.

§ 73. Repealed. Aug. 1, 1953, ch. 305, title VI, § 645, 67 Stat. 357

Section, act Apr. 23, 1904, ch. 1485, 33 Stat. 276, related to disposition of proceeds from sales of serviceable ordnance and stores. See sections 2208 and 2210 of Title 10, Armed Forces.

§§ 74 to 81. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 74, act Jan. 22, 1923, ch. 28, 42 Stat. 1142, provided that net proceeds of sales of useless ordnance material by Navy Department should be covered into Treasury as ''Miscellaneous receipts''. See section 7543 of Title 10, Armed Forces.

Section 75, act Aug. 24, 1912, ch. 391, § 1, 37 Stat. 589, related to payment for transfers of ordnance or stores to bureaus or departments.

Section 76, act June 20, 1878, ch. 359, § 1, 20 Stat. 223, authorized private use of a machine for testing iron and steel.

Section 77, acts Mar. 3, 1885, ch. 360, 23 Stat. 502; May 29, 1928, ch. 901, par. 27, 45 Stat. 988, regulated tests of iron and steel and other materials for industrial purposes.

Section 78, act June 3, 1916, ch. 134, § 123, 39 Stat. 215, related to gauges, dies, and tools for manufacture of arms.

Section 79, act June 3, 1916, ch. 134, § 124, 39 Stat. 215, related to nitrate plants.

Section 80, act June 3, 1916, ch. 134, § 120, 39 Stat. 213, 214, related to procurement of war material and mobilization of industries. See sections 2538 to 2540 of Title 10.

Section 81, act May 14, 1928, ch. 544, 45 Stat. 509, authorized Secretary of War to secure assistance, whenever practicable, of Geological Survey, Coast and Geodetic Survey, or other mapping agencies of the Government in execution of military surveys and maps. Provisions similar to former section 81 were contained in the following appropriation acts:

Mar. 23, 1928, ch. 232, title I, 45 Stat. 342.
Feb. 23, 1927, ch. 167, title I, 44 Stat. 1123.
Apr. 15, 1926, ch. 146, title I, 44 Stat. 273.
Feb. 12, 1925, ch. 225, title I, 43 Stat. 911.
June 7, 1924, ch. 291, title I, 43, Stat. 496.
Mar. 2, 1923, ch. 178, title I, 42 Stat. 1402.
June 30, 1922, ch. 253, title I, 42 Stat. 741.

§ 82. Procurement of ships and material during war

(a) Definitions

The word ''person'' as used in subsections (b) and (c) of this section shall include any individual, trustee, firm, association, company, or corporation. The word ''ship'' shall include any boat, vessel, submarine, or any form of aircraft, and the parts thereof. The words ''war material'' shall include arms, armament, ammunition, stores, supplies, and equipment for ships and airplanes, and everything required for or in connection with the production thereof. The word ''factory'' shall include any factory, workshop,

engine works, building used for manufacture, assembling, construction, or any process, and any shipyard or dockyard. The words ''United States'' shall include the Canal Zone and all territory and waters, continental and insular, subject to the jurisdiction of the United States.

(b) Presidential powers

In time of war the President is authorized and empowered, in addition to all other existing provisions of law:

First. Within the limits of the amounts appropriated therefor, to place an order with any person for such ships or war material as the necessities of the Government, to be determined by the President, may require and which are of the nature, kind, and quantity usually produced or capable of being produced by such person. Compliance with all such orders shall be obligatory on any person to whom such order is given, and such order shall take precedence over all other orders and contracts theretofore placed with such person. If any person owning, leasing, or operating any factory equipped for the building or production of ships or war material for the Navy shall refuse or fail to give to the United States such preference in the execution of such an order, or shall refuse to build, supply, furnish, or manufacture the kind, quantity, or quality of ships or war material so ordered at such reasonable price as shall be determined by the President, the President may take immediate possession of any factory of such person, or of any part thereof without taking possession of the entire factory, and may use the same at such times and in such manner as he may consider necessary or expedient.

Second. Within the limit of the amounts appropriated therefor, to modify or cancel any existing contract for the building, production, or purchase of ships or war material; and if any contractor shall refuse or fail to comply with the contract as so modified the President may take immediate possession of any factory of such contractor, or any part thereof without taking possession of the entire factory, and may use the same at such times and in such manner as he may consider necessary or expedient.

Third. To require the owner or occupier of any factory in which ships or war material are built or produced to place at the disposal of the United States the whole or any part of the output of such factory, and, within the limit of the amounts appropriated therefor, to deliver such output or parts thereof in such quantities and at such times as may be specified in the order at such reasonable price as shall be determined by the President.

Fourth. To requisition and take over for use or operation by the Government any factory, or any part thereof without taking possession of the entire factory, whether the United States has or has not any contract or agreement with the owner or occupier of such factory.

(d)[1] Compensation for commandeered material

Whenever the United States shall cancel or modify any contract, make use of, assume, occupy, requisition, or take over any factory or part thereof, or any ships or war material, in accordance with the provisions of subsection (b) of this section, it shall make just compensation therefor, to be determined by the President, and if the amount thereof so determined by the President is unsatisfactory to the person entitled to receive the same, such person shall be paid fifty per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as added to said fifty per centum shall make up such amount as will be just compensation therefor, in the manner provided for by section 1346 or section 1491 of title 28.

(Mar. 4, 1917, ch. 180, 39 Stat. 1192.)

[1] So in original. No subsec. (c) has been enacted.

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (d), ''section 1346 or section 1491 of title 28'' substituted for ''section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code'' (those sections classified to sections 41(20) and 250 of former Title 28, Judicial Code and Judiciary) on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure. Section 1346 of Title 28 sets forth the basic jurisdiction of the district courts in cases in which the United States is defendant. Section 1491 of Title 28 sets forth the basic jurisdiction of the United States Court of Claims. Sections 24(20) and 145 of the Judicial Code were also classified to sections 1496, 1501, 1503, 2401, 2402, and 2501 of Title 28.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the Naval Appropriation Act, 1918, act July 1, 1918, ch. 114, 40 Stat. 719, which terminated six months after the treaty of peace between the United States and Germany (Oct. 18, 1921).

TERMINATION OF WAR AND EMERGENCIES

Act July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of this section, which authorized the President to acquire, through construction or conversion, ships, landing craft, and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

EX. ORD. NO. 12742. NATIONAL SECURITY INDUSTRIAL RESPONSIVENESS

Ex. Ord. No. 12742, Jan. 8, 1991, 56 F.R. 1079, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 50 U.S.C. App. 468, 10 U.S.C. 4501 and 9501 [former sections 4501 and 9501 of Title 10, Armed Forces], and 50 U.S.C. 82, it is hereby ordered as follows:

SECTION 101. *Policy*. The United States must have the capability to rapidly mobilize its resources in the interest of national security. Therefore, to achieve prompt delivery of articles, products, and materials to meet national security requirements, the Government may place orders and require priority performance of these orders.

SEC. 102. *Delegation of Authority under*.

(a) Subject to paragraph (b) of this section, the authorities vested in the President, under, with respect to the placing of orders for prompt delivery of articles or materials, except for the taking authority under (c), are hereby delegated to:

(1) The Secretary of Agriculture with respect to all food resources;

(2) the Secretary of Energy with respect to all forms of energy;

(3) the Secretary of Transportation with respect to all forms of civil transportation; and

(4) the Secretary of Commerce with respect to all other articles and materials, including construction materials.

(b) The authorities delegated by paragraph (a) of this section shall be exercised only after:

(1) a determination by the Secretary of Defense that prompt delivery of the articles or materials for the exclusive use of the armed forces of the United States is in the interest of national security, or

(2) a determination by the Secretary of Energy that the prompt delivery of the articles or materials for the Department of Energy's atomic energy programs is in the interest of national security.

(c) All determinations of the type described in paragraph (b) of this section and all delegations—made prior to the effective date of this order under the Defense Production Act of 1950, as amended [50 App. U.S.C. 2061 et seq.], and under its implementing rules and regulations—shall be continued in effect, including but not limited to approved programs listed under the Defense Priorities and Allocations System (15 CFR Part 700).

SEC. 103. *Delegation of Authority under 10 U.S.C. 4501 and 9501, and 50 U.S.C. 82.*

(a) Subject to paragraph (b) of this section, the authorities vested in the President under 10 U.S.C. 4501 and 9501 [former sections 4501 and 9501 of Title 10] with respect to the placing of orders for necessary products or materials, and under 50 U.S.C. 82 with respect to the placing of orders for ships or war materials, except for the taking authority vested in the President by these acts, are hereby delegated to:

(1) the Secretary of Agriculture with respect to all food resources;

(2) the Secretary of Energy with respect to all forms of energy;

(3) the Secretary of Transportation with respect to all forms of civil transportation; and

(4) the Secretary of Commerce with respect to all other products and materials, including construction materials.

(b) The authorities delegated in paragraph (a) of this section may be exercised only after the President has made the statutorily required determination.

SEC. 104. *Implementation.* (a) The authorities delegated under sections 102 and 103 of this order shall include the power to redelegate such authorities, and the power of successive redelegation of such authorities, to departments and agencies, officers, and employees of the Government. The authorities delegated in this order may be implemented by regulations promulgated and administered by the Secretaries of Agriculture, Defense, Energy, Transportation, and Commerce, and the Director of the Federal Emergency Management Agency, as appropriate.

(b) All departments and agencies delegated authority under this order are hereby directed to amend their rules and regulations as necessary to reflect the new authorities delegated herein that are to be relied upon to carry out their functions. To the extent authorized by law, including 50 U.S.C. App. 486 [468], 10 U.S.C. 4501 and 9501 [former sections 4501 and 9501 of Title 10], and 50 U.S.C. 82, all rules and regulations issued under the Defense Production Act of 1950, as amended, with respect to the placing of priority orders for articles, products, ships, and materials, including war materials, shall be deemed, where appropriate, to implement the authorities delegated by sections 102 and 103 of this order, and shall remain in effect until amended or revoked by the respective Secretary. All orders, regulations, and other forms of administrative actions purported to have been issued, taken, or continued in effect pursuant to the Defense Production Act of 1950, as amended, shall, until amended or revoked by the respective Secretaries or the Director of the Federal Emergency Management Agency, as appropriate, remain in full force and effect, to the extent supported by any law or any authority delegated to the respective Secretary or the Director pursuant to this order.

(c) Upon the request of the Secretary of Defense with respect to particular articles, products, or materials that are determined to be needed to meet national security requirements, any other official receiving a delegation of authority under this Executive order to place orders or to enforce precedence of such orders, shall exercise such authority within 10 calendar days of the receipt of the request; provided, that if the head of any department or agency having delegated responsibilities hereunder disagrees with a request of the Secretary of Defense, such department or agency head shall, within 10 calendar days from the receipt of the request, refer the issue to the Assistant to the President for National Security Affairs, who shall ensure expeditious resolution of the issue.

(d) Proposed department and agency regulations and procedures to implement the delegated authority under this order, and any new determinations made under sections 102(b)(1) or (2), shall be coordinated by the Director of the Federal Emergency Management Agency with all appropriate departments and agencies.

SEC. 105. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

GEORGE BUSH.

§§ 83 to 85. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 83, act May 29, 1928, ch. 853, § 1, 45 Stat. 928, related to ammunition for use of Army and Navy, storage and dispersal, control by a joint board of officers. See section 172 of Title 10, Armed Forces.

Section 84, act Mar. 3, 1875, ch. 133, § 1, 18 Stat. 455, related to expenditure at armories for perfection of patentable inventions.

Section 85, act Mar. 3, 1921, ch. 128, § 6, 41 Stat. 1352, authorized Secretary of War to proceed with installation of guns and howitzers.

§§ 86 to 88. Omitted

CODIFICATION

Sections 86 to 88, act Feb. 15, 1936, ch. 74, §§ 1–3, 49 Stat. 1140, related to conservation of domestic sources of tin, and were superseded by the Export Control Act of 1949 (former sections 2021 to 2032 of the Appendix to this title) pursuant to section 10 of that Act (former section 2030 of the Appendix to this title). The act of Feb. 15, 1936 was subsequently superseded by the Export Administration Act of 1969 (former sections 2401 to 2413 of the Appendix to this title) pursuant to section 12 of that Act (former section 2411 of the Appendix to this title). See, also, the Export Administration Act of 1979, which is classified to section 2401 of the Appendix to this title.

Section 86, act Feb. 15, 1936, ch. 74, § 1, 49 Stat. 1140, related to conservation of domestic resources of tin.

Section 87, act Feb. 15, 1936, ch. 74, § 2, 49 Stat. 1140, related to prohibition of exportation except on license.

Section 88, act Feb. 15, 1936, ch. 74, § 3, 49 Stat. 1140, related to penalties for violations of sections 86 and 87 of this title.

SUBCHAPTER II—EDUCATION AND EXPERIMENTATION IN DEVELOPMENT OF MUNITIONS AND MATERIALS FOR NATIONAL DEFENSE

§§ 91 to 94. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 91, act June 16, 1938, ch. 458, § 1, 52 Stat. 707, authorized Secretary of War to place educational orders for munitions of special or technical design.

Section 92, act June 16, 1938, ch. 458, § 2, 52 Stat. 708, related to production equipment.

Section 93, act June 16, 1938, ch. 458, § 3, 52 Stat. 708, placed certain limitations on number of orders.

Section 94, acts June 16, 1938, ch. 458, § 4, 52 Stat. 708; Apr. 3, 1939, ch. 35, § 13, 53 Stat. 560, related to availability of appropriations for purposes of sections 91 to 94 of this title.

§ 95. Omitted

CODIFICATION

Section, act June 30, 1938, ch. 852, 52 Stat. 1255, authorized an appropriation of $2,000,000 to remain until expended for purpose of rotary-wing and other aircraft research, development, procurement, experimentation, and operation for service testing.

§ 96. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act July 15, 1939, ch. 283, 53 Stat. 1042, related to purchase by Secretary of War of equipment for experimental and test purposes. See section 2373 of Title 10, Armed Forces.

SUBCHAPTER III—ACQUISITION AND DEVELOPMENT OF STRATEGIC RAW MATERIALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2093 of Appendix to this title; title 7 sections 1301, 1743, 1745, 1856; title 15 section 714b; title 30 section 1604; title 31 sections 5116, 5132; title 40 section 474; title 42 section 5821.

§ 98. Short title

This subchapter may be cited as the ''Strategic and Critical Materials Stock Piling Act''.

(June 7, 1939, ch. 190, § 1, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 319.)

PRIOR PROVISIONS

A prior section 98, acts June 7, 1939, ch. 190, § 1, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 596, related to declaration of Congressional policy in enacting this subchapter, prior to repeal by section 2(a) of Pub. L. 96–41.

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–180, div. C, title II, § 3201, Dec. 4, 1987, 101 Stat. 1245, provided that: ''This title [enacting section 98h–5 of this title, amending sections 98a, 98b, 98d, 98e–1, 98h, 98h–2, and 98h–4 of this title, enacting provisions set out as a note under section 98e–1 of this title, and repealing provisions set out as a note under this section] may be cited as the 'National Defense Stockpile Amendments of 1987'.''

SHORT TITLE OF 1979 AMENDMENT

Section 1 of Pub. L. 96–41 provided: ''That this Act [enacting this section and sections 98a to 98h–3 of this title, redesignating former section 98h–1 of this title as 98h–4 of this title, amending section 2093 of the Appendix to this title, sections 1743 and 1745 of Title 7, Agriculture, section 741b of Title 15, Commerce and Trade, and section 485 of Title 40, Public Buildings, Property, and Works, enacting a provision set out as a note under this section, and repealing a provision set out as a note under this section] may be cited as the 'Strategic and Critical Materials Stock Piling Revision Act of 1979'.''

SHORT TITLE

Act June 7, 1939, ch. 190, § 11, formerly § 10, as added by act July 23, 1946, ch. 590, 60 Stat. 596; renumbered § 11, Pub. L. 92–156, title V, § 503(1), Nov. 17, 1971, 85 Stat. 427, provided that this Act, which enacted this subchapter, be cited as the ''Strategic and Critical Materials Stock Piling Act'', prior to repeal by Pub. L. 96–41, § 2(b)(2), July 30, 1979, 93 Stat. 324.

NEW BUDGET AUTHORITY

Section 4 of Pub. L. 96–41 provided that: ''Any provision authorizing the enactment of new budget authority contained in the amendments made by this Act [see Short Title of 1979 Amendment note above] shall be effective on October 1, 1979.''

EXECUTIVE ORDER NO. 12155

Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071, as amended by Ex. Ord. No. 12417, May 2, 1983, 48 F.R. 20035, which related to delegation of functions vested in President by Strategic and Critical Materials Stock Piling Act, as amended [50 U.S.C. 98 et seq.], to various Federal agencies and officials, was revoked by Pub. L. 100–180, div. C, title II, § 3203(b), Dec. 4, 1987, 101 Stat. 1247, effective 30 days after Dec. 4, 1987.

EX. ORD. NO. 12626. NATIONAL DEFENSE STOCKPILE MANAGER

Ex. Ord. No. 12626, Feb. 25, 1988, 53 F.R. 6114, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), as amended, section 3203 of the National Defense Authorization Act for Fiscal Year 1988 (Public Law 100–180) [amending section 98e–1 of this title and enacting a provision set out as a note under section 98e–1 of this title], and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is designated National Defense Stockpile Manager. The functions vested in the President by the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.], except the functions vested in the President by sections 7, 8, and 13 of the Act [50 U.S.C. 98f, 98g, 98h–4], are delegated to the Secretary of Defense. The functions vested in the President by section 8(a) of the Act [50 U.S.C. 98g(a)] are delegated to the Secretary of the Interior. The functions vested in the President by section 8(b) of the Act [50 U.S.C. 98g(b)] are delegated to the Secretary of Agriculture.

SEC. 2. The functions vested in the President by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), are delegated to the Secretary of Defense.

SEC. 3. The functions vested in the President by section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)), are delegated to the Secretary of Defense.

SEC. 4. In executing the functions delegated to him by this Order, the Secretary of Defense may delegate such functions as he may deem appropriate, subject to his direction. The Secretary shall consult with the heads of affected agencies in performing the functions delegated to him by this Order.

RONALD REAGAN.

§ 98a. Congressional findings and declaration of purpose

(a) The Congress finds that the natural resources of the United States in certain strategic

and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this subchapter to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources for supplies of such materials in times of national emergency.

(c) In providing for the National Defense Stockpile under this subchapter, Congress establishes the following principles:

(1) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

(2) Before October 1, 1994, the quantities of materials stockpiled under this subchapter should be sufficient to sustain the United States for a period of not less than three years during a national emergency situation that would necessitate total mobilization of the economy of the United States for a sustained conventional global war of indefinite duration.

(3) On and after October 1, 1994, the quantities of materials stockpiled under this subchapter should be sufficient to meet the needs of the United States during a period of a national emergency that would necessitate an expansion of the Armed Forces together with a significant mobilization of the economy of the United States under planning guidance issued by the Secretary of Defense.

(June 7, 1939, ch. 190, § 2, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 319; amended Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3202(b), 101 Stat. 1245; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIII, § 3311, 107 Stat. 1961.)

PRIOR PROVISIONS

A prior section 98a, acts June 7, 1939, ch. 190, § 2, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 596; 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, related to determination of strategic and critical materials, the quantity and quality to be purchased, formation and functions of industry advisory committees, and the subsistence and traveling expenses of members of those committees, prior to repeal by section 2(a) of Pub. L. 96–41.

Provisions similar to those in this section were contained in former section 98 of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–160, § 3311(1), substituted ''Before October 1, 1994, the quantities'' for ''The quantities''.

Subsec. (c)(3). Pub. L. 103–160, § 3311(2), added par. (3).

1987—Subsec. (c). Pub. L. 100–180 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98b, 98h–2 of this title.

§ 98b. National Defense Stockpile

(a) Determination of materials; quantities

Subject to subsection (c) of this section, the President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this subchapter, and (2) the quality and quantity of each such material to be acquired for the purposes of this subchapter and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 98c of this title, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this subchapter referred to as the ''stockpile'').

(b) Guidelines for exercise of Presidential authority

The President shall make the determinations required to be made under subsection (a) of this section on the basis of the principles stated in section 98a(c) of this title.

(c) Quantity change; notification to Congress

(1) The quantity of any material to be stockpiled under this subchapter, as in effect on September 30, 1987, may be changed only as provided in this subsection or as otherwise provided by law enacted after December 4, 1987.

(2) The President shall notify Congress in writing of any change proposed to be made in the quantity of any material to be stockpiled. The President may make the change effective on or after the 30th legislative day following the date of the notification. The President shall include a full explanation and justification for the proposed change with the notification. For purposes of this paragraph, a legislative day is a day on which both Houses of Congress are in session.

(June 7, 1939, ch. 190, § 3, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 319; amended Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3202(a), 101 Stat. 1245; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, § 1233(b)(2), 102 Stat. 2057; Oct. 23, 1992, Pub. L. 102–484, div. C, title XXXIII, § 3311, 106 Stat. 2653.)

PRIOR PROVISIONS

A prior section 98b, acts June 7, 1939, ch. 190, § 3, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 597; Aug. 2, 1946, ch. 753, title I, §§ 102, 121, 60 Stat. 815, 822; June 30, 1949, ch. 288, title I, § 102(a), 63 Stat. 380; 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, related to purchase, storage, refinement, rotation, and disposal of materials, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98e of this title.

Provisions similar to those in this section were contained in former section 98a of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1992—Subsec. (c)(2) to (5). Pub. L. 102–484 added par. (2) and struck out former pars. (2) to (5) which read as follows:

''(2) If the President proposes to change the quantity of any material to be stockpiled under this subchapter, the President shall include a full explanation and justification for the change in the next annual material plan submitted to Congress under section 98h–2(b) of this title.

''(3) If the proposed change in the case of any material would result in a new requirement for the quantity of such material different from the requirement for that material in effect on September 30, 1987, by less than 10 percent, the change may be made by the President effective on or after the first day of the first fiscal year beginning after the explanation and justification for the proposed change is submitted pursuant to paragraph (2).

''(4) In the case of a proposed change not covered by paragraph (3), the proposed change may be made only to the extent expressly authorized by law.

''(5) If in any year the reports required by sections 98h–2(b) and 98h–5 of this title are not submitted to Congress as required by law (including the time for such submission), then during the next fiscal year no change under paragraph (3) may be made in the quantity of any material to be stockpiled under this subchapter.''

1988—Subsec. (c)(1). Pub. L. 100–456 substituted ''December 4, 1987'' for ''the date of the enactment of the National Defense Stockpile Amendments of 1987'', which for purposes of codification had been translated as ''December 4, 1987'', thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100–180, §3202(a)(1), substituted ''Subject to subsection (c) of this section, the'' for ''The''.

Subsec. (b). Pub. L. 100–180, §3202(a)(2), substituted ''the principles stated in section 98a(c) of this title.'' for ''the following principles:'' and struck out cls. (1) and (2) which related to purpose of National Defense Stockpile and quantities of materials stockpiled.

Subsec. (c). Pub. L. 100–180, §3202(a)(3), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The quantity of any material to be stockpiled under this subchapter, as determined under subsection (a) of this section, may not be revised unless the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed revision and the reasons for such revision at least thirty days before the effective date of such revision.''

DELEGATION OF FUNCTIONS

Functions of the President under this section were delegated to the Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

CHANGES IN STOCKPILE REQUIREMENTS

Pub. L. 101–189, div. C, title XXXIII, §3301, Nov. 29, 1989, 103 Stat. 1685, provided that: ''Pursuant to section 3(c)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(4)), the National Defense Stockpile Manager may revise quantities of materials to be stockpiled under that Act [50 U.S.C. 98 et seq.] in accordance with the following table:

''Material	Current quantity	Revised quantity
Aluminum oxide, abrasive grain group	638,000 short tons (contained)	374,000 short tons (contained)
Antimony	36,000 short tons	88,500 short tons
Asbestos, amosite	17,000 short tons	0 short tons
Bauxite, refractory	1,400,000 long calcined tons	1,240,000 long calcined tons
Bismuth	2,200,000 pounds	1,060,000 pounds
Chromite, refractory grade ore	850,000 short dry tons	695,000 short dry tons
Columbium group	4,850,000 pounds (contained)	12,520,000 pounds (contained)
Diamond, industrial group	29,730,000 carats	7,730,000 carats
Fluorspar, acid grade	1,400,000 short dry tons	900,000 short dry tons
Fluorspar, metallurgical grade	1,700,000 short dry tons	310,000 short dry tons
Graphite, natural, malagasy, crystalline	20,000 short tons	14,200 short tons
Graphite, natural, other than Ceylon and Malagasy	2,800 short tons	1,930 short tons
Manganese, battery grade group	87,000 short dry tons	50,000 short dry tons
Mica, muscovite block, stained and better	6,200,000 pounds	2,500,000 pounds
Natural insulation fibers	1,500,000 pounds	0 pounds
Platinum group metals, iridium	98,000 troy ounces	86,000 troy ounces
Platinum group metals, palladium	3,000,000 troy ounces	2,150,000 troy ounces
Quartz crystals	600,000 pounds	240,000 pounds
Talc, steatite block and lump	28 short tons	0 short tons
Tungsten group	50,666,000 pounds (contained)	70,900,000 pounds (contained)''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98e, 98g, 98h–6 of this title; title 15 section 714b; title 22 section 2796d.

§98c. Materials constituting the National Defense Stockpile

(a) The stockpile consists of the following materials:

(1) Materials acquired under this subchapter and contained in the national stockpile on July 29, 1979.

(2) Materials acquired under this subchapter after July 29, 1979.

(3) Materials in the supplemental stockpile established by section 1704(b) of title 7 (as in effect from September 21, 1959, through December 31, 1966) on July 29, 1979.

(4) Materials acquired by the United States under the provisions of section 2093 of the Appendix to this title and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 2423 of title 22 that have been determined to be strategic and critical materials for the purposes of this subchapter and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 714b(h) of title 15.

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of sec-

tion 1743(a) of title 7, and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 1743(a) of title 7.

(9) Materials transferred to the stockpile under subsection (b) of this section.

(b) Notwithstanding any other provision of law, any material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is required for the stockpile shall be transferred to the stockpile. Any such transfer shall be made without reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this subchapter.

(June 7, 1939, ch. 190, § 4, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 320; amended Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3207(a)(1), 100 Stat. 4069.)

REFERENCES IN TEXT

Section 1704(b) of title 7, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3635, and, as so amended, no longer contains provisions relating to a supplemental stockpile.

PRIOR PROVISIONS

A prior section 98c, acts June 7, 1939, ch. 190, § 4, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 598; 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175; Apr. 21, 1976, Pub. L. 94–273, § 37, 90 Stat. 380, required reports to Congress, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98h–2 of this title.

AMENDMENTS

1986—Pub. L. 99–661 substituted ''on July 29, 1979'' for ''on the day before the date of the date of enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979'' in pars. (1) and (3), and ''after July 29, 1979'' for ''on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979'' in par. (2).

CLARIFICATION OF STOCKPILE STATUS OF CERTAIN MATERIALS

Pub. L. 102–484, div. C, title XXXIII, § 3315, Oct. 23, 1992, 106 Stat. 2654, as amended by Pub. L. 103–337, div. A, title X, § 1070(c)(4), Oct. 5, 1994, 108 Stat. 2858, provided that: ''All materials purchased under section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and held in the Defense Production Act inventory as of June 30, 1992, are hereby transferred to the National Defense Stockpile and shall be managed, controlled, and subject to disposal by the National Defense Stockpile Manager as provided in the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a et seq.) [50 U.S.C. 98 et seq.].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98b of this title.

§ 98d. Authority for stockpile operations

(a) Funds appropriated for acquisitions; proposed stockpile transactions; significant changes therein

(1) Except for acquisitions made under the authority of paragraph (3) or (4) of section 98e(a) of this title, no funds may be obligated or appropriated for acquisition of any material under this subchapter unless funds for such acquisition have been authorized by law. Funds appropriated for such acquisition (and for transportation and other incidental expenses related to such acquisition) shall remain available until expended, unless otherwise provided in appropriation Acts.

(2) If for any fiscal year the President proposes certain stockpile transactions in the annual materials plan submitted to Congress for that year under section 98h–2(b) of this title and after that plan is submitted the President proposes (or Congress requires) a significant change in any such transaction, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 45 days has passed from the date of the receipt of such statement by such committees.

(b) Disposal

Except for disposals made under the authority of paragraph (3), (4), or (5) of section 98e(a) of this title or under section 98f(a) of this title, no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available to carry out the purposes for which appropriated for a period of two fiscal years, if so provided in appropriation Acts.

(June 7, 1939, ch. 190, § 5, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 321; amended Aug. 13, 1981, Pub. L. 97–35, title II, § 203(a), (b), 95 Stat. 381, 382; Oct. 19, 1984, Pub. L. 98–525, title IX, § 903, 98 Stat. 2573; Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3207(a)(2), 100 Stat. 4069; Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3206(a), 101 Stat. 1247; Oct. 23, 1992, Pub. L. 102–484, div. C, title XXXIII, § 3312, 106 Stat. 2653; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIII, § 3312, 107 Stat. 1962.)

PRIOR PROVISIONS

A prior section 98d, acts June 7, 1939, ch. 190, § 5, 53 Stat. 812; July 23, 1946, ch. 590, 60 Stat. 598, related to release of stock pile materials, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98f of this title.

Provisions similar to those in this section were contained in former sections 98b and 98g of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–160 substituted ''and a period of 45 days has passed from the date of the receipt of such statement by such committees.'' for ''and a period of 30 days has passed from the date of the receipt of such statement by such committees. In computing any 30-day period for the purpose of the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.''

1992—Subsec. (b). Pub. L. 102–484 struck out ''(1)'' after ''the stockpile'' and '', or (2) if the disposal would result in there being an unobligated balance in the National Defense Stockpile Transaction Fund in excess of $100,000,000'' after ''authorized by law''.

1987—Subsec. (a)(2). Pub. L. 100–180 struck out ''or until each such committee, before the expiration of such period, notifies the President that it has no objection to the proposed transaction'' before period at end of first sentence.

1986—Subsec. (b). Pub. L. 99–661 substituted ''paragraph (3), (4), or (5)'' for ''paragraph (4) or (5)''.

1984—Subsec. (b)(2). Pub. L. 98–525, §903(b), substituted ''$100,000,000'' for ''$250,000,000''.

Pub. L. 98–525, §903(a), substituted ''an unobligated balance'' for ''a balance'' where first appearing and ''$250,000,000'' for ''$1,000,000,000 or, in the case of a disposal to be made after September 30, 1983, if the disposal would result in there being a balance in the fund in excess of $500,000,000''.

1981—Subsec. (a). Pub. L. 97–35, §203(a), designated existing provisions as par. (1), inserted applicability to other incidental expenses, substituted ''until expended, unless otherwise'' for ''for a period of five fiscal years, if so'', and added par. (2).

Subsec. (b). Pub. L. 97–35, §203(b), inserted designation for cl. (1) and added cl. (2).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 903(b) of Pub. L. 98–525, as amended by Pub. L. 99–145, title XVI, §1611(b), Nov. 8, 1985, 99 Stat. 776, provided in part that the amendment by section 903(b) of Pub. L. 98–525, is effective Oct. 1, 1987.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 203(f) of Pub. L. 97–35 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.''

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

LIMITATION ON AUTHORITY TO DISPOSE OF ZINC

Pub. L. 103–337, div. C, title XXXIII, §3304, Oct. 5, 1994, 108 Stat. 3098, provided that:

''(a) LIMITATION ON DISPOSAL AUTHORITY.—The disposal of zinc from the National Defense Stockpile pursuant to any disposal authority provided by law may not commence before April 1, 1995.

''(b) CONDITION ON DISPOSAL AFTER EXPIRATION OF LIMITATION.—If any quantity of zinc is proposed for disposal from the National Defense Stockpile during fiscal year 1995 upon the expiration of the limitation prescribed under subsection (a), the President shall submit to Congress not later than February 15, 1995, a revised annual materials plan under section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2[(b)]) that specifically describes the proposed disposals. The revised plan shall include the views of the Market Impact Committee regarding the market impact of the disposals, as required under section 10(c) of such Act (50 U.S.C. 98h–1(c)).

''(c) EFFECT ON TRANSFERS OF ZINC TO OTHER FEDERAL AGENCIES.—Nothing in this section shall limit the authority of the National Defense Stockpile Manager to transfer zinc in the National Defense Stockpile to the jurisdiction and control of another Federal agency for official Government use.

''(d) NATIONAL DEFENSE STOCKPILE DEFINED.—The term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).''

NATIONAL DEFENSE STOCKPILE MODERNIZATION PROGRAM

Section 3301 of Pub. L. 103–160 provided that:

''(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) in order to modernize the stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

"Authorized Stockpile Disposals

Material for disposal	Quantity
Analgesics	53,525 pounds of anhydrous morphine alkaloid
Antimony	32,140 short tons
Diamond Dies, Small	25,473 pieces
Manganese, Electrolytic	14,172 short tons
Mica, Muscovite Block, Stained and Better.	1,866,166 pounds
Mica, Muscovite Film, 1st & 2d quality.	158,440 pounds
Mica, Muscovite Splittings	12,540,382 pounds
Quinidine	2,471,287 avoirdupois ounces
Quinidine, Non-Stockpile Grade	1,691 avoirdupois ounces
Quinine	2,770,091 avoirdupois ounces
Quinine, Non-Stockpile Grade	475,950 avoirdupois ounces
Rare Earths	504 short dry tons
Vanadium Pentoxide	718 short tons of contained vanadium

''(b) CONDITIONS ON DISPOSAL.—The authority of the President under subsection (a) to dispose of materials stored in the National Defense Stockpile may not be used unless and until the Secretary of Defense certifies to Congress that the disposal of such materials will not adversely affect the capability of the stockpile to supply the strategic and critical materials necessary to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States, including any reconstitution of the military and industrial capabilities necessary to meet the planning assumptions used by the Secretary of Defense under section 14(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5(b)).''

Section 3303(a) of Pub. L. 103–160 provided that: ''During fiscal year 1994, the disposal of chromite and manganese ores of metallurgical grade under the authority of section 3302(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2649; 50 U.S.C. 98d note) may be made only for processing within the United States and the territories and possessions of the United States.''

Sections 3301 to 3303 of Pub. L. 102–484, as amended by Pub. L. 103–160, div. C, title XXXIII, §3303(b), Nov. 30, 1993, 107 Stat. 1961; Pub. L. 103–337, div. A, title X, §1070(c)(3), div. C, title XXXIII, §3303, Oct. 5, 1994, 108 Stat. 2858, 3098, provided that:

''SEC. 3301. DEFINITIONS.

''For purposes of this subtitle [subtitle A (§§3301–3308) of title XXXIII of div. C of Pub. L. 102–484, enacting this note and provisions set out as a note under section 98h–1 of this title and amending provisions set out as a note below]:

''(1) The terms 'National Defense Stockpile' and 'stockpile' mean the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

''(2) The term 'National Defense Stockpile Transaction Fund' means the fund in the Treasury of the

United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

''SEC. 3302. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

''(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile in order to modernize the stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

"Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum Oxide, Abrasive Grain	51,022 short tons
Aluminum Oxide, Fused Crude	249,867 short tons
Antimony	2,007 short tons
Asbestos, Chrysotile	3,004 short tons
Bauxite, Metal Grade, Jamaican	12,457,740 long tons
Bauxite, Metal Grade, Surinam	5,299,597 long tons
Bauxite, Refractory	207,067 long tons
Beryl Ore	17,729 short tons
Bismuth	1,825,955 pounds
Cadmium	6,328,570 pounds
Chromite, Chemical Grade Ore	208,414 short dry tons
Chromite, Metallurgical Grade Ore.	1,511,356 short dry tons
Chromite, Refractory Grade Ore	232,414 short dry tons
Chromium, Ferro	576,526 short tons
Cobalt	13,000,000 pounds of contained cobalt
Copper	29,641 short tons
Diamond, Bort	4,001,334 carats
Diamond Stones	2,422,075 carats
Fluorspar, Acid Grade	892,856 short dry tons
Fluorspar, Metallurgical Grade	410,822 short dry tons
Germanium	713 kilograms
Graphite, Natural, Malagasy, Crystalline.	10,573 short tons
Graphite, Natural, Other than Ceylon & Malagasy.	2,803 short tons
Iodine	5,835,022 pounds
Jewel bearings	51,778,337 pieces
Lead	610,053 short tons
Manganese, Ferro	938,285 short tons
Manganese Ore, Metallurgical Grade.	1,627,425 short dry tons
Manganese, Battery Grade, Natural Ore.	68,226 short dry tons
Manganese, Battery Grade, Synthetic Dioxide.	3,011 short dry tons
Mercury	128,026 flasks (76-pounds)
Mica, Phlogopite Splittings	963,251 pounds
Nickel	37,214 short tons
Quartz Crystals, Natural	800,000 pounds
Rutile	39,200 short tons
Sapphire & Ruby	16,305,502 carats
Sebacic Acid	5,009,697 pounds
Silicon Carbide	28,774 short tons
Silver	83,951,492 troy ounces
Tin	141,278 metric tons
Vegetable Tannin, Chestnut	4,976 long tons
Vegetable Tannin, Quebracho	28,832 long tons
Vegetable Tannin, Wattle	15,000 long tons
Zinc	378,768 short tons

''(b) CONDITIONS ON DISPOSAL.—The authority of the President under subsection (a) to dispose of materials stored in the stockpile may not be used unless and until the President submits to Congress a revised annual materials plan under section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2(b)) that—

''(1) complies with the requirements of section 10(c) of such Act (50 U.S.C. 98h–1), as added by section 3314; and

''(2) contains the certification of the Secretary of Defense that the disposal of such materials will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical materials necessary to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States, including any reconstitution of the military and industrial capabilities necessary to meet the planning assumptions used by the Secretary of Defense under section 14(b) of such Act (50 U.S.C. 98h–5(b)).

''(c) REQUIRED USE OF PREVIOUS DISPOSAL AUTHORITIES.—(1) The President shall complete the disposal of all quantities of materials in the National Defense Stockpile that—

''(A) have been previously authorized for disposal by law; and

''(B) have not been disposed of before the date of the enactment of this Act [Oct. 23, 1992].

''(2) The disposal of materials required by this subsection shall be completed before the end of the five-year period beginning on October 1, 1992, unless the President notifies Congress that the Market Impact Committee established under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)), as added by section 3314, determines that completion of the disposal of such materials during such period would result in the undue disruption of the usual markets of such materials. The notification shall also indicate the date on which the disposal of such materials will be completed.

''(d) SPECIAL LIMITATION REGARDING SILVER.—(1) The disposal of silver under this section may only occur in the form of coins or, subject to paragraph (2), as material furnished by the Federal Government to a contractor for the use of the contractor in the performance of a Federal Government contract.

''(2) A contractor receiving silver as Government furnished material shall pay the Federal Government the amount equal to the fair market value of the silver, as determined by the National Defense Stockpile Manager. The amount paid by the contractor for the silver shall be deposited in the National Defense Stockpile Transaction Fund.

''(e) SPECIAL LIMITATION REGARDING CHROMITE AND MANGANESE ORES.—During fiscal year 1993, the disposal of chromite and manganese ores of metallurgical grade under subsection (a) may be made only for processing within the United States and the territories and possessions of the United States.

''(f) SPECIAL LIMITATION REGARDING CHROMIUM AND MANGANESE FERRO.—The disposal of chromium ferro and manganese ferro under subsection (a) may not commence before October 1, 1995.

''(g) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

''SEC. 3303. USE OF BARTER ARRANGEMENTS IN MODERNIZATION PROGRAM.

''The President may enter into barter arrangements to dispose of materials under section 3302 in order to acquire strategic and critical materials for, or upgrade strategic and critical materials in, the National Defense Stockpile.''

AUTHORIZED DISPOSALS; FISCAL YEAR 1992

Pub. L. 102–190, div. C, title XXXIII, § 3301, Dec. 5, 1991, 105 Stat. 1583, as amended by Pub. L. 102–484, div. C, title XXXIII, § 3308, Oct. 23, 1992, 106 Stat. 2653, provided that:

''(a) AUTHORITY.—During fiscal year 1992, the National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. The value of materials disposed of may not exceed $150,000,000 during such fiscal year. Such disposal may be made only as specified in subsection (b).

''(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal under subsection (a) shall be made—

''(1) from quantities of materials in the National Defense Stockpile previously authorized for disposal by law, including the materials authorized for disposal in accordance with the table contained in section 3302(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1686 [set out as a note below]); or

''(2) in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

''Material	Unit	Quantities
Bismuth	LB	500,000
Diamond, industrial, crushing bort	KT	10,000,000
Fluorspar, metallurgical grade	SDT	20,000
Graphite, Malagasy	ST	3,635
Manganese, battery grade	SDT	25,000
Manganese, chemical grade	SDT	173,000
Mercury	FL	15,000
Mica, muscovite block	LB	2,700,000
Mica, muscovite splittings	LB	1,100,000
Tin	MT	15,000

''(c) ADDITIONAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

''(d) LIMITATION ON DISPOSALS.—The National Defense Stockpile Manager may dispose of materials under this section during fiscal year 1992 only to the extent that the total amount received (or to be received) from such disposals for such fiscal year does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for the purposes authorized under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).''

AUTHORIZED DISPOSALS; FISCAL YEARS 1990 AND 1991

Pub. L. 101–189, div. C, title XXXIII, §3302, Nov. 29, 1989, 103 Stat. 1685, provided that:

''(a) AUTHORITY.—During fiscal years 1990 and 1991, the National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. The value of materials disposed of may not exceed $180,000,000 during each of such fiscal years, and such disposal may be made only as specified in subsection (b).

''(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal under subsection (a) shall be made from quantities of materials in the National Defense Stockpile previously authorized for disposal by law or, in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

''Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort.	8,000,000 carats
Fluorspar, metallurgical grade	15,000 short dry tons
Graphite, natural, Malagasy, crystalline.	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy.	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better.	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons.

''(c) ADDITIONAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

''(d) LIMITATION ON DISPOSALS DURING FISCAL YEARS 1990 AND 1991.—The National Defense Stockpile Manager may dispose of materials under this section during each of the fiscal years 1990 and 1991 only to the extent that the total amount received (or to be received) from such disposals for each such fiscal year does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for the purposes authorized under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).''

AUTHORIZED DISPOSALS; FISCAL YEAR 1989

Pub. L. 100–456, div. A, title XV, §1501, Sept. 29, 1988, 102 Stat. 2085, provided that:

''(a) AUTHORITY.—Notwithstanding section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)) but subject to subsection (c), the President may during fiscal year 1989 dispose of materials in the National Defense Stockpile in accordance with this section. The value of the materials disposed of may not exceed $180,000,000 and may only be made as specified in subsection (b).

''(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal pursuant to the authority in subsection (a) shall be made from materials in the National Defense Stockpile previously authorized for disposal by law and from the following materials in the National Defense Stockpile, such materials having been determined to be excess to stockpile requirements:

''Material	Quantities
Asbestos, chrysotile	2,100 short tons
Asbestos, crocidolite	36 short tons
Celestite	13,500 short dry tons
Iodine	772,000 pounds
Kyanite	1,200 short dry tons
Manganese dioxide, battery grade, natural ore	65,000 short dry tons
Mercury	7,500 flasks
Mica, muscovite block (S&L)	181,000 pounds
Mica, muscovite splittings	750,000 pounds
Mica, phlogopite splittings	589,000 pounds
Quartz	1,249,000 pounds
Silicon Carbide	44,000 short tons
Talc, block and lump	990 short tons
Talc, ground	1,100 short tons
Thorium nitrate	6,520,000 pounds
Tin	5,000 metric tons
Tungsten ores and concentrates	1,000,000 pounds
Vegetable tannin chestnut	3,500 long tons
Vegetable tannin quebracho	77,000 long tons.

''(c) DISPOSALS DURING FISCAL YEAR 1989.—The President may dispose of materials under this section during fiscal year 1989 only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount expended from the National Defense Stockpile Transaction Fund during fiscal year 1989 for purposes authorized under section 9(b)(2) of such Act [section 98h(b)(2) of this title].''

CONVERSION OF CHROMIUM AND MANGANESE ORE TO HIGH CARBON FERROCHROMIUM AND HIGH CARBON FERROMANGANESE

Section 3205 of Pub. L. 99–661 provided that:

''(a) REQUIRED UPGRADING.—During each of fiscal years 1987 through 1993, the President shall—

''(1) obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese; and

''(2) award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

''(b) QUANTITIES TO BE UPGRADED.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and not less than 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile during each of the fiscal years covered by subsection (a).

''(2) If, during any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as required by paragraph (1), is not met, the quantity of such material to be added to the stockpile in the next fiscal year shall be increased by the quantity of the deficiency.

''(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

''(1) High carbon ferrochromium, 374,000 short tons.

''(2) High carbon ferromanganese, 472,000 short tons.

''(d) DEFINITION.—In this section, the term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).''

Similar provisions were contained in Pub. L. 99–500, § 101(c) [title IX, § 9110], Oct. 18, 1986, 100 Stat. 1783–82, 1783–120, and Pub. L. 99–591, § 101(c) [title IX, § 9110], Oct. 30, 1986, 100 Stat. 3341–82, 3341–120.

STORAGE, MAINTENANCE, PROTECTION AND DISPOSAL OF SILVER IN NATIONAL DEFENSE STOCKPILE AFTER SEPTEMBER 30, 1987; USE OF PROCEEDS

Pub. L. 99–500, § 101(m) [title V, § 519], Oct. 18, 1986, 100 Stat. 1783–308, 1783–326, and Pub. L. 99–591, § 101(m) [title V, § 519], Oct. 30, 1986, 100 Stat. 3341–308, 3341–326, provided that: ''Effective September 30, 1987, none of the funds made available by this Act or any other Act with respect to fiscal year 1987 and any other fiscal year may be used to store, to maintain or to protect more than 128,000,000 troy ounces of silver deposited in the National Defense Stockpile. The Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all proceeds generated from the disposal of silver to purchase, no later than October 1, 1988, stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.''

PROHIBITION OF REDUCTIONS IN STOCKPILE GOALS

Pub. L. 99–145, title XVI, § 1612, Nov. 8, 1985, 99 Stat. 776, as amended by Pub. L. 99–661, div. C, title II, § 3201, Nov. 14, 1986, 100 Stat. 4067, prohibited action before Oct. 1, 1987, to implement or administer any change in a stockpile goal in effect on Oct. 1, 1984, that would result in a reduction in the quality or quantity of any strategic and critical material acquired for the National Defense Stockpile.

DISPOSAL AUTHORIZATION

Section 3204 of Pub. L. 99–661 provided that:

''(a) IN GENERAL.—(1) The President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) and that are hereby determined to be excess to the current requirements of the stockpile:

''Antimony	1,500 short tons
Diamonds, Industrial Stone	1,125,000 carats
Iodine	800,000 pounds
Mercury	3,700 flasks
Mica, Muscovite Film	3,000 pounds
Mica, Muscovite Splittings	262,000 pounds
Silicon Carbide	7,600 short tons
Silver (Coinage Program Only)	3,000,000 troy ounces
Tannin, Chestnut	1,000 long tons
Tannin, Quebracho	4,000 long tons
Thorium Nitrate	10,000 pounds
Tin	4,000 metric tons
Tungsten	1,900,000 pounds of tungsten metal equivalent

''(2) Authority provided by paragraph (1) is in addition to any other authority provided by law to dispose of materials from the National Defense Stockpile.

''(b) SPECIAL DISPOSAL AUTHORITY.—During fiscal year 1987, the President may contract to carry out authorized disposals of materials from the National Defense Stockpile without regard to the limitation in section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98d(b)(2)], but only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for purposes authorized under section 9(b)(2) of such Act (as amended by section 3203) [50 U.S.C. 98h(b)(2)].''

Pub. L. 98–525, title IX, §§ 901, 902, Oct. 19, 1984, 98 Stat. 2573, provided that:

''SEC. 901. (a) Any authority provided by law before the date of the enactment of this Act [Oct. 19, 1984] to enter into contracts for the disposal of materials in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (hereinafter in this title referred to as ''the Act'') (50 U.S.C. 98b) shall expire on September 30, 1984.

''SEC. 902. Effective on October 1, 1984, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile in accordance with the provisions of the Act [this chapter], such quantities having been determined to be excess to the current requirements of the stockpile:

''(1) 3,200 short tons of antimony.

''(2) 5,600 short tons of asbestos, chrysotile.

''(3) 7,500,000 carats of diamond stones.

''(4) 51,210 short dry tons of manganese dioxide battery natural.

''(5) 292,000 short dry tons of metallurgical grade manganese.

''(6) 5,000 flasks of mercury.

''(7) 500,000 pounds of mercuric oxide.

''(8) 1,000,000 pounds of mica, muscovite film first and second qualities.

''(9) 1,000,000 pounds of mica, muscovite splittings.

''(10) 50,000 pounds of mica, phlogopite splittings.

''(11) 167 short tons of mica block and lump.

''(12) 100,000 pounds of quartz crystals.

''(13) 10,000,000 troy ounces of silver.

''(14) 125,000 pounds of talc, block and lump.

''(15) 50,000 pounds of thorium nitrate.

''(16) 20,000 long tons of tin.

''(17) 2,400,000 pounds of tungsten contained in ores.

''(18) 4,200 long tons of vegetable tannin, chestnut.

''(19) 20,000 long tons of vegetable tannin, quebracho.''

Section 201 of Pub. L. 97–35 provided that:

''(a) Effective on October 1, 1981, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), such quantities having been determined to be excess to the current requirements of the stockpile:

''(1) 1,000,000 pounds of iodine.

''(2) 1,500,000 carats of diamonds, industrial crushing bort.

''(3) 710,253 pounds of mercuric oxide.

''(4) 50,000 flasks of mercury.

''(5) 6,000,000 pounds of mica, muscovite splittings.

''(6) 25,000 pounds of mica, phlogopite splittings.

''(7) 46,537,000 troy ounces of silver.

''(8) 1,000 short tons of antimony.

''(9) 2,000 short tons of asbestos chrysotile.

''(10) 50,000 pounds of mica muscovite film, first and second qualities.

''(11) 50,000 pounds of mica muscovite block, stained and lower.

''(12) 700 long tons of vegetable tannin extract, wattle.

''(b) Effective on October 1, 1982, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

''(1) 44,682,000 troy ounces of silver.

''(2) 1,000 short tons of antimony.

''(3) 2,000 short tons of asbestos chrysotile.

''(4) 1,500,000 carats of diamond stones.

''(5) 1,000,000 pounds of iodine.

''(6) 50,000 pounds of mica muscovite film, first and second qualities.

''(7) 50,000 pounds of mica muscovite block, stained and lower.

''(8) 697 long tons of vegetable tannin extract, wattle.

''(c) Effective on October 1, 1983, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

''(1) 13,900,000 troy ounces of silver.

''(2) 1,000 short tons of antimony.

''(3) 6,000 short tons of asbestos amosite.

''(4) 2,000 short tons of asbestos chrysotile.

''(5) 1,500,000 carats of diamond stones.

''(6) 197,465 carats of diamonds, industrial crushing bort.

''(7) 213,000 pounds of iodine.

''(8) 50,000 pounds of mica muscovite film, first and second qualities.

''(9) 50,000 pounds of mica muscovite block, stained and lower.

''(d)(1) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained in paragraphs (7) through (12) of subsection (a) expires on September 30, 1982.

''(2) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained in subsection (b) expires on September 30, 1983.

''(3) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained in subsection (c) expires on September 30, 1984.

''(e) Any disposal under the authority of subsection (a), (b), or (c) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

''(f)(1) The authority contained in subsections (b)(1) and (c)(1) shall not become effective unless the President, not later than September 1, 1982, determines that the silver authorized for disposal by such subsections is excess to the requirements of the stockpile as of that date.

''(2) A determination by the President under paragraph (1) shall be based upon consideration of such factors as the President considers relevant, including the following factors:

''(A) The demand for silver in each of the next ten years for the industrial, military, and naval needs of the United States for national defense.

''(B) The domestic supply of silver for each of the next ten years, as a function of price, that would be available to meet the demand identified under subparagraph (A).

''(C) The potential dependency of the United States on foreign supplies of silver in each of the next ten years to meet the demand identified under subparagraph (A).

''(D) The effect of disposal under subsections (b)(1) and (c)(1) on (i) the world silver market (in terms of price and supply), (ii) the domestic and international silver mining industry (in terms of exploration and production), (iii) international currency and monetary policy, and (iv) long range military preparedness.

''(3) If the President makes a determination described in paragraph (1), he shall promptly report to the Committees on Armed Services of the Senate and House of Representatives that he has made such determination and shall include a detailed discussion and analysis of the factors set forth in paragraph (2) and other relevant factors.''

AUTHORIZATION OF APPROPRIATIONS

Section 202 of Pub. L. 97–35 provided that:

''(a) Effective on October 1, 1981, there is authorized to be appropriated the sum of $535,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)).

''(b) Any acquisition using funds appropriated under the authorization of subsection (a) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).''

ANNUAL SALES OF SILVER FROM THE NATIONAL DEFENSE STOCKPILE AFTER DECEMBER 21, 1982

Pub. L. 97–377, title I, §101(c) [title VII, §799B], Dec. 21, 1982, 96 Stat. 1866, provided that: ''After the date of enactment of this Act [Dec. 21, 1982], annual sales of silver from the National Defense Stockpile under the authority of Public Law 97–35 [see Tables for classification], or any other Act, shall not exceed 10 per centum of the silver produced from existing domestic producing mines in the preceding 12 month period.''

DISPOSAL OF SILVER FROM NATIONAL DEFENSE STOCKPILE; CONGRESSIONAL APPROVAL OF RECOMMENDED METHOD OF DISPOSAL

Pub. L. 97–114, title VII, §788, Dec. 29, 1981, 95 Stat. 1592, provided that, after Dec. 29, 1981, no sale of silver from the National Defense Stockpile was to occur until the President, not later than July 1, 1982, redetermined that the silver authorized for disposal was excess to the requirements of the stockpile and reported such determination to Congress with discussion and analysis of the factors considered, including alternative methods of disposal for such silver, and the President's recommended method of disposal, and prohibited disposal of silver from the National Defense Stockpile prior to the approval by Congress of the recommended method of disposal.

DISPOSAL OF GOVERNMENT-OWNED TIN SMELTER AT TEXAS CITY, TEXAS

Act June 22, 1956, ch. 426, 70 Stat. 329, directed Federal Facilities Corporation immediately to sell or lease Government-owned tin smelter at Texas City, Texas, and waste acid plant and other assets of Government's tin program, prescribed corporate powers of Corporation in regard to sale or lease, established a Tin Advisory Committee to consult with Corporation, established periods for receipt and negotiation of purchase proposals, and provided that if no contract for sale or lease was effected prior to Jan. 31, 1957, then smelter and other assets be reported as excess property for transfer and disposal in accordance with provisions of Federal Property and Administrative Services Act of 1949.

MAINTENANCE OF DOMESTIC TIN-SMELTING INDUSTRY; TRANSFER OF FUNCTIONS, ETC.

Act June 28, 1947, ch. 159, 61 Stat. 190, as amended June 29, 1948, ch. 722, 62 Stat. 1101; June 30, 1949, ch. 284, 63 Stat. 350; Aug. 21, 1950, ch. 766, 64 Stat. 468; July 30, 1953, ch. 282, title I, § 103, 67 Stat. 230; June 22, 1956, ch. 426, § 5(a), 70 Stat. 329, declared tin to be a highly strategic and critical material in short supply, directed that it was in the public interest that Congress make a thorough investigation on the advisability of the maintenance of a permanent tin-smelting industry and study the availability of adequate tin supplies, provided that the powers, functions, duties, and authority of the United States exercised by the Reconstruction Finance Corporation to buy, sell, and transport tin, and tin ore and concentrates, to improve, develop, maintain, and operate by lease or otherwise the Government-owned tin smelter at Texas City, Texas, to finance research in tin smelting and processing, and to do all other things necessary to the accomplishment of the foregoing continue in effect until Jan. 31, 1957, or until such earlier time as the Congress shall otherwise provide, and be exercised and performed by such officer, agency, or instrumentality of the United States as the President may designate, authorized diversification of tin-recovery facilities in the United States, and required the Reconstruction Finance Corporation to report to Congress on its activities not later than Dec. 31, 1947, and at the end of each six months thereafter.

FEDERAL FACILITIES CORPORATION; ABOLITION AND DISSOLUTION OF RECONSTRUCTION FINANCE CORPORATION AND FEDERAL FACILITIES CORPORATION

Ex. Ord. No. 10539, eff. June 22, 1954, 19 F.R. 3827, designated the Federal Facilities Corporation to perform and exercise the functions formerly performed and exercised by the Reconstruction Finance Corporation under act June 28, 1947, set out as a note above. The Reconstruction Finance Corporation, which was created by the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, was subsequently abolished by section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Facilities Corporation was, in turn, dissolved by Pub. L. 87–190, § 6, Aug. 30, 1961, 75 Stat. 419, effective Sept. 30, 1961, set out as a note under sections 1921 to 1929 of the Appendix to this title.

DISPOSAL OF GOVERNMENT-OWNED TIN SMELTER AT TEXAS CITY, TEXAS; CANCELLATION OF OBLIGATIONS

Cancellation of obligation of General Services Administration to Federal Facilities Corporation existing by virtue of section 5(b) of act June 22, 1956, set out as a note above, see section 4(b) of Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under sections 1921 to 1929 of the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98e, 98h, 98h–2, 98h–6 of this title.

§ 98e. Stockpile management

(a) Presidential powers

The President shall—

(1) acquire the materials determined under section 98b(a) of this title to be strategic and critical materials;

(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

(3) provide for the upgrading, refining, or processing of any material in the stockpile (notwithstanding any intermediate stockpile quantity established for such material) when necessary to convert such material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency;

(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration or technological obsolescence of such material by replacement of such material with an equivalent quantity of substantially the same material or better material;

(5) subject to the notification required by subsection (d)(2) of this section, provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

(6) subject to the provisions of section 98d(b) of this title, dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Federal procurement practices

Except as provided in subsections (c) and (d) of this section, acquisition of strategic and critical materials under this subchapter shall be made in accordance with established Federal procurement practices, and, except as provided in subsections (c) and (d) of this section and in section 98f(a) of this title, disposal of materials from the stockpile shall be made by formal advertising or competitive negotiation procedures. To the maximum extent feasible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials; and

(2) efforts shall be made in the acquisition and disposal of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

(c) Barter; use of stockpile materials as payment for expenses of acquiring, refining, processing, or rotating materials

(1) The President shall encourage the use of barter in the acquisition under subsection (a)(1) of this section of strategic and critical materials for, and the disposal under subsection (a)(5) or (a)(6) of this section of materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

(2) Materials in the stockpile (the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law) shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of upgrading, refining, processing, or rotating materials, under this subchapter.

(3) Notwithstanding section 98b(c) of this title or any other provision of law, whenever the President provides under subsection (a)(3) of this section for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.

(4) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d) Waiver; notification of proposed disposal of materials

(1) The President may waive the applicability of any provision of the first sentence of subsection (b) of this section to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1) or (2) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committees on Armed Services of the Senate and House of Representatives in writing of the proposed acquisition or disposal at least thirty days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a)(5) of this section only if the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed disposal at least thirty days before any obligation of the United States is incurred in connection with such disposal.

(e) Leasehold interests in property

The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

(June 7, 1939, ch. 190, § 6, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 321; amended Aug. 13, 1981, Pub. L. 97–35, title II, § 203(c), 95 Stat. 382; Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3207(b), 100 Stat. 4069; Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, § 3314, 103 Stat. 1688; Nov. 5, 1990, Pub. L. 101–510, div. C, title XXXIII, § 3301(a), (b), 104 Stat. 1844; Dec. 5, 1991, Pub. L. 102–190, div. C, title XXXIII, § 3312, 105 Stat. 1584; Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIII, § 3302, 108 Stat. 3098.)

PRIOR PROVISIONS

A prior section 98e, acts June 7, 1939, ch. 190, § 6, 53 Stat. 812; May 28, 1941, ch. 135, 55 Stat. 206; July 23, 1946, ch. 590, 60 Stat. 598; Ex. Ord. No. 9809, eff. Dec. 12, 1946, 11 F.R. 14281; Ex. Ord. No. 9841, eff. Apr. 23, 1947, 12 F.R. 2645; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, related to transfer of surplus materials to stock piles, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98c(b) of this title.

Provisions similar to those in this section were contained in former section 98b of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1994—Subsec. (a)(4). Pub. L. 103–337 inserted "or technological obsolescence" after "deterioration".

1991—Subsec. (a)(4). Pub. L. 102–190 inserted before semicolon "or better material".

1990—Subsec. (a)(3). Pub. L. 101–510, § 3301(b)(1), substituted "upgrading, refining," for "refining", inserted "(notwithstanding any intermediate stockpile quantity established for such material)" after "stockpile", and substituted "storage, subsequent disposition, and immediate use in a national emergency" for "storage and subsequent disposition".

Subsec. (c)(1). Pub. L. 101–510, § 3301(b)(2), inserted "under subsection (a)(1) of this section" after "the acquisition" and "under subsection (a)(5) or (a)(6) of this section" after "the disposal".

Subsec. (c)(2). Pub. L. 101–510, § 3301(b)(3), substituted "(the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law)" for ", the disposition of which is authorized by law," and "of upgrading, refining" for "of refining".

Subsec. (c)(3), (4). Pub. L. 101–510, § 3301(a), added par. (3) and redesignated former par. (3) as (4).

1989—Subsec. (b). Pub. L. 101–189, § 3314(1), inserted "and" at end of par. (1), substituted a period for "; and" at end of par. (2), and struck out par. (3) which read as follows: "disposal of such materials shall be made for domestic consumption."

Subsec. (d)(1). Pub. L. 101–189, § 3314(2), substituted "paragraph (1) or (2)" for "paragraph (1), (2), or (3)".

1986—Subsec. (a)(3). Pub. L. 99–661 substituted "a form more" for "the form most".

1981—Subsec. (a)(6). Pub. L. 97–35 inserted reference to section 98d(b) of this title.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

ACQUISITION OF GERMANIUM FOR NATIONAL DEFENSE STOCKPILE

Pub. L. 102–172, title VIII, § 8094, Nov. 26, 1991, 105 Stat. 1196, provided that: "Using funds available in the National Defense Stockpile Transaction Fund, during the period of fiscal years 1992 through 1994 and using procedures covered by section 3301 of the National Defense Authorization Act, 1991 (Public Law 101–510; 104 Stat. 1844–45) [amending this section and section 98h of this title], the President may acquire 50,000 kilograms of germanium to be held in the National Defense Stockpile."

ACQUISITION OF DEPLETED URANIUM FOR NATIONAL DEFENSE STOCKPILE

Pub. L. 101–511, title VIII, § 8095, Nov. 5, 1990, 104 Stat. 1896, directed President, using funds available in National Defense Stockpile Transaction Fund, to acquire over a period of ten years from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in National Defense Stockpile, prior to repeal by Pub. L. 102–172, title VIII, § 8027A, Nov. 26, 1991, 105 Stat. 1177.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98d, 98h, 98h–2 of this title.

§ 98e–1. Transferred

CODIFICATION

Section, act June 7, 1939, ch. 190, § 6A, as added Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3202(a), 100 Stat. 4067; amended Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3203(a), 101 Stat. 1246, which related to National Defense Stockpile Manager, was transferred to section 98h–7 of this title.

§ 98f. Special Presidential disposal authority

(a) Materials in the stockpile may be released for use, sale, or other disposition—

(1) on the order of the President, at any time the President determines the release of such materials is required for purposes of the national defense; and

(2) in time of war declared by the Congress or during a national emergency, on the order of any officer or employee of the United States designated by the President to have authority to issue disposal orders under this subsection, if such officer or employee determines that the release of such materials is required for purposes of the national defense.

(b) Any order issued under subsection (a) of this section shall be promptly reported by the President, or by the officer or employee issuing such order, in writing, to the Committees on Armed Services of the Senate and House of Representatives.

(June 7, 1939, ch. 190, § 7, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 322.)

PRIOR PROVISIONS

A prior section 98f, acts June 7, 1939, ch. 190, § 7, 53 Stat. 812; July 23, 1946, ch. 590, 60 Stat. 599, related to investigations of domestic ores, minerals, and agriculture resources for purposes of development, etc., prior to repeal by section 2(a) of Pub. L. 96–41.

Provisions similar to those in this section were contained in former section 98d of this title prior to repeal by Pub. L. 96–41.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98d, 98e, 98h, 98h–7 of this title.

§ 98g. Materials development and research

(a) Development, mining, preparation, treatment, and utilization of ores and other mineral substances

(1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, preparation, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, or in its territories or possessions, (B) are essential to the national defense, industrial, and essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

(2) Such investigations shall be carried out in order to—

(A) determine and develop new domestic sources of supply of such ores and mineral substances;

(B) devise new methods for the treatment and utilization of lower grade reserves of such ores and mineral substances; and

(C) develop substitutes for such essential ores and mineral products.

(3) Investigations under paragraph (1) may be carried out on public lands and, with the consent of the owner, on privately owned lands for the purpose of exploring and determining the extent and quality of deposits of such minerals, the most suitable methods of mining and beneficiating such minerals, and the cost at which the minerals or metals may be produced.

(b) Development of sources of supplies of agricultural materials; use of agricultural commodities for manufacture of materials

The President shall make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 98b(a) of this title to be a strategic and critical material or substitutes therefor.

(c) Development of sources of supply of other materials; development or use of alternative methods for refining or processing materials in stockpile

The President shall make scientific, technologic, and economic investigations concerning the feasibility of—

(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b) of this section) determined pursuant to section 98b(a) of this title to be strategic and critical materials; and

(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

(d) Grants and contracts to encourage conservation of strategic and critical materials

The President shall encourage the conservation of domestic sources of any material determined pursuant to section 98b(a) of this title to be a strategic and critical material by making grants or awarding contracts for research regarding the development of—

(1) substitutes for such material; or

(2) more efficient methods of production or use of such material.

(June 7, 1939, ch. 190, § 8, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 322; amended Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, § 3311, 103 Stat. 1686.)

PRIOR PROVISIONS

A prior section 98g, act June 7, 1939, ch. 190, § 8, as added July 23, 1946, ch. 590, 60 Stat. 600; amended 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, authorized appropriations for procurement, transportation, maintenance, rotation, storage, and refining or processing of materials acquired under this subchapter, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98d(c) of this title.

Provisions similar to those in this section were contained in former section 98f of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1989—Subsecs. (c), (d). Pub. L. 101–189 added subsecs. (c) and (d).

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) of this section delegated to Secretary of the Interior and functions of President under subsec. (b) of this section delegated to Secretary of Agriculture by section 1 of Ex.

Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98h–2 of this title.

§98h. National Defense Stockpile Transaction Fund

(a) Establishment

There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the ''fund'').

(b) Fund operations

(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 98e(a) of this title shall be covered into the fund.

(2) Subject to section 98d(a)(1) of this title, moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

(A) The acquisition, maintenance, and disposal of strategic and critical materials under section 98e(a) of this title.

(B) Transportation, storage, and other incidental expenses related to such acquisition, maintenance, and disposal.

(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

(D) Testing and quality studies of stockpile materials.

(E) Studying future material and mobilization requirements for the stockpile.

(F) Activities authorized under section 98h–6 of this title.

(G) Contracting under competitive procedures for materials development and research to—

(i) improve the quality and availability of materials stockpiled from time to time in the stockpile; and

(ii) develop new materials for the stockpile.

(H) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

(I) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.

(J) Pay of employees of the National Defense Stockpile program.

(K) Other expenses of the National Defense Stockpile program.

(3) Moneys in the fund shall remain available until expended.

(c) Moneys received from sale of materials being rotated or disposed of

All moneys received from the sale of materials being rotated under the provisions of section 98e(a)(4) of this title or disposed of under section 98f(a) of this title shall be covered into the fund and shall be available only for the acquisition of replacement materials.

(d) Effect of bartering

If, during a fiscal year, the National Defense Stockpile Manager barters materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall—

(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2) of this section; and

(3) not increase or decrease the balance in the fund.

(June 7, 1939, ch. 190, §9, as added July 30, 1979, Pub. L. 96–41, §2(a), 93 Stat. 323; amended Aug. 13, 1981, Pub. L. 97–35, title II, §203(d), 95 Stat. 382; Nov. 14, 1986, Pub. L. 99–661, div. C, title II, §3203(a), 100 Stat. 4067; Dec. 4, 1987, Pub. L. 100–180, div. C, title II, §3204, 101 Stat. 1247; Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, §3312(b), 103 Stat. 1688; Nov. 5, 1990, Pub. L. 101–510, div. C, title XXXIII, §3301(c), 104 Stat. 1845; Dec. 5, 1991, Pub. L. 102–190, div. C, title XXXIII, §3311(a), 105 Stat. 1584; Oct. 23, 1992, Pub. L. 102–484, div. C, title XXXIII, §3313, 106 Stat. 2653; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIII, §3313, 107 Stat. 1962.)

PRIOR PROVISIONS

A prior section 98h, act June 7, 1939, ch. 190, §9, as added July 23, 1946, ch. 590, 60 Stat. 600, related to disposition of receipts, prior to repeal by section 2(a) of Pub. L. 96–41. See section 98h(b)(1) of this title.

AMENDMENTS

1993—Subsec. (b)(2)(J), (K). Pub. L. 103–160, §3313(a), added subpars. (J) and (K).

Subsec. (b)(4). Pub. L. 103–160, §3313(b), struck out par. (4) which read as follows: ''Notwithstanding paragraph (2), moneys in the fund may not be used to pay salaries and expenses of stockpile employees.''

1992—Subsec. (b)(2)(A). Pub. L. 102–484, §3313(a)(1), inserted '', maintenance, and disposal'' after ''acquisition'' and substituted ''section 98e(a)'' for ''section 98e(a)(1)''.

Subsec. (b)(2)(B). Pub. L. 102–484, §3313(a)(2), substituted ''such acquisition, maintenance, and disposal'' for ''such acquisition''.

Subsec. (b)(2)(H), (I). Pub. L. 102–484, §3313(b), added subpars. (H) and (I).

Subsec. (b)(4). Pub. L. 102–484, §3313(c), added par. (4).

1991—Subsec. (b)(2)(G). Pub. L. 102–190 added subpar. (G).

1990—Subsec. (d). Pub. L. 101–510 added subsec. (d).

1989—Subsec. (b)(2)(F). Pub. L. 101–189 added subpar. (F).

1987—Subsec. (b)(2)(F). Pub. L. 100–180 struck out subpar. (F) which related to other reasonable requirements for management of stockpile.

1986—Subsec. (b)(1). Pub. L. 99–661, §3203(a)(1), struck out ''Such moneys shall remain in the fund until appropriated.'' after ''covered into the fund.''

Subsec. (b)(2), (3). Pub. L. 99–661, §3203(a)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

''(2) Moneys covered into the fund under paragraph (1) shall be available, when appropriated therefor, only for

the acquisition of strategic and critical materials under section 98e(a)(1) of this title (and for transportation related to such acquisition).

''(3) Moneys in the fund, when appropriated, shall remain available until expended, unless otherwise provided in appropriation Acts.''

1981—Subsec. (b). Pub. L. 97–35 in par. (1) struck out provisions relating to moneys remaining in the fund at the end of the third fiscal year following the fiscal year in which received, and in par. (3) substituted provisions respecting funds remaining available until expended, for provisions relating to funds remaining available for a period of five fiscal years.

USE OF FUNDS FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND TO MEET NATIONAL DEFENSE STOCKPILE GOALS AND SPECIFICATIONS IN EFFECT ON OCTOBER 1, 1984

Pub. L. 100–440, title V, § 518, Sept. 22, 1988, 102 Stat. 1748, directed that, no later than Oct. 1, 1989, Administrator of General Services, or any Federal officer assuming Administrator's responsibilities with respect to management of the stockpile, to use all funds authorized and appropriated before Jan. 1, 1985, from National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on Oct. 1, 1984. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–202, § 101(m) [title V, § 519], Dec. 22, 1987, 101 Stat. 1329–390, 1329–417.

Pub. L. 99–500, § 101(m) [title V, § 520], Oct. 18, 1986, 100 Stat. 1783–308, 1783–326, and Pub. L. 99–591, § 101(m) [title V, § 520], Oct. 30, 1986, 100 Stat. 3341–308, 3341–326.

DEPOSIT OF FUNDS ACCRUING FROM NAVAL PETROLEUM RESERVES

Pub. L. 98–525, title IX, § 905, Oct. 19, 1984, 98 Stat. 2574, as amended by Pub. L. 99–145, title XVI, § 1611(a), Nov. 8, 1985, 99 Stat. 776, provided that: ''There shall be deposited into the National Defense Stockpile Transaction Fund established under section 9 of the Act (50 U.S.C. 98h) 30 percent of all money accruing to the United States during fiscal years 1985 and 1986 from lands in the naval petroleum and oil shale reserves (less amounts spent for exploration, development and operation of those reserves and related expenses during that period). Moneys deposited into the Fund under this subsection shall be deemed to have been covered into the Fund under section 9(b) of the Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98h–2 of this title.

§ 98h–1. Advisory committees

(a) Membership

The President may appoint advisory committees composed of individuals with expertise relating to materials in the stockpile or with expertise in stockpile management to advise the President with respect to the acquisition, transportation, processing, refining, storage, security, maintenance, rotation, and disposal of such materials under this subchapter.

(b) Expenses

Each member of an advisory committee established under subsection (a) of this section while serving on the business of the advisory committee away from such member's home or regular place of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons intermittently employed in the Government service.

(c) Market Impact Committee

(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

(2) The Committee shall advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan submitted to Congress under section 98h–2(b) of this title, or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

(3) The annual materials plan or the revision of such plan, as the case may be, shall contain—

(A) the views of the Committee on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile;

(B) the recommendations submitted by the Committee under paragraph (2); and

(C) for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.

(4) In developing recommendations for the National Defense Stockpile Manager under paragraph (2), the Committee shall consult from time to time with representatives of producers, processors, and consumers of the types of materials stored in the stockpile.

(June 7, 1939, ch. 190, § 10, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 323; amended Oct. 23, 1992, Pub. L. 102–484, div. C, title XXXIII, § 3314, 106 Stat. 2654.)

PRIOR PROVISIONS

A prior section 10 of act June 7, 1939, ch. 190, § 10, was renumbered section 13 and is classified to section 98h–4 of this title.

Provisions similar to those in this section were contained in former section 98a(b) of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–484 added subsec. (c).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration

is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

ADVISORY COMMITTEE REGARDING OPERATION AND MODERNIZATION OF STOCKPILE

Section 3306 of Pub. L. 102–484 provided that:

''(a) APPOINTMENT.—Not later than March 15, 1993, the President shall appoint an advisory committee under section 10(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(a)) to make recommendations to the President concerning the operation and modernization of the National Defense Stockpile.

''(b) MEMBERSHIP.—The committee shall consist of members who have expertise regarding strategic and critical materials, including—

''(1) employees of Federal agencies (including the Department of Defense, the Department of State, the Department of Commerce, the Department of Energy, the Department of the Treasury, the Department of the Interior, and the Federal Emergency Management Agency);

''(2) representatives of mining, processing, and fabricating industries and consumers that would be affected by the acquisition of materials for the stockpile or the disposal of materials from the stockpile; and

''(3) other interested persons or representatives of interested organizations.''

§ 98h–2. Reports to Congress

(a) Not later than January 15 of each year, the President shall submit to the Congress an annual written report detailing operations under this subchapter. Each such report shall include—

(1) information with respect to foreign and domestic purchases of materials during the preceding fiscal year;

(2) information with respect to the acquisition and disposal of materials under this subchapter by barter, as provided for in section 98e(c) of this title, during such fiscal year;

(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

(4) information with respect to the research and development activities conducted under sections 98a and 98g of this title;

(5) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made to the fund, and obligations to be made from the fund, during the current fiscal year; and

(6) such other pertinent information on the administration of this subchapter as will enable the Congress to evaluate the effectiveness of the program provided for under this subchapter and to determine the need for additional legislation.

(b)(1) Not later than February 15 of each year, the President shall submit to the appropriate committees of the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years.

(2) Each such report shall include details of all planned expenditures from the National Defense Stockpile Transaction Fund during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period. Each such report shall also contain details regarding the materials development and research projects to be conducted under section 98h(b)(2)(G) of this title during the fiscal years covered by the report. With respect to each development and research project, the report shall specify the amount planned to be expended from the fund, the material intended to be developed, the potential military or defense industrial applications for that material, and the development and research methodologies to be used.

(3) Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 98d(a)(2) of this title, that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 98d(a)(2) of this title, as appropriate.

(June 7, 1939, ch. 190, § 11, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 324; amended Aug. 13, 1981, Pub. L. 97–35, title II, § 203(e), 95 Stat. 382; Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3207(a)(3), 100 Stat. 4069; Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3205, 101 Stat. 1247; Sept. 29, 1988, Pub. L. 100–456, div. A, title XV, § 1503, 102 Stat. 2086; Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, § 3315, 103 Stat. 1688; Dec. 5, 1991, Pub. L. 102–190, div. C, title XXXIII, §§ 3311(b), 3313(a), 105 Stat. 1584; May 31, 1993, Pub. L. 103–35, title II, § 204(d), 107 Stat. 103.)

PRIOR PROVISIONS

A prior section 11 of act June 7, 1939, ch. 190, formerly § 10, as added July 23, 1946, ch. 590, 60 Stat. 596; renumbered § 11, Pub. L. 92–156, title V, § 503(1), Nov. 17, 1971, 85 Stat. 427, was set out as a Short Title note under section 98 of this title, prior to repeal by section 2(b)(2) of Pub. L. 96–41.

Provisions similar to those in this section were contained in former section 98c of this title prior to repeal by Pub. L. 96–41.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–35 substituted ''fiscal year'' for ''six-month period''.

1991—Subsec. (a). Pub. L. 102–190, § 3313(a)(1), substituted ''Not later than January 15 of each year, the President'' for ''The President'' and ''an annual'' for ''every six months a''.

Subsec. (a)(1). Pub. L. 102–190, § 3313(a)(2), which directed the substitution of ''fiscal year'' for ''6-month period'', could not be executed because the words ''6-month period'' did not appear in text.

Subsec. (a)(2). Pub. L. 102–190, § 3313(a)(3), substituted ''fiscal year'' for ''period''.

Subsec. (a)(5). Pub. L. 102–190, § 3313(a)(4), substituted ''current fiscal year'' for ''next fiscal year''.

Subsec. (b)(1). Pub. L. 102–190, § 3311(b)(1), designated first sentence of subsec. (b) relating to submission of report as par. (1).

Subsec. (b)(2). Pub. L. 102–190, § 3311(b), designated second sentence of subsec. (b) relating to contents of report as par. (2) and inserted at end ''Each such report

shall also contain details regarding the materials development and research projects to be conducted under section 98h(b)(2)(G) of this title during the fiscal years covered by the report. With respect to each development and research project, the report shall specify the amount planned to be expended from the fund, the material intended to be developed, the potential military or defense industrial applications for that material, and the development and research methodologies to be used.''

Subsec. (b)(3). Pub. L. 102–190, § 3311(b)(1), designated third sentence of subsec. (b) relating to resubmission of proposed expenditures and disposals not obligated or executed as par. (3).

1989—Subsec. (a)(5). Pub. L. 101–189 substituted ''made to the fund, and obligations to be made from the fund,'' for ''made from the fund''.

1988—Subsec. (a)(3) to (6). Pub. L. 100–456, § 1503(a), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

Subsec. (b). Pub. L. 100–456, § 1503(b), substituted ''the next fiscal year'' for ''such fiscal year'' and ''all planned expenditures from the National Defense Stockpile Transaction Fund'' for ''planned expenditures for acquisition of strategic and critical materials'' and inserted at end ''Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 98d(a)(2) of this title, that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 98d(a)(2) of this title, as appropriate.''

1987—Subsec. (b). Pub. L. 100–180 substituted ''Not later than February 15 of each year, the President'' for ''The President'' and struck out ''each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year,'' after ''Congress''.

1986—Subsec. (b). Pub. L. 99–661 substituted ''each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year,'' for each year with the Budget submitted to Congress pursuant to section 201a of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), for the next fiscal year''.

1981—Pub. L. 97–35 designated existing provisions as subsec. (a) and added subsec. (b).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 98d, 98h–1, 98h–6 of this title.

§ 98h–3. Definitions

For the purposes of this subchapter:

(1) The term ''strategic and critical materials'' means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) The term ''national emergency'' means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

(June 7, 1939, ch. 190, § 12, as added July 30, 1979, Pub. L. 96–41, § 2(a), 93 Stat. 324.)

§ 98h–4. Importation of strategic and critical materials

The President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this subchapter, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in general note 3(b) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law.

(June 7, 1939, ch. 190, § 13, formerly § 10, as added Nov. 17, 1971, Pub. L. 92–156, title V, § 503(2), 85 Stat. 427; renumbered § 13, July 30, 1979, Pub. L. 96–41, § 2(b)(1), 93 Stat. 324; amended Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3206(b), (c), 101 Stat. 1247; Aug. 23, 1988, Pub. L. 100–418, title I, § 1214(*o*), 102 Stat. 1159.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

CODIFICATION

Section was formerly classified to section 98h–1 of this title.

AMENDMENTS

1988—Pub. L. 100–418 substituted ''general note 3(b) of the Harmonized Tariff Schedule of the United States'' for ''general headnote 3(d) of the Tariff Schedules of the United States''.

1987—Pub. L. 100–180 inserted section catchline and, in text, substituted ''The President'' for ''Notwithstanding any other provision of law, on and after January 1, 1972, the President''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98h–7 of this title.

§ 98h–5. Biennial report on stockpile requirements

(a) In general

Not later than January 15 of every other year, the Secretary of Defense shall submit to Congress a report on stockpile requirements. Each such report shall include—

(1) the Secretary's recommendations with respect to stockpile requirements; and

(2) the matters required under subsection (b) of this section.

(b) Contents

Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary. Before October 1, 1994, such assumptions shall be based upon the

total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years. On and after October 1, 1994, such assumptions shall be based on an assumed national emergency involving military conflict that necessitates an expansion of the Armed Forces together with a significant mobilization of the economy of the United States. Assumptions to be set forth include assumptions relating to each of the following:

(1) Length and intensity of the assumed emergency.

(2) The military force structure to be mobilized.

(3) Losses from enemy action.

(4) Military, industrial, and essential civilian requirements to support the national emergency.

(5) Budget authority necessary to meet the requirements of total mobilization for the military, industrial, and essential civilian sectors.

(6) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

(7) Domestic production of strategic and critical materials.

(8) Civilian austerity measures.

(c) Plans of President

The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.

(June 7, 1939, ch. 190, § 14, as added Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3202(c), 101 Stat. 1246; amended Dec. 5, 1991, Pub. L. 102–190, div. C, title XXXIII, § 3313(b)(1), (2), 105 Stat. 1585; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIII, § 3314, 107 Stat. 1962.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–160 struck out before period at end of first sentence ", based upon total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years" and inserted after first sentence "Before October 1, 1994, such assumptions shall be based upon the total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years. On and after October 1, 1994, such assumptions shall be based on an assumed national emergency involving military conflict that necessitates an expansion of the Armed Forces together with a significant mobilization of the economy of the United States."

1991—Pub. L. 102–190, § 3313(b)(2), substituted "Biennial" for "Annual" in section catchline.

Subsec. (a). Pub. L. 102–190, § 3313(b)(1), in introductory provisions, substituted "Not later than January 15 of every other year, the Secretary" for "The Secretary" and "a report" for "an annual report" and struck out "shall be submitted with the annual report submitted under section 98h–2(b) of this title and" before "shall include".

INITIAL REPORT DUE DATE

Section 3313(b)(3) of Pub. L. 102–190 provided that: "The first report required by section 14(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5(a)), as amended by paragraph (1) shall be submitted not later than January 15, 1993."

§ 98h–6. Development of domestic sources

(a) Purchase of materials of domestic origin; processing of materials in domestic facilities

Subject to subsection (c) of this section and to the extent the President determines such action is required for the national defense, the President shall encourage the development of domestic sources for materials determined pursuant to section 98b(a) of this title to be strategic and critical materials—

(1) by purchasing, or making a commitment to purchase, strategic and critical materials of domestic origin when such materials are needed for the stockpile; and

(2) by contracting with domestic facilities, or making a commitment to contract with domestic facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage and subsequent disposition.

(b) Terms and conditions of contracts and commitments

A contract or commitment made under subsection (a) of this section may not exceed five years from the date of the contract or commitment. Such purchases and commitments to purchase may be made for such quantities and on such terms and conditions, including advance payments, as the President considers to be necessary.

(c) Proposed transactions included in annual materials plan; availability of funds

(1) Descriptions of proposed transactions under subsection (a) of this section shall be included in the appropriate annual materials plan submitted to Congress under section 98h–2(b) of this title. Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in the manner provided by section 98d(a)(2) of this title.

(2) The authority of the President to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund are adequate to meet such obligations. Payments required to be as a result of obligations incurred under this section shall be made from amounts in the fund.

(d) Transportation and incidental expenses

The authority of the President under subsection (a) of this section includes the authority to pay—

(1) the expenses of transporting materials; and

(2) other incidental expenses related to carrying out such subsection.

(e) Reports

The President shall include in the reports required under section 98h–2(a) of this title information with respect to activities conducted under this section.

(June 7, 1939, ch. 190, § 15, as added Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, § 3312(a), 103 Stat. 1687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98h of this title.

§ 98h–7. National Defense Stockpile Manager

(a) Appointment

The President shall designate a single Federal office to have responsibility for performing the functions of the President under this subchapter, other than under sections 98f and 98h–4 of this title. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

(b) Title of designated officer

The individual holding the office designated by the President under subsection (a) of this section shall be known for purposes of functions under this subchapter as the ''National Defense Stockpile Manager''.

(c) Delegation of functions

The President may delegate functions of the President under this subchapter (other than under sections 98f and 98h–4 of this title) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order. The President may not delegate functions of the President under sections 98f and 98h–4 of this title.

(June 7, 1939, ch. 190, § 16, formerly § 6A, as added Nov. 14, 1986, Pub. L. 99–661, div. C, title II, § 3202(a), 100 Stat. 4067; amended Dec. 4, 1987, Pub. L. 100–180, div. C, title II, § 3203(a), 101 Stat. 1246; renumbered § 16 and amended Nov. 29, 1989, Pub. L. 101–189, div. C, title XXXIII, § 3313, 103 Stat. 1688; Dec. 5, 1991, Pub. L. 102–190, div. C, title XXXIII, § 3314, 105 Stat. 1585.)

CODIFICATION

Section was classified to section 98e–1 of this title prior to its renumbering by Pub. L. 101–189.

AMENDMENTS

1991—Subsec. (d). Pub. L. 102–190 struck out subsec. (d) which read as follows: ''During any period during which there is no officer appointed by the President, by and with the advice and consent of the Senate, serving in the position designated by the President under subsection (a) of this section or during which the authority of the President under this subchapter (other than under sections 98f and 98h–4 of this title) has not been delegated to that position, no action may be taken under section 98e(a)(6) of this title.''

1989—Subsec. (a). Pub. L. 101–189, § 3313(b)(1), substituted ''sections 98f and 98h–4'' for ''sections 98f, 98g, and 98h–4''.

Subsec. (c). Pub. L. 101–189, § 3313(b)(1), (2), substituted ''sections 98f and 98h–4'' for ''sections 98f, 98g, and 98h–4'' and inserted at end ''The President may not delegate functions of the President under sections 98f and 98h–4 of this title.'' after ''Executive order.''

Subsec. (d). Pub. L. 101–189, § 3313(b)(1), (3), substituted ''sections 98f and 98h–4'' for ''sections 98f, 98g, and 98h–4'' and ''section 98e(a)(6)'' for ''section 98e(b) or 98e(d)''.

1987—Pub. L. 100–180 amended section generally, revising and restating provisions of subsecs. (a) and (b) and adding subsecs. (c) and (d).

SAVINGS PROVISION

Section 3203(c) of Pub. L. 100–180 provided that: ''Unless otherwise directed by the President under section 6A [renumbered § 16] of the Strategic and Critical Materials Stock Piling Act [this section], as amended by subsection (a), the designation of a National Defense Stockpile Manager in effect on the day before the date of the enactment of this Act [Dec. 4, 1987] shall remain in effect until the individual so designated ceases to hold the office held by the individual at the time of the designation.''

DESIGNATION OF NATIONAL DEFENSE STOCKPILE MANAGER; DELEGATION OF FUNCTIONS

The Secretary of Defense was designated National Defense Stockpile Manager and functions of the President under this section were delegated to the Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

DEADLINE FOR DESIGNATION OF MANAGER

Section 3202(b) of Pub. L. 99–661 directed President, not later than Feb. 15, 1987, to designate an official as National Defense Stockpile Manager, as required by this section.

§ 98i. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1570

Section, act Aug. 3, 1956, ch. 939, title IV, § 416, 70 Stat. 1018, related to contracts for storage, handling, and distribution of liquid fuels. See section 2388 of Title 10, Armed Forces.

Section was not enacted as part of the Strategic and Critical Materials Stock Piling Act which comprises this subchapter.

§ 99. Transferred

CODIFICATION

Section, act July 2, 1940, ch. 508, § 6, 54 Stat. 714, was transferred to section 701 of Appendix to this title and subsequently repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§ 100. Nitrate plants

(a) Investigations; designation of sites; construction and operation of dams, locks, improvements to navigation, etc.

The President of the United States may make, or cause to be made, such investigation as in his judgment is necessary to determine the best, cheapest, and most available means for the production of nitrates and other products for munitions of war and useful in the manufacture of fertilizers and other useful products by water power or any other power as in his judgment is the best and cheapest to use; and is also authorized to designate for the exclusive use of the United States, if in his judgment such means is best and cheapest, such site or sites, upon any navigable or nonnavigable river or rivers or upon the public lands, as in his opinion will be necessary for national defense; and is further authorized to construct, maintain, and operate, at or on any site or sites so designated, dams, locks, improvements to navigation, power houses, and other plants and equipment or other means than water power as in his judgment is the best and cheapest, necessary or convenient for the generation of electrical or other power and for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers and other useful products.

(b) Lease, purchase, or acquisition of lands and rights of way; purchase or acquisition of materials, minerals, and processes

The President is authorized to lease, buy, or acquire, by condemnation, gift, grant, or devise,

such lands and rights of way as may be necessary for the construction and operation of such plants and to take from any lands of the United States, or to buy or acquire by condemnation materials, minerals, and processes, patented or otherwise, necessary for the construction and operation of such plants and for the manufacture of such products.

(c) Use of products of plants; disposal of surplus

The products of such plants shall be used by the President for military and naval purposes to the extent that he may deem necessary, and any surplus which he shall determine is not required shall be sold and disposed of by him under such regulations as he may prescribe.

(d) Employment of officers, agents, or agencies

The President is authorized to employ such officers, agents, or agencies as may in his discretion be necessary to enable him to carry out the purposes herein specified, and to authorize and require such officers, agents, or agencies to perform any and all of the duties imposed upon him by the provisions hereof.

(e) Government construction and operation

The plant or plants provided for under this section shall be constructed and operated solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

(Aug. 10, 1956, ch. 1041, § 37, 70A Stat. 634.)

CODIFICATION

Section was not enacted as part of the Strategic and Critical Materials Stock Piling Act which comprises this subchapter.

§ 100a. Omitted

CODIFICATION

Section, which was from the Department of Defense Appropriation Act, 1983, Pub. L. 97–377, title I, § 101(c) [title VII, § 712], Dec. 21, 1982, 96 Stat. 1833, 1851, prohibited use of funds available to Department of Defense agencies for acquisition, construction, or operation of certain scrap-processing facilities, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Dec. 29, 1981, Pub. L. 97–114, title VII, § 712, 95 Stat. 1580.
Dec. 15, 1980, Pub. L. 96–527, title VII, § 713, 94 Stat. 3082.
Dec. 21, 1979, Pub. L. 96–154, title VII, § 713, 93 Stat. 1154.
Oct. 13, 1978, Pub. L. 95–457, title VIII, § 813, 92 Stat. 1246.
Sept. 21, 1977, Pub. L. 95–111, title VIII, § 812, 91 Stat. 901.
Sept. 22, 1976, Pub. L. 94–419, title VII, § 712, 90 Stat. 1293.
Feb. 9, 1976, Pub. L. 94–212, title VII, § 712, 90 Stat. 170.
Oct. 8, 1974, Pub. L. 93–437, title VIII, § 812, 88 Stat. 1226.
Jan. 2, 1974, Pub. L. 93–238, title VII, § 712, 87 Stat. 1040.
Oct. 26, 1972, Pub. L. 92–570, title VII, § 712, 86 Stat. 1198.
Dec. 18, 1971, Pub. L. 92–204, title VII, § 712, 85 Stat. 729.
Jan. 11, 1971, Pub. L. 91–668, title VIII, § 812, 84 Stat. 2032.
Dec. 29, 1969, Pub. L. 91–171, title VI, § 612, 83 Stat. 481.
Oct. 17, 1968, Pub. L. 90–580, title V, § 511, 82 Stat. 1131.
Sept. 29, 1967, Pub. L. 90–96, title VI, § 611, 81 Stat. 244.
Oct. 15, 1966, Pub. L. 89–687, title VI, § 611, 80 Stat. 992.
Sept. 29, 1965, Pub. L. 89–213, title VI, § 611, 79 Stat. 875.
Aug. 19, 1964, Pub. L. 88–446, title V, § 511, 78 Stat. 476.
Oct. 17, 1963, Pub. L. 88–149, title V, § 511, 77 Stat. 265.
Aug. 9, 1962, Pub. L. 87–577, title V, § 511, 76 Stat. 329.
Aug. 17, 1961, Pub. L. 87–144, title VI, § 611, 75 Stat. 377.
July 7, 1960, Pub. L. 86–601, title V, § 511, 74 Stat. 351.
Aug. 18, 1959, Pub. L. 86–166, title V, § 611, 73 Stat. 380.
Aug. 22, 1958, Pub. L. 85–724, title VI, § 611, 72 Stat. 725.
Aug. 2, 1957, Pub. L. 85–117, title VI, § 612, 71 Stat. 325.
July 2, 1956, ch. 488, title VI, § 612, 70 Stat. 469.
July 13, 1955, ch. 358, title VI, § 615, 69 Stat. 317.
June 30, 1954, ch. 432, title VII, § 715, 68 Stat. 352.

CHAPTER 6—WILLFUL DESTRUCTION, ETC., OF WAR OR NATIONAL-DEFENSE MATERIAL

§§ 101 to 106. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 101, acts Apr. 20, 1918, ch. 59, § 1, 40 Stat. 533; Nov. 30, 1940, ch. 926, 54 Stat. 1220; Dec. 24, 1942, ch. 824, 56 Stat. 1087; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, related to definition of war terms. See section 2151 of Title 18, Crimes and Criminal Procedure.

Section 102, act Apr. 20, 1918, ch. 59, § 2, 40 Stat. 534, related to destruction or injury of war material in time of war. See section 2153 of Title 18.

Section 103, act Apr. 20, 1918, ch. 59, § 3, 40 Stat. 534, related to making or causing to be made defective war material. See section 2154 of Title 18.

Section 104, act Apr. 20, 1918, ch. 59, § 4, as added Nov. 30, 1940, ch. 926, 54 Stat. 1220; amended Aug. 21, 1941, ch. 388, 55 Stat. 655, related to definition of national-defense terms. See section 2151 of Title 18.

Section 105, act Apr. 20, 1918, ch. 59, § 5, as added Nov. 30, 1940, ch. 926, 54 Stat. 1220, related to destruction or injury of national-defense materials. See section 2155 of Title 18.

Section 106, act Apr. 20, 1918, ch. 59, § 6, as added Nov. 30, 1940, ch. 926, 54 Stat. 1220, related to making or causing to be made defective national-defense material. See section 2156 of Title 18.

EFFECTIVE DATE OF REPEAL

Repeal of sections 101 to 106 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

CHAPTER 7—INTERFERENCE WITH HOMING PIGEONS OWNED BY UNITED STATES

§§ 111 to 113. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 111, act Apr. 19, 1918, ch. 58, § 1, 40 Stat. 533, related to prohibited acts affecting homing pigeons owned by United States. See section 45 of Title 18, Crimes and Criminal Procedure.

Section 112, act Apr. 19, 1918, ch. 58, § 2, 40 Stat. 533, related to possession of pigeons as evidence of violation of law. See section 45 of Title 18.

Section 113, act Apr. 19, 1918, ch. 58, § 3, 40 Stat. 533, related to punishment. See section 45 of Title 18.

EFFECTIVE DATE OF REPEAL

Repeal of sections 111 to 113 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

CHAPTER 8—EXPLOSIVES; MANUFACTURE, DISTRIBUTION, STORAGE, USE, AND POSSESSION REGULATED

§§ 121 to 144. Repealed. Pub. L. 91–452, title XI, § 1106(a), Oct. 15, 1970, 84 Stat. 960

Section 121, acts Oct. 6, 1917, ch. 83, § 1, 40 Stat. 385; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 863, defined ''explosive'', ''explosives'', ''ingredients'', ''person'', and ''Director''. See section 841 of Title 18, Crimes and Criminal Procedure.

Section 122, acts Oct. 6, 1917, ch. 83, § 2, 40 Stat. 385; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 864, related to unauthorized manufacture, distribution, possession, acquisition, etc., of explosives or ingredients. See section 842 of Title 18.

Section 123, acts Oct. 6, 1917, ch. 83, § 3, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 864; Nov. 24, 1942, ch. 641, 56 Stat. 1022; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1405, 72 Stat. 808; Oct. 15, 1966, Pub. L. 89–670, § 8(f), 80 Stat. 943, excepted from provisions of this chapter purchase or possession of ingredients when purchased or held in small quantities and not used or intended to be used in manufacture of explosives, explosives or ingredients in transit in conformity with applicable law, explosives manufactured under authority of the United States for armed forces or the F.B.I., and arsenals, etc., owned by, or operated by or on behalf of, the United States. See section 845 of Title 18.

Section 124, acts Oct. 6, 1917, ch. 83, § 4, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 864, authorized a superintendent, foreman, or other duly authorized employee at a mine, quarry, or other work, when licensed, to sell or issue to any employee under him such amount of explosives or ingredients required by that employee in performance of his duties. See section 843 of Title 18.

Section 125, acts Oct. 6, 1917, ch. 83, § 2, 40 Stat. 385; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 863, related to applicability of prohibitory provisions of this chapter.

Section 126, acts Oct. 6, 1917, ch. 83, § 5, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 864, required licensees to keep records of disposition of explosives or ingredients. See section 843 of Title 18.

Section 127, acts Oct. 6, 1917, ch. 83, § 6, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 865, authorized issuance of licenses. See section 843 of Title 18.

Section 128, acts Oct. 6, 1917, ch. 83, § 7, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 865, set forth procedure for issuance of licenses and fees for such licenses.

Section 129, acts Oct. 6, 1917, ch. 83, § 8, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 865; Ex. Ord. No. 9287, eff. Dec. 24, 1942, 7 F.R. 10897, provided for term of license, qualifications of applicants for licenses, and revocation of license. See section 843 of Title 18.

Section 130, acts Oct. 6, 1917, ch. 83, § 9, 40 Stat. 386; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 866, set forth contents of applications for licenses. See section 843 of Title 18.

Section 131, acts Oct. 6, 1917, ch. 83, § 10, 40 Stat. 387; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 866, required licensee or applicant to furnish information on request of Director or his authorized representative. See section 843 of Title 18.

Section 132, acts Oct. 6, 1917, ch. 83, § 11, 40 Stat. 387; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 867, related to false representations as to required license.

Section 133, acts Oct. 6, 1917, ch. 83, § 12, 40 Stat. 387; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 867, related to markings on manufacturing or storage premises for explosives.

Section 134, act July 1, 1918, ch. 113, 40 Stat. 671, related to cancellation of licenses for violations of law. See section 844 of Title 18.

Section 135, acts Oct. 6, 1917, ch. 83, § 13, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 867, related to exclusion of public from manufacturing or storage premises for explosives and discharge of firearms, etc., on such premises.

Section 136, acts Oct. 6, 1917, ch. 83, § 14, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 867, authorized investigations by Director of explosions and fires involving explosives or ingredients of explosives.

Section 137, acts Oct. 6, 1917, ch. 83, § 15, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 867, authorized Director to exercise authority conferred upon him by this chapter under supervision of Secretary of the Interior and cooperation of other agencies with Director in administration and enforcement of this chapter.

Section 138, acts Oct. 6, 1917, ch. 83, § 16, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 868; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, authorized employment of personnel for administration of this chapter.

Section 139, acts Oct. 6, 1917, ch. 83, § 17, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 868, prohibited any officer, employee, or licensing agent from divulging any information obtained in course of his duties under this chapter.

Section 140, acts Oct. 6, 1917, ch. 83, § 18, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 868, authorized Director to issue rules and regulations. See section 847 of Title 18.

Section 141, acts Oct. 6, 1917, ch. 83, § 19, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 868, set forth penalties for violations of this chapter. See section 844 of Title 18.

Section 142, acts Oct. 6, 1917, ch. 83, § 20, 40 Stat. 388; Dec. 26, 1941, ch. 633, § 2, 55 Stat. 868, provided that this chapter and regulations issued pursuant to it were to become operative only during war or national emergency.

Section 143, act Oct. 6, 1917, ch. 83, § 21, 40 Stat. 389, related to agencies available for enforcement of provisions of this chapter.

Section 144, act July 1, 1918, ch. 113, 40 Stat. 671, subjected platinum, iridium, and palladium and compounds thereof to provisions of this chapter.

CHAPTER 9—AIRCRAFT

§§ 151 to 151f. Omitted

CODIFICATION

Sections 151 to 151f which related to a National Advisory Committee for Aeronautics were omitted pursuant to section 301(a) of Pub. L. 85–568, title III, July 29, 1958, 72 Stat. 432, set out as a note under section 2472 of Title 42, The Public Health and Welfare, which terminated the Committee and transferred all its functions, powers, duties, and obligations to the National Aeronautics and Space Administration. See section 2451 et seq. of Title 42.

Section 151, acts Mar. 3, 1915, ch. 83, 38 Stat. 930; Mar. 2, 1929, ch. 482, 45 Stat. 1451; June 23, 1938, ch. 601, § 1107(e), 52 Stat. 1027; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; May 25, 1948, ch. 335, § 1, 62 Stat. 266; Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591; Aug. 8, 1950, ch. 645, § 4, 64 Stat. 419; June 3, 1954, ch. 254, 68 Stat. 170, established National Advisory Committee for Aeronautics, provided for its composition, prescribed compensation of members and duties of Committee, and required reports to Congress.

Section 151a, act Mar. 2, 1929, ch. 482, 45 Stat. 1451, was incorporated in section 151 of this title.

Section 151b, act Aug. 8, 1950, ch. 645, § 1, 64 Stat. 418, related to functions of Committee.

Section 151c, act Aug. 8, 1950, ch. 645, § 2, 64 Stat. 418, related to transfer of supplies to Committee.

Section 151d, act Aug. 8, 1950, ch. 645, § 3, 64 Stat. 418, related to employment of aliens.

Section 151e, act Aug. 8, 1950, ch. 645, § 6, 64 Stat. 419, related to availability of appropriations.

Section 151f, act Aug. 8, 1950, ch. 645, § 7, 64 Stat. 419, related to prosecution of projects.

§§ 152, 153. Repealed. May 25, 1948, ch. 335, § 3(a), (b), 62 Stat. 267

Section 152, act July 1, 1918, ch. 113, 40 Stat. 650, as amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to office space for Advisory Committee.

Section 153, act Mar. 3, 1915, ch. 83, 38 Stat. 930, related to annual reports.

§ 154. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1114

Section, act Apr. 22, 1926, ch. 171, 44 Stat. 314, related to purchases and services.

§ 155. Repealed. May 25, 1948, ch. 335, § 3(c), 62 Stat. 267

Section, act Apr. 22, 1926, ch. 171, 44 Stat. 314, related to Langley Memorial Aeronautical Laboratory.

§§ 156, 157. Omitted

CODIFICATION

Section 156, acts Apr. 18, 1940, ch. 107, § 1, 54 Stat. 134; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, authorized National Advisory Committee for Aeronautics to pay compensation of a retired officer of the Army or Navy performing service for Committee. See note set out under sections 151 to 151f of this title.

Section 157, which related to transfer of aircraft, supplies, and equipment by Army and Navy to National Advisory Committee for Aeronautics, was from appropriation acts July 30, 1947, ch. 359, title I, § 101, 61 Stat. 599; Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 188; Aug. 24, 1949, ch. 506, title I, § 101, 63 Stat. 646; Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 711, and was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268. Section was formerly classified to section 246 of former Title 49, Transportation.

§§ 158 to 159. Transferred

CODIFICATION

Section 158, act Aug. 1, 1947, ch. 433, § 1(b), (c), as added July 13, 1949, ch. 332, § 1, 63 Stat. 410, related to professional and scientific service on the Committee and was transferred to section 1161 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378.

Section 158a, act Aug. 1, 1947, ch. 433, § 2, 61 Stat. 715, related to classification of positions and appointments and was transferred to section 1162 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, and reenacted as section 3104(b) of Title 5, Government Organization and Employees.

Section 159, acts Aug. 1, 1947, ch. 433, § 3, 61 Stat. 715; July 13, 1949, ch. 332, § 2, 63 Stat. 411, related to reports to Congress and confidential information and was transferred to section 1163 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, and reenacted as section 3104(c) of Title 5, Government Organization and Employees.

§ 160. Omitted

CODIFICATION

Section, which was from acts Aug. 24, 1949, ch. 506, title I, § 101, 63 Stat. 646; Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 711, and prior appropriation acts, related to employment of aliens, and was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268.

§§ 160a to 160f. Repealed. Pub. L. 85–707, § 21(b)(5), July 7, 1958, 72 Stat. 337

Section 160a, act Apr. 11, 1950, ch. 86, § 1, 64 Stat. 43, related to employees pursuing graduate study or research.

Section 160b, act Apr. 11, 1950, ch. 86, § 2, 64 Stat. 43, related to acceptable types of graduate study and research.

Section 160c, act Apr. 11, 1950, ch. 86, § 3, 64 Stat. 43, related to duration of leaves of absence available.

Section 160d, act Apr. 11, 1950, ch. 86, § 4, 64 Stat. 43, related to payment of tuition and expenses.

Section 160e, act Apr. 11, 1950, ch. 86, § 5, 64 Stat. 43, related to continuation of salary and leave benefits.

Section 160f, acts Apr. 11, 1950, ch. 86, § 6, 64 Stat. 43; May 6, 1954, ch. 183, 68 Stat. 78; Mar. 17, 1958, Pub. L. 85–349, 72 Stat. 48, related to limitation on government expenditure.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 21(a) of Pub. L. 85–507.

CHAPTER 10—HELIUM GAS

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§§ 161 to 164. Omitted

CODIFICATION

Act Mar. 3, 1925, ch. 426, 43 Stat. 1110, as completely amended, renumbered, and revised by Pub. L. 86–777, Sept. 13, 1960, 74 Stat. 918, is classified to section 167 et seq. of this title.

Section 161, acts Mar. 3, 1925, ch. 426, § 1, 43 Stat. 1110; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 885, authorized Secretary of the Interior to acquire and reserve helium-gas lands and to produce and store helium gas. See section 3 of act Mar. 3, 1925, as amended by Pub. L. 86–777, which is classified to section 167a of this title.

Section 162, acts Feb. 12, 1925, ch. 225, title I, 43 Stat. 908; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, authorized Navy Department to acquire helium-gas lands and to produce and experiment with helium gas.

Section 163, acts Mar. 3, 1925, ch. 426, § 2, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 886, authorized Bureau of Mines to produce helium gas. See section 4 of act Mar. 3, 1925, as amended by Pub. L. 86–777, which is classified to section 167b of this title.

Section 164, acts Mar. 3, 1925, ch. 426, § 3, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 886, related to disposal of helium by sale, upon request of Army or Navy or other Federal Government agencies, or for medicinal, scientific or commercial

use, to deposit and use of funds obtained by sale of gas, and to an annual report to Congress by Secretary of the Interior on said funds. See section 6 of act Mar. 3, 1925, as amended by Pub. L. 86–777, which is classified to section 167d of this title.

§ 165. Repealed. Aug. 26, 1954, ch. 937, title V, § 542(a)(13), 68 Stat. 861

Section, acts Mar. 3, 1925, ch. 426, § 4, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1388; Sept. 1, 1937, ch. 895, 50 Stat. 887, related to exportation of helium gas. See section 2778 of Title 22, Foreign Relations and Intercourse.

§ 166. Omitted

Section, acts Mar. 3, 1925, ch. 426, § 5, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1388; Sept. 1, 1937, ch. 895, 50 Stat. 887; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, authorized Secretaries of Army and Navy to designate representatives to cooperate with Department of the Interior to effectuate the purposes of this chapter, and gave them the right of access to plants, data, and accounts. See section 7 of act Mar. 3, 1925, as amended by Pub. L. 86–777, which is classified to section 167e of this title.

§ 167. Definitions

As used in this chapter:

(1) The term ''Secretary'' means the Secretary of the Interior;

(2) The term ''person'' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or State or political subdivision thereof; and

(3) The terms ''helium-bearing natural gas'' and ''helium-gas mixture'' mean, respectively, natural gas and gas mixtures containing three-tenths of 1 per centum or more of helium by volume.

(Mar. 3, 1925, ch. 426, § 2, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 918.)

PRIOR PROVISIONS

A prior section 2 of act Mar. 3, 1925, authorized Bureau of Mines to produce helium gas and was classified to section 163 of this title, prior to the general amendment of this chapter by Pub. L. 86–777.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3 of Pub. L. 86–777 provided that: ''The amendment made by this Act [enacting this section and sections 167a to 167n of this title] shall become effective on March 1, 1961.''

SHORT TITLE OF 1960 AMENDMENT

Section 1 of Pub. L. 86–777 provided that: ''This Act [enacting this section, sections 167a to 167n of this title, and provisions set out as notes below] may be cited as the 'Helium Act Amendments of 1960'.''

SHORT TITLE

Section 1 of act Mar. 3, 1925, as added by Pub. L. 86–777, § 2, provided that: ''This Act [enacting this section, sections 167a to 167n of this title, and provision set out as a note below] may be cited as the 'Helium Act'.''

SEPARABILITY

Section 17 of act Mar. 3, 1925, as added by Pub. L. 86–777, § 2, provided that: ''If any provision of this Act [enacting this section, sections 167a to 167n of this title, and provisions set out as a note above], or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''

§ 167a. Authority of Secretary

(a) Conserving, producing, buying and selling helium

For the purpose of conserving, producing, buying, and selling helium, the Secretary is authorized—

(1) to acquire by purchase, lease, gift, exchange, or eminent domain, lands or interests therein or options thereon, including but not limited to sites, rights-of-way, and oil or gas leases containing obligations to pay rental in advance or damages arising out of the use and operation of such properties; but any such land or interest in lands may be acquired by eminent domain only when the Secretary determines (A) that he is unable to make a satisfactory agreement to acquire such land or interest in land, and (B) that such acquisition by eminent domain is necessary in the national interest;

(2) to make just and reasonable contracts and agreements for the acquisition, processing, transportation, or conservation of helium, helium-bearing natural gas, or helium-gas mixtures upon such terms and conditions, and for such periods, not exceeding twenty-five years, as may be necessary to accomplish the purposes of the chapter, except that the Secretary shall not make such contracts and agreements which shall require payments by the Government in any one fiscal year aggregating more than the amount which shall be established initially in an appropriation Act and which may be increased from time to time in appropriation Acts, or if the Secretary—

(A) determines that the national interests require the conservation of certain helium or require certain helium-bearing natural gas or certain helium-gas mixture for the production or conservation of helium, and

(B) determines that he is unable to acquire such helium, helium-bearing natural gas, or helium-gas mixture upon reasonable terms and at the fair market value,

he is authorized to acquire by eminent domain such helium and so much of such helium-bearing natural gas or helium-gas mixture as is necessarily consumed in the extraction of such helium after removal from its place of deposit in nature and wherever found, or the temporary use of such helium-bearing natural gas or helium-gas mixture for the purpose of extracting helium, together with the appropriate interest in pipelines, equipment, installations, facilities, personal or real property, including reserves, easements or other rights necessary or incident to the acquisition of such helium, natural gas, or mixture, but the condemnation of any such helium, helium-bearing natural gas, or helium-gas mixture, shall be effected in the same manner and following the procedures established in section 167f(a) of this title, the just compensation for such condemnation to be measured by terms and prices determined to be commensurate with the fair market value, and in the temporary use of any he-

lium-bearing natural gas or helium-gas mixture for the purpose of extracting helium the Secretary shall cause no delay in the delivery of natural gas to the owner, purchaser, or purchasers, thereof, except that required by the extractive processes;

(3) to construct or acquire by purchase, lease, exchange, gift or eminent domain, plants, wells, pipelines, compressor stations, camp buildings, and other facilities, for the production, storage, purification, transportation, purchase, and sale of helium, helium-bearing natural gas, and helium-gas mixtures: and to acquire patents or rights therein and reports of experimentation and research used in connection with the properties acquired or useful in the Government's helium operations;

(4) to dispose of, by lease or sale, property, including wells, lands, or interests therein, not valuable for helium production, and oil, gas, and byproducts, of helium operations not needed for Government use, except that property determined by the Secretary to be ''excess'' within the meaning of section 3(e) of the Federal Property and Administrative Services Act of June 30, 1949, as amended [40 U.S.C. 472], shall be disposed of in accordance with the provisions of that Act [40 U.S.C. 471 et seq.]; and to issue leases to the surface of lands or structures thereon for grazing or other purposes when the same may be done without interfering with the production of helium; and

(5) to accept equipment, money, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

(b) Helium on public domain

Any known helium-gas-bearing land on the public domain not covered at the time by leases or permits under the Mineral Lands Leasing Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.], may be reserved for the purposes of this chapter, and any reservation of the ownership of helium may include the right to extract, or have extracted, such helium, under such rules and regulations as may be prescribed by the Secretary, from all gas produced from lands so permitted, leased, or otherwise granted for development, except that in the extraction of helium from gas produced from such lands, it shall be extracted so as to cause no delay, except that required by the extraction process, in the delivery of gas produced from the well to the purchaser or purchasers thereof at the point of delivery specified in contracts for the purchase of such gas. If any reserved rights of ownership and extraction of helium are not exercised before production of any helium-bearing natural gas or any helium-gas mixture, the Secretary is authorized to acquire such helium in accordance with subsection (a)(2) of this section.

(c) Contract price

All contracts and agreements made by the Secretary for the acquisition of helium from a private plant shall contain a provision precluding the plant owner from selling any helium to any purchaser other than the Secretary at a price lower than the lowest price paid by any Government agency for helium acquired from any private plant under any contract entered into pursuant to this section and outstanding at the time of such sale.

(Mar. 3, 1925, ch. 426, § 3, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 918.)

REFERENCES IN TEXT

That Act, referred to in subsec. (a)(4), means act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. Provisions of that Act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

The Mineral Lands Leasing Act of February 25, 1920, referred to in subsec. (b), probably means act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

PRIOR PROVISIONS

A prior section 3 of act Mar. 3, 1925, related to disposal of helium by sale, use of funds so obtained, and reports to Congress on such uses and was classified to section 164 of this title, prior to the general amendment of this chapter by Pub. L. 86–777.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167f of this title.

§ 167b. Production of helium; maintenance and operation of facilities; research

The Secretary is authorized to maintain and operate helium production and purification plants together with facilities and accessories thereto; to acquire, store, transport, sell, and conserve helium, helium-bearing natural gas, and helium-gas mixtures, to conduct exploration for and production of helium on and from the lands acquired, leased, or reserved; and to conduct or contract with public or private parties for experimentation and research to discover helium supplies and to improve processes and methods of helium production, purification, transportation, liquefaction, storage, and utilization: *Provided, however*, That all research contracted for, sponsored, cosponsored, or authorized under authority of this chapter shall be provided for in such a manner that all information, uses, products, processes, patents and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public: *And provided further*, That nothing contained herein shall be construed as to deprive the owner of any background patent relating thereto to such rights as he may have thereunder.

(Mar. 3, 1925, ch. 426, § 4, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 920.)

PRIOR PROVISIONS

A prior section 4 of act Mar. 3, 1925, related to exportation of helium gas and was classified to section 165 of this title, prior to repeal by act Aug. 26, 1954, ch. 937, title V, § 542(a)(13), 68 Stat. 861.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210.

§ 167c. Licensing

(a) Rules and regulations

Whenever the President determines that the defense, security, and general welfare of the United States requires such action, the Secretary shall issue such regulations as he deems necessary for the licensing of sales and transportation of helium in interstate commerce after extraction from helium-bearing natural gas or helium-gas mixtures. Thereafter it shall be unlawful for any person to sell or transfer helium in interstate commerce except in accordance with such regulations or pursuant to the terms of a license issued by the Secretary, or in accordance with the terms of a contract or agreement with the Secretary entered into pursuant to this chapter. For the purpose of this section, the term ''helium'' shall mean helium, after extraction from helium-bearing natural gas or helium-gas mixtures, in a refined or semirefined state suitable for use.

(b) Terms; assignments; revocations

Each license shall be issued for a specified period to be determined by the Secretary, but not exceeding five years, and may be renewed by the Secretary upon the expiration of such period. No such license shall be issued to a person if in the opinion of the Secretary the issuance of a license to such person would be inimical to the defense and security of the United States. No such license shall be assigned or otherwise transferred directly or indirectly except with the consent or approval of the Secretary in writing. Any such license may be revoked for any material false statement in the application for license, or for violation or a failure to comply with the terms and provisions of this chapter, the regulations issued by the Secretary pursuant thereto or the terms of the license.

(c) Purpose

In issuing licenses under this section, the Secretary shall impose such regulations and terms of licenses as will permit him effectively to promote the common defense and security as well as the general welfare of the United States. The licensing authority herein granted shall be used solely for the purpose of preventing the transportation or sale of helium for end uses determined by the Secretary to be nonessential or wasteful, and any determination that any end use is nonessential or wasteful shall be published in the form of general regulations applicable to all transportation or sales of helium.

(d) Suspension; reacquisition of supplies

Whenever Congress or the President declares that a war or national emergency exists, the Secretary is authorized to suspend any license granted under this chapter if in his judgment such suspension is necessary to the defense and security of the United States, and he is further authorized to take such steps as may be necessary to recapture or reacquire supplies of helium.

(Mar. 3, 1925, ch. 426, § 5, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 920.)

PRIOR PROVISIONS

A prior section 5 of act Mar. 3, 1925, authorized governmental cooperation with Department of the Interior to effectuate the purposes of this chapter and was classified to section 166 of this title, prior to the general amendment of this chapter by Pub. L. 86–777.

§ 167d. Sale of helium

(a) Purchase by Government agencies

The Department of Defense, the Atomic Energy Commission, and other agencies of the Federal Government, to the extent that supplies are readily available, shall purchase all major requirements of helium from the Secretary.

(b) Sales by Secretary

The Secretary is authorized to sell helium for Federal, medical, scientific, and commercial uses in such quantities and under such terms and conditions as he determines.

(c) Prices and determinations

Sales of helium by the Secretary shall be at prices established by him which shall be adequate to cover all costs incurred in carrying out the provisions of this chapter and to repay to the United States by deposit in the Treasury, together with interest as provided in subsection (d) of this section, the following:

(1) Within twenty-five years from September 13, 1960, the net capital and retained earnings of the helium production fund (established under section 164 of this title prior to amendment by the Helium Act Amendments of 1960), determined by the Secretary as of September 13, 1960, plus any moneys expended thereafter by the Department of the Interior from funds provided in the Supplemental Appropriation Act, 1959, for construction of a helium plant at Keyes, Oklahoma;

(2) Within twenty-five years from the date of borrowing, all funds borrowed, as provided in section 167j of this chapter, to acquire and construct helium plants and facilities; and

(3) Within twenty-five years from September 13, 1960, unless the Secretary determines that said period should be extended for not more than ten years, all funds borrowed, as provided in section 167j of this title for all purposes other than those specified in clause (2) above.

(d) Interest in price determinations

Compound interest on the amounts specified in clauses (1), (2), and (3) of subsection (c) of this section which have not been paid to the Treasury shall be calculated annually at rates determined by the Secretary of the Treasury taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the investments authorized by this chapter, except that the interest rate on the amounts specified in clause (1) of subsection (c) of this section shall be determined as of Sept. 13, 1960, and the interest rate on the obligations specified in clauses (2) and (3) of subsection (c) of this section as of the time of each borrowing.

(e) Prices of sales for medical purposes; sales to non-Federal purchasers

Helium shall be sold for medical purposes at prices which will permit its general use therefor; and all sales of helium to non-Federal purchasers shall be upon condition that the Federal Government shall have a right to repurchase he-

lium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by regulations.

(f) Helium production fund

All moneys received under this chapter, including moneys from sale of helium or other products resulting from helium operations and from the sale of excess property shall be credited to the helium production fund, which shall be available without fiscal year limitation, for carrying out the provisions of this chapter, including any research relating to helium carried out by the Department of the Interior. Amounts accumulating in said fund in excess of amounts the Secretary deems necessary to carry out this chapter and contracts negotiated hereunder shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.

(Mar. 3, 1925, ch. 426, § 6, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 921.)

REFERENCES IN TEXT

Section 164 of this title, referred to in subsec. (c)(1), was omitted from the Code in the general amendment and revision of this chapter by Pub. L. 86–777, § 2, Sept. 13, 1960, 74 Stat. 918.

Prior to amendment by the Helium Act Amendments of 1960, referred to in subsec. (c)(1), means prior to Mar. 1, 1961. See Effective Date of 1960 Amendment note set out under section 167 of this title.

The Supplemental Appropriation Act, 1959, referred to in subsec. (c)(1), is Pub. L. 85–766, Aug. 27, 1958, 72 Stat. 864. Provisions of the Act providing funds for the construction of a helium plant probably are those appearing under the heading ''Construction'' under ''Bureau of Mines'' at 72 Stat. 875, and are not classified to the Code. For classification of various other provisions of the Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167j of this title.

§ 167e. Intragovernmental cooperation

The Secretary of Defense and the Chairman of the Atomic Energy Commission may each designate representatives to cooperate with the Secretary in carrying out the purposes of this chapter, and shall have complete right of access to plants, data, and accounts.

(Mar. 3, 1925, ch. 426, § 7, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 921.)

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

§ 167f. Condemnation proceedings

(a) Proceedings for the condemnation of any property under section 167a of this title shall be instituted and maintained pursuant to the provisions of the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C. 257), as amended, and sections 1358 and 1403 of title 28, or any other Federal statute applicable to the acquisition of real property of eminent domain. The Acts of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a–258e),[1] and October 21, 1942 (56 Stat. 797; 40 U.S.C. 258f), shall be applicable to any such proceedings. Wherever the words ''real property'', ''realty'', ''land'', ''easement'', ''right-of-way'', or words of similar meaning, are used in such code provisions or Acts relating to procedure, jurisdiction, and venue, they shall be deemed, for the purposes of this chapter, to include any personal property authorized to be acquired hereunder.

(b) In the event of disposal under section 167a(a)(4) of this title of any property acquired by eminent domain pursuant to this chapter, the former owner or successor in interest of the rights therein shall have the preferential right to reacquire such property on terms as favorable as those terms whereby disposition may be made under such section.

(Mar. 3, 1925, ch. 426, § 8, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 922.)

REFERENCES IN TEXT

Act of February 26, 1931, referred to in subsec. (a), is act Feb. 26, 1931, ch. 307, 46 Stat. 1421, as amended, known as the Declaration of Taking Act, which is classified to section 258a et seq. of Title 40, Public Buildings, Property, and Works. Pub. L. 99–656, § 1(2), Nov. 14, 1986, 100 Stat. 3668, amended act Feb. 26, 1931, by adding section 6, which is classified to section 258e–1 of Title 40.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167a of this title.

§ 167g. Promulgation of rules and regulations

The Secretary is authorized to establish and promulgate such rules and regulations, as are consistent with the directions of this chapter and are necessary to carry out the provisions hereof.

(Mar. 3, 1925, ch. 426, § 9, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 922.)

§ 167h. Administrative procedure

(a) The provisions of subchapter II of chapter 5 of title 5 shall apply to any agency proceeding and any agency action taken under this chapter, including the issuance of rules and regulations, and the terms ''agency proceeding'' and ''agency action'' shall have the meaning specified in subchapter II of chapter 5 of title 5.

(b) In any proceeding under this chapter for the granting, suspending, revoking, or amending of any license, or application to transfer control thereof, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, the Secretary shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. Any final order entered in any such proceeding shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, and to the provisions of chapter 7 of title 5.

(Mar. 3, 1925, ch. 426, § 10, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 922.)

[1] See References in Text note below.

CODIFICATION

In subsecs. (a) and (b), ''subchapter II of chapter 5 of title 5'' and ''chapter 7 of title 5'' substituted for ''the Administrative Procedure Act of June 11, 1946 (60 Stat. 637; 5 U.S.C. 1001–1011), as amended'', ''the Administrative Procedure Act'', and ''section 10 of the Administrative Procedure Act'', respectively, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (b), ''chapter 158 of title 28'' substituted for ''the Act of December 29, 1950 (64 Stat. 1129; 5 U.S.C. 1031–1042), as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, section 4(e) of which enacted chapter 158 of Title 28, Judiciary and Judicial Procedure.

§ 167i. Exclusion from Natural Gas Act provisions

The provisions of the Natural Gas Act of June 21, 1938, as amended [15 U.S.C. 717 et seq.], shall not be applicable to the sale, extraction, processing, transportation, or storage of helium either prior to or subsequent to the separation of such helium from the natural gas with which it is commingled, whether or not the provisions of such Act apply to such natural gas, and in determining the rates of a natural gas company under sections 4 and 5 of the Natural Gas Act, as amended [15 U.S.C. 717c, 717d], whenever helium is extracted from helium-bearing natural gas, there shall be excluded (1) all income received from the sale of helium; (2) all direct costs incurred in the extraction, processing, compression, transportation or storage of helium; and (3) that portion of joint costs of exploration, production, gathering, extraction, processing, compression, transportation or storage divided and allocated to helium on a volumetric basis.

(Mar. 3, 1925, ch. 426, § 11, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 922.)

REFERENCES IN TEXT

The Natural Gas Act of June 21, 1938, as amended, referred to in text, means act June 21, 1938, ch. 556, 52 Stat. 821, as amended, known as the Natural Gas Act, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

§ 167j. Loans and obligations

(a) The Secretary is authorized to borrow annually from the Treasury and credit to the fund established under section 167d(f) of this title such amounts as may be authorized in the initial appropriation Act and which may be increased from time to time in appropriation Acts and as are necessary to carry out the provisions of this chapter and contractual obligations hereunder.

(b) For the purpose of this section the Secretary may issue to the Secretary of the Treasury notes, debentures, bonds, or other obligations to be redeemable at the option of the Secretary before maturity in such manner as may be stipulated in such obligations. The Secretary of the Treasury is authorized and directed to purchase any obligations issued by the Secretary under authority of this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of obligations of the Secretary hereunder.

(Mar. 3, 1925, ch. 426, § 12, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 923.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167d of this title.

§ 167k. Violations; penalties

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter or any regulation or order issued or any terms of a license granted thereunder shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(Mar. 3, 1925, ch. 426, § 13, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 923.)

§ 167*l*. Injunctions

Whenever in the judgment of the Secretary any person has engaged or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this chapter, or any regulation or order issued or any term of a license granted thereunder, any such act or practice may be enjoined by any district court having jurisdiction of such person, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.

(Mar. 3, 1925, ch. 426, § 14, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 923.)

§ 167m. Individual enterprise in developing helium

It is the sense of the Congress that it is in the national interest to foster and encourage individual enterprise in the development and distribution of supplies of helium, and at the same time provide, within economic limits, through the administration of this chapter, a sustained supply of helium which, together with supplies available or expected to become available otherwise, will be sufficient to provide for essential Government activities.

(Mar. 3, 1925, ch. 426, § 15, as added Sept. 13, 1960, Pub. L. 86–777, § 2, 74 Stat. 923.)

§ 167n. Reports

The Secretary of the Interior is directed to report annually to the Congress on the matters contained in this chapter.

(Mar. 3, 1925, ch. 426, §16, as added Sept. 13, 1960, Pub. L. 86–777, §2, 74 Stat. 923.)

CHAPTER 11—ACQUISITION OF AND EXPENDITURES ON LAND FOR NATIONAL-DEFENSE PURPOSES

§§171, 171–1. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641

Section 171, acts Aug. 18, 1890, ch. 797, §1, 26 Stat. 316; July 2, 1917, ch. 35, 40 Stat. 241; Apr. 11, 1918, ch. 51, 40 Stat. 518, authorized Secretary of War to institute condemnation proceedings for acquisition of land, to purchase land, and to accept donations of land. See section 2663 of Title 10, Armed Forces.

Section 171–1, act Oct. 25, 1951, ch. 563, §101, 65 Stat. 641, granted certain condemnation authority to Secretary of Navy. See sections 2663 and 2668 of Title 10.

§171a. Omitted

CODIFICATION

Section, act July 2, 1917, ch. 35, §2, as added Mar. 27, 1942, ch. 199, title II, §201, 56 Stat. 177, related to acquisition of real property during war, and terminated on Dec. 28, 1945 by act Mar. 27, 1942, ch. 199, title II, §202, as added Dec. 28, 1945, ch. 590, §1(a), 59 Stat. 658.

§171b. Repealed. Pub. L. 85–861, §36A, Sept. 2, 1958, 72 Stat. 1570

Section, acts Aug. 3, 1956, ch. 939, title IV, §406, 70 Stat. 1015; Aug. 20, 1958, Pub. L. 85–685, title V, §510, 72 Stat. 662, related to acquisition of land not exceeding $5,000 in cost. See section 2672 of Title 10, Armed Forces.

§§172, 173. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641

Section 172, act July 9, 1918, ch. 143, subch. XV §8, 40 Stat. 888, related to acquisition of property for production of lumber. See sections 2664 and 2665 of Title 10, Armed Forces.

Section 173, act Apr. 28, 1904, ch. 1762, §1, 33 Stat. 497, related to purchase of land for quarters and barracks in addition to sites for fortifications.

§174. Omitted

CODIFICATION

Section, act Aug. 18, 1890, ch. 797, §1, 26 Stat. 316, provided that nothing contained in former section 171 of this title should be construed to authorize an expenditure or involve the Government in any contract for future payment of money in excess of sums appropriated therefor.

§175. Transferred

CODIFICATION

Section, R.S. §355; June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Sept. 1, 1970, Pub. L. 91–393, §1, 84 Stat. 835, which related to approval of title prior to Federal land purchases, payment of title expenses, application to Tennessee Valley Authority, and Federal jurisdiction over acquisitions, was transferred to section 255 of Title 40, Public Buildings, Property, and Works.

§176. Omitted

CODIFICATION

Section, act Mar. 28, 1918, ch. 28, §1, 40 Stat. 460, authorized acquisition of property on Hudson River owned by North German Lloyd Dock Company and Hamburg-American Line Terminal & Navigation Company and provided that section 175 of this title did not apply to expenditures authorized in connection with such property. The President, by proclamation dated June 28, 1918, took possession of such property.

§§177 to 179. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat 641

Section 177, act June 25, 1906, ch. 3540, 34 Stat. 463, related to contracts for construction of fortifications and other works of defense.

Section 178, act Apr. 11, 1898, No. 21, 30 Stat. 737, provided for erection of forts in emergency. See sections 4776 and 9776 of Title 10, Armed Forces.

Section 179, act June 30, 1921, ch. 33, §1, 42 Stat. 81, related to chargeability of appropriations with respect to transportation cost incident to construction and maintenance of seacoast fortifications.

CHAPTER 12—VESSELS IN TERRITORIAL WATERS OF UNITED STATES

Sec.
191. Regulation of anchorage and movement of vessels during national emergency.
191a. Transfer of Secretary of Transportation's powers to Secretary of Navy when Coast Guard operates as part of Navy.
191b, 191c. Repealed.
192. Seizure and forfeiture of vessel; fine and imprisonment.
193. Repealed.
194. Enforcement provisions.
195. ''United States'' defined.
196. Emergency foreign vessel acquisition; purchase or requisition of vessels lying idle in United States waters.
197. Voluntary purchase or charter agreements.
198. Requisitioned vessels.
(a) Documentation of vessels.
(b) Waiver of compliance.
(c) Coastwise trade; inspection.
(d) Reconditioning of vessels.
(e) Effective period.
(f) ''Documented'' defined.

CROSS REFERENCES

Definition of ''Foreign government'', see section 11 of Title 18, Crimes and Criminal Procedure.

§191. Regulation of anchorage and movement of vessels during national emergency

Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of Transportation may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Whenever the President finds that the security of the United States is endangered by rea-

son of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States.

Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this title.[1]

(June 15, 1917, ch. 30, title II, § 1, 40 Stat. 220; Aug. 9, 1950, ch. 656, § 1, 64 Stat. 427; Sept. 26, 1950, ch. 1049, § 2(b), 64 Stat. 1038; Oct. 15, 1966, Pub. L. 89–670, § 6(b)(1), 80 Stat. 938; Sept. 27, 1979, Pub. L. 96–70, title III, § 3302(a), 93 Stat. 498.)

REFERENCES IN TEXT

This title, referred to in text, means title II of act June 15, 1917, ch. 30, 40 Stat. 220, as amended, which enacted sections 191 and 192 to 194 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1979—Pub. L. 96–70 struck out second par., providing that within the territory and waters of the Canal Zone the Governor of the Canal Zone, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury, and in cl. (b) of third par., struck out ''the Canal Zone,'' after ''facilities in the United States,''.

1950—Act Sept. 26, 1950, substituted ''Governor of the Canal Zone'' for ''Governor of the Panama Canal'' in second par.

Act Aug. 9, 1950, authorized the President to institute such rules and regulations to control anchorage and movement of foreign-flag vessels in United States waters when the national security is endangered.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

TERMINATION DATE OF 1950 AMENDMENT

Section 4 of act Aug. 9, 1950, provided that: ''The provisions of this Act [amending this section and sections 192 and 194 of this title] shall expire on such date as may be specified by concurrent resolution of the two Houses of Congress.''

[1] See References in Text note below.

TERMINATION OF WAR AND EMERGENCIES

Act July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

SEPARABILITY

Section 4 of title XIII of act June 15, 1917, provided: ''If any clause, sentence, paragraph, or part of this Act [see Tables for classification] shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.''

REGULATIONS—POST-WAR GENERALLY

For regulations relating to safeguarding of vessels, harbors, ports, and waterfront facilities, under a finding that the security of the United States is endangered by reason of subversive activity, see Ex. Ord. No. 10173, Oct. 18, 1950, 15 F.R. 7005.

REGULATIONS—WORLD WAR II

Proc. No. 2732, June 2, 1947, 12 F.R. 3583, 61 Stat. 1069, revoked Proc. No. 2412, June 27, 1940, 5 F.R. 2419, 54 Stat. 2711, which granted consent of President to the exercise of certain powers under this section by the Secretary of the Treasury and the Governor of the Canal Zone.

REGULATIONS—WORLD WAR I

A proclamation was issued under this section on December 3, 1917.

TRANSFER OF FUNCTIONS

''Secretary of Transportation'' substituted for ''Secretary of the Treasury'' in first paragraph of text pursuant to section 6(b)(1) of Pub. L. 89–670, which transferred Coast Guard to Department of Transportation and transferred to and vested in Secretary of Transportation functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury. See section 108 of Title 49, Transportation.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see section 2(e) of Ex. Ord. No. 10289, Sept. 17, 1951, 16 F.R. 9499, as amended, and section 1(r) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, set out as notes under section 301 of Title 3, The President.

CROSS REFERENCES

Carrying or possessing explosives or dangerous weapons on vessels seized, forfeited, or upon which guard has been placed under this chapter, see section 2277 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 191a of this title; title 18 section 2277; title 42 section 267.

§ 191a. Transfer of Secretary of Transportation's powers to Secretary of Navy when Coast Guard operates as part of Navy

When the Coast Guard operates as a part of the Navy pursuant to section 3 of title 14, the powers conferred on the Secretary of Transportation by section 191 of this title, shall vest in and be exercised by the Secretary of the Navy.

(Nov. 15, 1941, ch. 471, § 2, 55 Stat. 763; Oct. 18, 1962, Pub. L. 87–845, § 11, 76A Stat. 699; Oct. 15, 1966, Pub. L. 89–670, § 6(b)(1), 80 Stat. 938.)

AMENDMENTS

1962—Pub. L. 87–845 substituted ''section 3 of title 14'' for ''section 1 of title 14''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–845 effective Jan. 2, 1963, see section 25 of Pub. L. 87–845, set out as a note under section 14 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

''Secretary of Transportation'' substituted in text for ''Secretary of the Treasury'' pursuant to section 6(b)(1) of Pub. L. 89–670, which transferred Coast Guard to Department of Transportation and transferred to and vested in Secretary of Transportation functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury. See section 108 of Title 49, Transportation.

§191b. Repealed. Pub. L. 96–70, title III, §3303(a)(5), Sept. 27, 1979, 93 Stat. 499

Section, acts Nov. 15, 1941, ch. 471, §4, 55 Stat. 763; Sept. 26, 1950, ch. 1049, §2(b), 64 Stat. 1038; Oct. 18, 1962, Pub. L. 87–845, §12, 76A Stat. 699, provided that this section, section 191a of this title, and section 91 of title 14 not affect the authority of the Governor of the Canal Zone conferred by section 191 of this title or section 34 of Title 2, Canal Zone Code.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§191c. Repealed. Aug. 4, 1949, ch. 393, §20, 63 Stat. 561

Section, act Nov. 15, 1941, ch. 471, §1, 55 Stat. 763, related to control of anchorage and movement of vessels to insure safety of naval vessels. See section 91 of Title 14, Coast Guard.

§192. Seizure and forfeiture of vessel; fine and imprisonment

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title,[1] or obstructs or interferes with the exercise of any power conferred by this title,[1] the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title,[1] or knowingly obstructs or interferes with the exercise of any power conferred by this title,[1] he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000.

(June 15, 1917, ch. 30, title II, §2, 40 Stat. 220; Mar. 28, 1940, ch. 72, §3(a), 54 Stat. 79; Nov. 15, 1941, ch. 471, §3, 55 Stat. 763; Aug. 9, 1950, ch. 656, §3, 64 Stat. 428.)

[1] See References in Text note below.

REFERENCES IN TEXT

This title, referred to in text, means title II of act June 15, 1917, ch. 30, 40 Stat. 220, as amended, which enacted sections 191 and 192 to 194 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1950—Subsec. (a). Act Aug. 9, 1950, added subsec. (a).

1941—Act Nov. 15, 1941, struck out ''by the Secretary of the Treasury or the Governor of the Panama Canal'' before ''under the provisions of this title''.

1940—Act Mar. 28, 1940, increased term of imprisonment.

TERMINATION DATE OF 1950 AMENDMENT

For termination of amendment by act Aug. 9, 1950, see section 4 of act Aug. 9, 1950, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 267.

§193. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862

Section, acts June 15, 1917, ch. 30, title II, §3, 40 Stat. 220; Mar. 28, 1940, ch. 72, §3(b), 54 Stat. 79, related to destruction of, injury to, or improper use of vessels. See section 2274 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

§194. Enforcement provisions

The President may employ such departments, agencies, officers, or instrumentalities of the United States as he may deem necessary to carry out the purpose of this title.[1]

(June 15, 1917, ch. 30, title II, §4, 40 Stat. 220; Aug. 9, 1950, ch. 656, §2, 64 Stat. 428.)

[1] See References in Text note below.

REFERENCES IN TEXT

This title, referred to in text, means title II of act June 15, 1917, ch. 30, 40 Stat. 220, as amended, which enacted sections 191 and 192 to 194 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1950—Act Aug. 9, 1950, authorized President to employ such departments, agencies, etc., as he may deem necessary to carry out title II of act June 15, 1917.

TERMINATION DATE OF 1950 AMENDMENT

For termination of amendment by act Aug. 9, 1950, see section 4 of act Aug. 9, 1950, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 267.

§195. "United States" defined

The term ''United States'' as used in this Act includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(June 15, 1917, ch. 30, title XIII, §1, 40 Stat. 231; Sept. 27, 1979, Pub. L. 96–70, title III, §3302(b), 93 Stat. 498.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 15, 1917, ch. 30, 40 Stat. 217, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 40 of this title. In the original this section defined ''United States'' as used in act June 15, 1917. Other provisions of that act were contained in sections 31 to 42 of this title and certain sections of former Title 18, Criminal Code and Criminal Procedure. The definition of ''United States'' as used in present provisions derived from those former sections is covered by sections 5 and 14 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1979—Pub. L. 96–70 struck out ''the Canal Zone and'' after ''this Act includes''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 196. Emergency foreign vessel acquisition; purchase or requisition of vessels lying idle in United States waters

During any period in which vessels may be requisitioned under section 1242 of title 46, Appendix, the President is authorized and empowered through the Secretary of Transportation to purchase, or to requisition, or for any part of such period to charter or requisition the use of, or to take over the title to or possession of, for such use or disposition as he shall direct, any merchant vessel not owned by citizens of the United States which is lying idle in waters within the jurisdiction of the United States and which the President finds to be necessary to the national defense. Just compensation shall be determined and made to the owner or owners of any such vessel in accordance with the applicable provisions of section 1242 of title 46, Appendix. Such compensation hereunder, or advances on account thereof, shall be deposited with the Treasurer of the United States in a separate deposit fund. Payments for such compensation and also for payment of any valid claim upon such vessel in accord with the provisions of the second paragraph of subsection (d) of section 1242 of title 46, Appendix, shall be made from such fund upon the certificate of the Secretary of Transportation.

(Aug. 9, 1954, ch. 659, § 1, 68 Stat. 675; Sept. 27, 1979, Pub. L. 96–70, title III, § 3302(c), 93 Stat. 498; Aug. 6, 1981, Pub. L. 97–31, § 12(152), 95 Stat. 167.)

AMENDMENTS

1981—Pub. L. 97–31 substituted references to Secretary of Transportation for references to Secretary of Commerce wherever appearing.

1979—Pub. L. 96–70 struck out '', including the Canal Zone,'' after ''jurisdiction of the United States''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198 of this title.

§ 197. Voluntary purchase or charter agreements

During any period in which vessels may be requisitioned under section 1242 of title 46, Appendix, the President is authorized through the Secretary of Transportation to acquire by voluntary agreement of purchase or charter the ownership or use of any merchant vessel not owned by citizens of the United States.

(Aug. 9, 1954, ch. 659, § 2, 68 Stat. 675; Aug. 6, 1981, Pub. L. 97–31, § 12(152), 95 Stat. 167.)

AMENDMENTS

1981—Pub. L. 97–31 substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198 of this title.

§ 198. Requisitioned vessels

(a) Documentation of vessels

Any vessel not documented under the laws of the United States, acquired by or made available to the Secretary of Transportation under sections 196 to 198 of this title, or otherwise, may, notwithstanding any other provision of law, in the discretion of the Secretary of the department in which the Coast Guard is operating be documented as a vessel of the United States under such rules and regulations or orders, and with such limitations, as the Secretary of the department in which the Coast Guard is operating may prescribe or issue as necessary or appropriate to carry out the purposes and provisions of sections 196 to 198 of this title, and in accordance with the provisions of subsection (c) of this section, engage in the coastwise trade when so documented. Any document issued to a vessel under the provisions of this subsection shall be surrendered at any time that such surrender may be ordered by the Secretary of the department in which the Coast Guard is operating. No vessel, the surrender of the documents of which has been so ordered, shall, after the effective date of such order, have the status of a vessel of the United States unless documented anew.

(b) Waiver of compliance

The President may, notwithstanding any other provisions of law, by rules and regulations or orders, waive compliance with any provision of law relating to masters, officers, members of the crew, or crew accommodations on any vessel documented under authority of this section to such extent and upon such terms as he finds necessary because of the lack of physical facilities on such vessels, and because of the need to employ aliens for their operation. No vessel shall cease to enjoy the benefits and privileges of a vessel of the United States by reason of the employment of any person in accordance with the provisions of this subsection.

(c) Coastwise trade; inspection

Any vessel while documented under the provisions of this section, when chartered under sections 196 to 198 of this title by the Secretary of Transportation to Government agencies or departments or to private operators, may engage in the coastwise trade under permits issued by

the Secretary of Transportation, who is authorized to issue permits for such purpose pursuant to such rules and regulations as he may prescribe. The Secretary of Transportation is authorized to prescribe such rules and regulations as he may deem necessary or appropriate to carry out the purposes and provisions of this section. The second paragraph of section 9 of the Shipping Act, 1916, as amended [46 App. U.S.C. 808], shall not apply with respect to vessels chartered to Government agencies or departments or to private operators or otherwise used or disposed of under sections 196 to 198 of this title. Existing laws covering the inspection of steam vessels are made applicable to vessels documented under this section only to such extent and upon such conditions as may be required by regulations of the Secretary of the department in which the Coast Guard is operating: *Provided*, That in determining to what extent those laws should be made applicable, due consideration shall be given to the primary purpose of transporting commodities essential to the national defense.

(d) Reconditioning of vessels

The Secretary of Transportation without regard to the provisions of section 5 of title 41 may repair, reconstruct, or recondition any vessels to be utilized under sections 196 to 198 of this title. The Secretary of Transportation and any other Government department or agency by which any vessel is acquired or chartered, or to which any vessel is transferred or made available under sections 196 to 198 of this title may, with the aid of any funds available and without regard to the provisions of said section 5 of title 41, repair, reconstruct, or recondition any such vessels to meet the needs of the services intended, or provide facilities for such repair, reconstruction, or reconditioning. The Secretary of Transportation may operate or charter for operation any vessel to be utilized under sections 196 to 198 of this title to private operators, citizens of the United States, or to any department or agency of the United States Government, without regard to the provisions of title VII of the Merchant Marine Act, 1936 [46 App. U.S.C. 1191 et seq.], and any department or agency of the United States Government is authorized to enter into such charters.

(e) Effective period

In case of any voyage of a vessel documented under the provisions of this section begun before the date of termination of an effective period of section 196 of this title, but is completed after such date, the provisions of this section shall continue in effect with respect to such vessel until such voyage is completed.

(f) "Documented" defined

When used in sections 196 to 198 of this title, the term ''documented'' means ''registered'', ''enrolled and licensed'', or ''licensed''.

(Aug. 9, 1954, ch. 659, §3, 68 Stat. 675; Oct. 15, 1966, Pub. L. 89–670, §6(b)(1), (2), 80 Stat. 938; Aug. 6, 1981, Pub. L. 97–31, §12(152), 95 Stat. 167.)

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsec. (d), is act June 29, 1936, ch. 858, 49 Stat. 1985, as amended. Title VII of the Merchant Marine Act, 1936 is classified generally to subchapter VII (§1191 et seq.) of chapter 27 of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1245 of Title 46, Appendix, and Tables.

AMENDMENTS

1981—Subsecs. (a), (c), (d). Pub. L. 97–31 substituted references to Secretary of Transportation for references to Secretary of Commerce wherever appearing.

TRANSFER OF FUNCTIONS

''Secretary of the department in which the Coast Guard is operating'' substituted in subsec. (a) for ''Secretary of the Treasury'' pursuant to section 6(b)(1), (2) of Pub. L. 89–670, which transferred Coast Guard to Department of Transportation and transferred to and vested in Secretary of Transportation functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of all other officers and offices of Department of the Treasury, and which provided that notwithstanding such transfer Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by subsec. (a) of this section, see Ex. Ord. No. 10289, eff. Sept. 17, 1951, 16 F.R. 9499, set out as a note under section 301 of Title 3, The President.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note set out preceding section 3 of the Appendix to Title 46, Shipping.

CHAPTER 13—INSURRECTION

Sec.
201 to 204. Repealed.
205. Suspension of commercial intercourse with State in insurrection.
206. Suspension of commercial intercourse with part of State in insurrection.
207. Persons affected by suspension of commercial intercourse.
208. Licensing or permitting commercial intercourse with State or region in insurrection.
209. Repealed.
210. Penalties for unauthorized trading, etc.; jurisdiction of prosecutions.
211. Investigations to detect and prevent frauds and abuses.
212. Confiscation of property employed to aid insurrection.
213. Jurisdiction of confiscation proceedings.
214. Repealed.
215. Institution of confiscation proceedings.
216. Preventing transportation of goods to aid insurrection.
217. Trading in captured or abandoned property.
218. Repealed.
219. Removal of customhouse and detention of vessels thereat.
220. Enforcement of section 219.
221. Closing ports of entry; forfeiture of vessels seeking to enter closed port.
222. Transferred.
223. Forfeiture of vessels owned by citizens of insurrectionary States.
224. Refusing clearance to vessels with suspected cargoes; forfeiture for departing without clearance.
225. Bond to deliver cargo at destination named in clearance.
226. Protection of liens on condemned vessels.

§§ 201 to 204. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 201, R.S. § 5297, provided for Federal aid for State Governments in case of an insurrection in any State. See section 331 of Title 10, Armed Forces.

Section 202, R.S. § 5298, related to use of military and naval forces to enforce authority of Federal Government. See section 332 of Title 10.

Section 203, R.S. § 5299, related to denial by State of equal protection of laws and authorized the President to take measures for the suppression of any insurrection, domestic violence, or combinations. See section 333 of Title 10.

Section 204, R.S. § 5300, authorized the President to issue a proclamation commanding insurgents to disperse. See section 334 of Title 10.

§ 205. Suspension of commercial intercourse with State in insurrection

Whenever the President, in pursuance of the provisions of this chapter, has called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when the insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which such combination exists, and such insurrection is not suppressed by such State or States, or whenever the inhabitants of any State or part thereof are at any time found by the President to be in insurrection against the United States, the President may, by proclamation, declare that the inhabitants of such State, or of any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from such State or section into the other parts of the United States, or proceeding from other parts of the United States to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States.

(R.S. § 5301.)

CODIFICATION

R.S. § 5301 derived from acts July 13, 1861, ch. 3, § 5, 12 Stat. 257; July 31, 1861, ch. 32, 12 Stat. 284.

CROSS REFERENCES

Extension of this section to—
Parts of States, see section 206 of this title.
Persons in occupied territory and aliens, see section 207 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 206, 223 of this title.

§ 206. Suspension of commercial intercourse with part of State in insurrection

Whenever any part of a State not declared to be in insurrection is under the control of insurgents, or is in dangerous proximity to places under their control, all commercial intercourse therein and therewith shall be subject to the prohibitions and conditions of section 205 of this title for such time and to such extent as shall become necessary to protect the public interests, and be directed by the Secretary of the Treasury, with the approval of the President.

(R.S. § 5302.)

CODIFICATION

R.S. § 5302 derived from act July 2, 1864, ch. 225, § 5, 13 Stat. 376.

§ 207. Persons affected by suspension of commercial intercourse

The provisions of this chapter in relation to commercial intercourse shall apply to all commercial intercourse by and between persons residing or being within districts within the lines of national military occupation in the States or parts of States declared in insurrection, whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and all persons within the United States, not native or naturalized citizens thereof, shall be subject to the same prohibitions, in all commercial intercourse with inhabitants of States or parts of States declared in insurrection, as citizens of States not declared to be in insurrection.

(R.S. § 5303.)

CODIFICATION

R.S. § 5303 derived from act July 2, 1864, ch. 225, § 4, 13 Stat. 376.

§ 208. Licensing or permitting commercial intercourse with State or region in insurrection

The President may, in his discretion, license and permit commercial intercourse with any part of such State or section, the inhabitants of which are so declared in a state of insurrection, so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and, also, so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen, or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection, or transported therein, except to and from such places and to such monthly amounts as shall have been previously agreed upon, in writing, by the commanding general of the department in which such places are situated, and an officer designated by the Secretary of the Treasury for that purpose. Such commercial intercourse shall be in such articles and for such time and by such persons as the President, in his discretion, may think most conducive to the public interest; and, so far as by him licensed, shall be con-

ducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury.

(R.S. §5304.)

CODIFICATION

R.S. §5304 derived from acts July 13, 1861, ch. 3, §5, 12 Stat. 257; July 2, 1864, ch. 225, §9, 13 Stat. 377.

§209. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632

Section, R.S. §5305, related to appointment of officers to carry into effect licenses to trade in State or region in an insurrection.

§210. Penalties for unauthorized trading, etc.; jurisdiction of prosecutions

Every officer of the United States, civil, military, or naval, and every sutler, soldier, marine, or other person, who takes, or causes to be taken into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who transports or sells, or otherwise disposes of therein, any goods, wares, or merchandise whatsoever, except in pursuance of license and authority of the President, as provided in this chapter, or who makes any false statement or representation upon which license and authority is granted for such transportation, sale, or other disposition, or who, under any license or authority obtained, willfully and knowingly transports, sells, or otherwise disposes of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or who willfully and knowingly transports, sells, or disposes of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, or who is guilty of any act of embezzlement, of willful misappropriation of public or private money or property, of keeping false accounts, or of willfully making any false returns, shall be deemed guilty of a misdemeanor, and shall be fined not more than $5,000, and imprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same.

(R.S. §5306.)

CODIFICATION

R.S. §5306 derived from act July 2, 1864, ch. 225, §10, 13 Stat. 377.

§211. Investigations to detect and prevent frauds and abuses

It shall be the duty of the Secretary of the Treasury, from time to time, to institute such investigations as may be necessary to detect and prevent frauds and abuses in any trade or transactions which may be licensed between inhabitants of loyal States and of States in insurrection. And the agents making such investigations shall have power to compel the attendance of witnesses, and to make examinations on oath.

(R.S. §5307.)

CODIFICATION

R.S. §5307 derived from act July 2, 1864, ch. 225, §10, 13 Stat. 377.

CROSS REFERENCES

Authority of any employee of any Department detailed to investigate frauds on the Government, or any official misconduct, to administer oaths to witnesses, see section 303 of Title 5, Government Organization and Employees.

§212. Confiscation of property employed to aid insurrection

Whenever during any insurrection against the Government of the United States, after the President shall have declared by proclamation that the laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person, or his agent, attorney, or employee, purchases or acquires, sells or gives, any property of whatsoever kind or description, with intent to use or employ the same, or suffers the same to be used or employed in aiding, abetting, or promoting such insurrection or resistance to the laws, or any person engaged therein; or being the owner of any such property, knowingly uses or employs, or consents to such use or employment of the same, all such property shall be lawful subject of prize and capture wherever found; and it shall be the duty of the President to cause the same to be seized, confiscated, and condemned.

(R.S. §5308.)

CODIFICATION

R.S. §5308 derived from act Aug. 6, 1861, ch. 60, §1, 12 Stat. 319.

§213. Jurisdiction of confiscation proceedings

Such prizes and capture shall be condemned in the district court of the United States having jurisdiction of the amount, or in admiralty in any district in which the same may be seized, or into which they may be taken and proceedings first instituted.

(R.S. §5309; Feb. 27, 1877, ch. 69, §1, 19 Stat. 253; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167.)

CODIFICATION

R.S. §5309 derived derived from act Aug. 6, 1861, ch. 60, §2, 12 Stat. 319.

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

AMENDMENTS

1877—Act Feb. 27, 1877, inserted ''may'' after ''any district in which the same''.

§214. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641

Section, R.S. §5310, provided that property taken on inland waters of the United States was not a maritime prize. See section 7651 of Title 10, Armed Forces.

§215. Institution of confiscation proceedings

The Attorney General, or the United States attorney for any judicial district in which such property may at the time be, may institute the proceedings of condemnation, and in such case they shall be wholly for the benefit of the United States; or any person may file an infor-

mation with such attorney, in which case the proceedings shall be for the use of such informer and the United States in equal parts.

(R.S. § 5311; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CODIFICATION

R.S. § 5311 derived from act Aug. 6, 1861, ch. 60, § 3, 12 Stat. 319.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorney'' for ''attorney of the United States''. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

§ 216. Preventing transportation of goods to aid insurrection

The Secretary of the Treasury is authorized to prohibit and prevent the transportation in any vessel, or upon any railroad, turnpike, or other road or means of transportation within the United States, of any property, whatever may be the ostensible destination of the same, in all cases where there are satisfactory reasons to believe that such property is intended for any place in the possession or under the control of insurgents against the United States, or that there is imminent danger that such property will fall into the possession or under the control of such insurgents; and he is further authorized, in all cases where he deems it expedient so to do, to require reasonable security to be given that property shall not be transported to any place under insurrectionary control, and shall not, in any way, be used to give aid or comfort to such insurgents; and he may establish all such general or special regulations as may be necessary or proper to carry into effect the purposes of this section; and if any property is transported in violation of this chapter, or of any regulation of the Secretary of the Treasury, established in pursuance thereof, or if any attempt shall be made so to transport any, it shall be forfeited.

(R.S. § 5312.)

CODIFICATION

R.S. § 5312 derived from act May 20, 1862, ch. 81, § 3, 12 Stat. 404.

§ 217. Trading in captured or abandoned property

All persons in the military or naval service of the United States are prohibited from buying or selling, trading, or in any way dealing in captured or abandoned property, whereby they shall receive or expect any profit, benefit, or advantage to themselves, or any other person, directly or indirectly connected with them; and it shall be the duty of such person whenever such property comes into his possession or custody, or within his control, to give notice thereof to some agent, appointed by virtue of this chapter, and to turn the same over to such agent without delay. Any officer of the United States, civil, military, or naval, or any sutler, soldier, or marine, or other person who shall violate any provision of this section, shall be deemed guilty of a misdemeanor, and shall be fined not more than $5,000, and imprisoned in the penitentiary not more than three years. Violations of this section shall be cognizable before any court, civil or military, competent to try the same.

(R.S. § 5313.)

CODIFICATION

R.S. § 5313 derived from act July 2, 1864, ch. 225, § 10, 13 Stat. 377.

CROSS REFERENCES

Dealing in captured or abandoned property to be punishable as a court-martial may direct, see section 903 of Title 10, Armed Forces.

§ 218. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632

Section, R.S. § 5314; act Mar. 2, 1929, ch. 510, § 1, 45 Stat. 1496, related to authority of President in collection of duties to change ports of entry in case of insurrection.

§ 219. Removal of customhouse and detention of vessels thereat

Whenever, at any port of entry, the duties on imports cannot, in the judgment of the President, be collected in the ordinary way, or by the course provided in section 218[1] of this title, by reason of the cause mentioned in said section, he may direct that the customhouse for the district be established in any secure place within the district, either on land or on board any vessel in the district, or at sea near the coast; and in such case the collector shall reside at such place, or on shipboard, as the case may be, and there detain all vessels and cargoes arriving within or approaching the district, until the duties imposed by law on such vessels and their cargoes are paid in cash. But if the owner or consignee of the cargo on board any vessel thus detained, or the master of the vessel, desires to enter a port of entry in any other district where no such obstructions to the execution of the laws exist, the master may be permitted so to change the destination of the vessel and cargo in his manifest; whereupon the collector shall deliver him a written permit to proceed to the port so designated. And the Secretary of the Treasury, with the approval of the President, shall make proper regulations for the enforcement on shipboard of such provisions of the laws regulating the assessment and collection of duties as in his judgment may be necessary and practicable.

(R.S. § 5315.)

REFERENCES IN TEXT

Section 218 of this title, referred to in text, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

CODIFICATION

R.S. § 5315 derived from acts July 13, 1861, ch. 3, § 2, 12 Stat. 256; Mar. 3, 1875, ch. 136, § 2, 18 Stat. 469.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of Department of the Treasury to which appointments were required to be

[1] See References in Text note below.

made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 220, 221 of this title.

§ 220. Enforcement of section 219

It shall be unlawful to take any vessel or cargo detained under section 219 of this title from the custody of the proper officers of the customs, unless by process of some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons, too great to be overcome by the officers of the customs, the President, or such person as he shall have empowered for that purpose, may employ such part of the Army or Navy or militia of the United States, or such force of citizen volunteers as may be necessary, to prevent the removal of such vessel or cargo, and to protect the officers of the customs in retaining the custody thereof.

(R.S. § 5316.)

CODIFICATION

R.S. § 5316 derived from act July 12, 1861, ch. 3, § 3, 12 Stat. 256.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 221 of this title.

§ 221. Closing ports of entry; forfeiture of vessels seeking to enter closed port

Whenever, in any collection district, the duties on imports can not, in the judgment of the President, be collected in the ordinary way, nor in the manner provided by sections 218[1] to 220 of this title, by reason of the cause mentioned in section 218 of this title, the President may close the port of entry in that district; and shall in such case give notice thereof by proclamation. And thereupon all right of importation, warehousing, and other privileges incident to ports of entry shall cease and be discontinued at such port so closed until it is opened by the order of the President on the cessation of such obstructions. Every vessel from beyond the United States, or having on board any merchandise liable to duty, which attempts to enter any port which has been closed under this section, shall, with her tackle, apparel, furniture, and cargo, be forfeited.

(R.S. § 5317.)

REFERENCES IN TEXT

Section 218 of this title, referred to in text, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

CODIFICATION

R.S. § 5317 derived from act July 12, 1861, ch. 3, § 4, 12 Stat. 256.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 222. Transferred

CODIFICATION

Section, R.S. § 5318; act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800, related to use of auxiliary vessels to enforce this chapter and was transferred to section 540 of Title 19, Customs Duties.

§ 223. Forfeiture of vessels owned by citizens of insurrectionary States

From and after fifteen days after the issuing of the proclamation, as provided in section 205 of this title, any vessel belonging in whole or in part to any citizen or inhabitant of such State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited.

(R.S. § 5319.)

CODIFICATION

R.S. § 5319 derived from act July 12, 1861, ch. 3, § 7, 12 Stat. 257.

§ 224. Refusing clearance to vessels with suspected cargoes; forfeiture for departing without clearance

The Secretary of the Treasury is authorized to refuse a clearance to any vessel or other vehicle laden with merchandise, destined for a foreign or domestic port, whenever he shall have satisfactory reason to believe that such merchandise, or any part thereof, whatever may be its ostensible destination, is intended for ports in possession or under control of insurgents against the United States; and if any vessel for which a clearance or permit has been refused by the Secretary of the Treasury, or by his order, shall depart or attempt to depart for a foreign or domestic port without being duly cleared or permitted, such vessel, with her tackle, apparel, furniture, and cargo, shall be forfeited.

[1] See References in Text note below.

(R.S. § 5320.)

CODIFICATION

R.S. § 5320 derived from act May 20, 1862, ch. 81, § 1, 12 Stat. 404.

§ 225. Bond to deliver cargo at destination named in clearance

Whenever a permit or clearance is granted for either a foreign or domestic port, it shall be lawful for the collector of the customs granting the same, if he deems it necessary, under the circumstances of the case, to require a bond to be executed by the master or the owner of the vessel, in a penalty equal to the value of the cargo, and with sureties to the satisfaction of such collector, that the cargo shall be delivered at the destination for which it is cleared or permitted, and that no part thereof shall be used in affording aid or comfort to any person or parties in insurrection against the authority of the United States.

(R.S. § 5321.)

CODIFICATION

R.S. § 5321 derived from act May 20, 1862, ch. 81, § 2, 12 Stat. 404.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 226. Protection of liens on condemned vessels

In all cases wherein any vessel, or other property, is condemned in any proceeding by virtue of any laws relating to insurrection or rebellion, the court rendering judgment of condemnation shall, notwithstanding such condemnation, and before awarding such vessel, or other property, or the proceeds thereof, to the United States, or to any informer, first provide for the payment, out of the proceeds of such vessel, or other property, of any bona fide claims which shall be filed by any loyal citizen of the United States, or of any foreign state or power at peace and amity with the United States, intervening in such proceeding, and which shall be duly established by evidence, as a valid claim against such vessel, or other property, under the laws of the United States or of any State thereof not declared to be in insurrection. No such claim shall be allowed in any case where the claimant has knowingly participated in the illegal use of such ship, vessel, or other property. This section shall extend to such claims only as might have been enforced specifically against such vessel, or other property, in any State not declared to be in insurrection, wherein such claim arose.

(R.S. § 5322.)

CODIFICATION

R.S. § 5322 derived from act Mar. 3, 1863, ch. 90, 12 Stat. 762.

CHAPTER 14—WARTIME VOTING BY LAND AND NAVAL FORCES

§§ 301 to 303. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section 301, acts Sept. 16, 1942, ch. 561, title I, § 1, 56 Stat. 753; July 1, 1943, ch. 187, §§ 1, 5, 57 Stat. 371, granted absentee members of land or naval forces of the United States the right to vote in Presidential, Vice Presidential, and Congressional elections. See section 1973ff et seq. of Title 42, The Public Health and Welfare.

Section 302, act Sept. 16, 1942, ch. 561, title I, § 2, 56 Stat. 753, exempted persons in military service in time of war from paying poll taxes or other taxes as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

Section 303, acts Sept. 16, 1942, ch. 561, title I, § 3, 56 Stat. 753; Apr. 1, 1944, ch. 150, 58 Stat. 136, provided for voting in accordance with State law.

ADDITIONAL REPEAL

Sections 301 to 303 were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70 Stat. 641.

§§ 304 to 315. Repealed. Apr. 1, 1944, ch. 150, 58 Stat. 136

Section 304, act Sept. 16, 1942, ch. 561, § 4, 56 Stat. 754, related to a public list of applicants.

Section 305, act Sept. 16, 1942, ch. 561, § 5, 56 Stat. 754, related to form of ballots and booklets.

Section 306, act Sept. 16, 1942, ch. 561, § 6, 56 Stat. 755, related to use of official envelopes.

Section 307, act Sept. 16, 1942, ch. 561, § 7, 56 Stat. 756, related to transmission of ballots.

Section 308, act Sept. 16, 1942, ch. 561, § 8, 56 Stat. 756, related to return of ballots.

Section 309, act Sept. 16, 1942, ch. 561, § 9, 56 Stat. 756, related to certification of votes.

Section 310, act Sept. 16, 1942, ch. 561, § 10, 56 Stat. 756, related to payment of expenses.

Section 311, act Sept. 16, 1942, ch. 561, § 11, 56 Stat. 757, related to utilization of services of local agencies.

Section 312, act Sept. 16, 1942, ch. 561, § 12, 56 Stat. 757, related to voting under State law.

Section 313, act Sept. 16, 1942, ch. 561, § 13, 56 Stat. 757, related to primary elections.

Section 314, act Sept. 16, 1942, ch. 561, § 14, 56 Stat. 757, related to offenses against elective franchise.

Section 315, act Sept. 16, 1942, ch. 561, § 15, 56 Stat. 757, related to formality of compliance.

§§ 321 to 331. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section 321, act Sept. 16, 1942, ch. 561, title II, § 201, as added Apr. 1, 1944, ch. 150, 58 Stat. 136; amended Apr. 19, 1946, ch. 142, 60 Stat. 96, related to State absentee voting legislation.

Section 322, act Sept. 16, 1942, ch. 561, title II, § 202, as added Apr. 1, 1944, ch. 150, 58 Stat. 137; amended Apr. 19, 1946, ch. 142, 60 Stat. 96, related to use of post cards.

Section 323, act Sept. 16, 1942, ch. 561, title II, § 203, as added Apr. 1, 1944, ch. 150, 58 Stat. 137; amended Apr. 19, 1946, ch. 142, 60 Stat. 97, related to distribution of ballots.

Section 324, act Sept. 16, 1942, ch. 561, title II, § 204, as added Apr. 1, 1944, ch. 150, 58 Stat. 138; amended Apr. 19, 1946, ch. 142, 60 Stat. 97; Sept. 29, 1950, ch. 1112, § 1, 64 Stat. 1082, provided for style and markings of envelopes, protective inserts, return envelopes, and size and weight of ballots and envelopes.

Section 325, act Sept. 16, 1942, ch. 561, title II, § 205, as added Apr. 1, 1944, ch. 150, 58 Stat. 138; amended Apr. 19, 1946, ch. 142, 60 Stat. 97, related to signature and oath of voter.

Section 326, act Sept. 16, 1942, ch. 561, title II, § 206, as added Apr. 1, 1944, ch. 150, 58 Stat. 139; amended Apr. 19,

1946, ch. 142, 60 Stat. 98, related to instructions for marking ballots.

Section 327, act Sept. 16, 1942, ch. 561, title II, § 207, as added Apr. 1, 1944, ch. 150, 58 Stat. 139; amended Apr. 19, 1946, ch. 142, 60 Stat. 99, related to extension of State's time limits.

Section 328, act Sept. 16, 1942, ch. 561, title II, § 208, as added Apr. 19, 1946, ch. 142, 60 Stat. 99, provided for notification of forthcoming elections by secretaries of states.

Section 329, act Sept. 16, 1942, ch. 561, title II, § 209, as added Apr. 19, 1946, ch. 142, 60 Stat. 99; amended Sept. 29, 1950, ch. 1111, 64 Stat. 1082, provided for cooperation with States, printing and transmitting of post cards, and content of post cards.

Section 330, act Sept. 16, 1942, ch. 561, title II, § 210, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to transmission of post cards.

Section 331, act Sept. 16, 1942, ch. 561, title II, § 211, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to distribution of information.

A prior section 331, act Sept. 16, 1942, ch. 561, title III, § 301, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to establishment of United States War Ballot Commission and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

ADDITIONAL REPEAL

Sections 321 to 331 were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§§ 332 to 340. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 332, act Sept. 16, 1942, ch. 561, title III, § 302, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to persons subject to this subchapter.

Section 333, act Sept. 16, 1942, ch. 561, title III, § 303, as added Apr. 1, 1944, ch. 150, 58 Stat. 141, related to Federal war ballots.

Section 334, act Sept. 16, 1942, ch. 561, title III, § 304, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of oaths.

Section 335, act Sept. 16, 1942, ch. 561, title III, § 305, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of this subchapter.

Section 336, act Sept. 16, 1942, ch. 561, title III, § 306, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to lists of candidates.

Section 337, act Sept. 16, 1942, ch. 561, title III, § 307, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to distribution and collection of ballots.

Section 338, act Sept. 16, 1942, ch. 561, title III, § 308, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to merchant marine ballots.

Section 339, act Sept. 16, 1942, ch. 561, title III, § 309, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to transmission of ballots.

Section 340, act Sept. 16, 1942, ch. 561, title III, § 310, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to reports on balloting.

§ 341. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section, act Sept. 16, 1942, ch. 561, title III, § 301, as added Apr. 19, 1946, ch. 142, 60 Stat. 101, provided for prevention of fraud, coercion, and undue influence; free discussion, and acts done in good faith.

A prior section 341, act Sept. 16, 1942, ch. 561, title III, § 311, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to validity of ballots and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

ADDITIONAL REPEAL

Section was also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§ 342. Repealed. May 24, 1949, ch. 139, § 142, 63 Stat. 109

Section, act Sept. 16, 1942, ch. 561, title III, § 302, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, related to prohibition against taking of polls. See section 596 of Title 18, Crimes and Criminal Procedure.

A prior section 342, act Sept. 16, 1942, ch. 561, title III, § 312, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, which provided for safeguards and secrecy of ballots and prevention of fraud and coercion as to voting, was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 102.

§§ 343 to 347. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 343, act Sept. 16, 1942, ch. 561, title III, § 313, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to penalties under sections 341 to 347 of this title.

Section 344, act Sept. 16, 1942, ch. 561, title III, § 314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to prohibition on taking polls. See section 596 of Title 18, Crimes and Criminal Procedure.

Section 344 was also repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Section 345, act Sept. 16, 1942, ch. 561, title III, § 315, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to certain State officials.

Section 346, act Sept. 16, 1942, ch. 561, title III, § 316, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to agencies acting for the Secretary of State.

Section 347, act Sept. 16, 1942, ch. 561, title III, § 317, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to construction of chapter.

§§ 351 to 355. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section 351, act Sept. 16, 1942, ch. 561, title IV, § 401, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, defined terms for purposes of this chapter.

A prior section 351, act Sept. 16, 1942, ch. 561, title IV, § 401, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, authorized appropriations for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 352, act Sept. 16, 1942, ch. 561, title IV, § 402, as added Apr. 19, 1946, ch. 142, 60 Stat. 102; amended Sept. 29, 1950, ch. 1112, § 2, 64 Stat. 1083, related to free postage.

A prior section 352, act Sept. 16, 1942, ch. 561, title IV, § 402, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to free postage and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 353, act Sept. 16, 1942, ch. 561, title IV, § 403, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to administration of this chapter.

A prior section 353, act Sept. 16, 1942, ch. 561, title IV, § 403, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, defined terms for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 354, act Sept. 16, 1942, ch. 561, title IV, § 404, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to separability of provisions.

A prior section 354, act Sept. 16, 1942, ch. 561, title IV, § 404, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, related to separability of provisions and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 355, act Sept. 16, 1942, ch. 561, title IV, § 405, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to construction of this chapter.

ADDITIONAL REPEAL

Sections 351 to 355 were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

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§ 401. Congressional declaration of purpose

In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

(July 26, 1947, ch. 343, § 2, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 2, 63 Stat. 579; Aug. 6, 1958, Pub. L. 85–599, § 2, 72 Stat. 514.)

REFERENCES IN TEXT

This legislation, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1958—Pub. L. 85–599 amended section generally, and, among other changes, provided that each military department shall be separately organized, instead of separately administered, under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense, and inserted provisions relating to establishment of unified or specified combatant commands and for elimination of unnecessary duplication.

1949—Act Aug. 10, 1949, provided that the military departments shall be separately administered but be under the direction of the Secretary of Defense, and that there shall not be a single Chief of Staff over the armed forces nor an armed forces general staff.

EFFECTIVE DATE

Section 310 of act July 26, 1947, provided:

''(a) The first sentence of section 202(a) [section 171a of former Title 5, Executive Departments and Government Officers and Employees] and sections 1, 2, 307, 308, 309, and 310 [section 171 note of former Title 5, section 361 of this title, and sections 171m and 171n of former Title 5] shall take effect immediately upon the enactment of this Act [July 26, 1947].

''(b) Except as provided in subsection (a), the provisions of this Act [sections 171 to 171*l*, 181–1, 181–2, 411a, 411b, 626 to 626d of former Title 5, section 24 of Title 3, The President, and sections 401 to 405 of this title] shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act [July 26, 1947].''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–359, title VIII, § 801, Oct. 14, 1994, 108 Stat. 3434, provided that: ''This title [enacting sections 402a, 435 to 438, and 1821 to 1829 of this title, section 2170b of the Appendix to this title, section 1599 of Title 10, Armed Forces, and section 1924 of Title 18, Crimes and Criminal Procedure, amending section 783 of this title, section 2170 of the Appendix to this title, section 8312 of Title 5, Government Organization and Employees, section 1604 of Title 10, and sections 793, 794, 798, 3071, and 3077 of Title 18, enacting provisions set out as notes under sections 435 and 1821 of this title, and amending provisions set out as notes under sections 402 and 1801 of this title] may be cited as the 'Counterintelligence and Security Enhancements Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–496, title VII, § 701, Oct. 24, 1992, 106 Stat. 3188, provided that: ''This title [enacting sections 401a and 403–3 to 403–6 of this title, amending sections 402, 403, 404, and 404a of this title, and repealing section 403–1 of this title] may be cited as the 'Intelligence Organization Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–477, § 1, Oct. 15, 1984, 98 Stat. 2209, provided: ''That this Act [enacting sections 431 and 432 of this title, amending section 552a of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 431 and 432 of this title] may be cited as the 'Central Intelligence Agency Information Act'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–200, § 1, June 23, 1982, 96 Stat. 122, provided: ''That this Act [enacting subchapter IV of this chapter] may be cited as the 'Intelligence Identities Protection Act of 1982'.''

SHORT TITLE OF 1949 AMENDMENT

Section 1 of act Aug. 10, 1949, provided that: ''This Act [enacting sections 408 and 412 of this title and sec-

tions 171–1, 171t, 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, amending this section, sections 151, 402, 403d, 405, 410, 459, 481, and 494 of this title, sections 171, 171a, 171b to 171d, 171e to 171j, 171n, 171r, 172e, 411b, and 626c of former Title 5, section 1748b of Title 12, Banks and Banking, section 1517 of Title 15, Commerce and Trade, sections 474, 481 to 484, and 487 of Title 40, Public Buildings, Property, and Works, section 364a of Title 43, Public Lands, sections 1156 and 1157 of former Title 49, Transportation, and section 1193 of the Appendix to this title, and enacting provisions set out as notes under this section and sections 171 and 171c of former Title 5] may be cited as the 'National Security Act Amendments of 1949'.''

SHORT TITLE

Section 1 of act July 26, 1947, provided: ''That this Act [enacting this section, sections 401a to 403, 404, 405, and 408 to 412 of this title, and sections 171, 171–1, 171–2, 171a, 171b to 171d, 171e to 171j, 171k to 171m, 171n, 172, 172a to 172d, 172f to 172j, 181–1, 181–2, 411a, 411b, 626, 626a to 626c, and 626d of former Title 5, Executive Department and Government Officers and Employees, amending sections 1, 11, and 172e of former Title 5, section 1517 of Title 15, Commerce and Trade, and section 72 of former Title 31, Money and Finance, and enacting provisions set out as notes under this section and section 135 of Title 10, Armed Forces] may be cited as the 'National Security Act of 1947'.''

Sections of National Security Act of 1947, which were classified to former Title 5, were repealed and restated in Title 10, Armed Forces, except as noted, as follows:

Section of former Title 5	*Section of Title 10*
171	131, 133.
171a(a), (b)	133.
171a(c)	125, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012.
171a(d)	133.
171a(e)	132.
171a(f)	133.
171a(g)–(i)	[Omitted].
171a(j)	124.
171c	134, 135, 136, 718, 2358.
171c–1, 171c–2	[Repealed].
171d	1580.
171e	171.
171f	141, 142.
171g	143.
171h	2201.
171i	2351.
171j	173.
172	136.
172a	3014, 5061, 8014.
172b	2203.
172c	2204.
172d	2208.
172e	2209.
172f	126.
172g	2205.
172h	2206.
172i	2701.
181–1	101, 3011, 3012, 3062, T. 50 § 409.
181–2	3012.
411a(a)	101; T. 50 § 409.
411a(b)	5012.
411a(c)	5013, 5402.
626(a)	8012.
626(b)	[Repealed].
626(c)	101; T. 50 § 409.
626(d)	8013.
626(e)	8012.
626(f)	8033.
626(g)	8011.
626a	8012.
626b	8013.
626c	743, 8062.

SAVINGS PROVISION

Section 12(g) of act Aug. 10, 1949, provided: ''All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act [see Short Title of 1949 Amendment note above], have the same effect as if this Act had not been enacted; but, after the effective date of this Act [Aug. 10, 1949], any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.''

SEPARABILITY

Section 309 of act July 26, 1947, provided: ''If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

[Section 310(a) of act July 26, 1947, set out as an Effective Date note above, provided that section 309 of act July 26, 1947, is effective July 26, 1947.]

COMMISSION ON ROLES AND CAPABILITIES OF UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 103–359, title IX, Oct. 14, 1994, 108 Stat. 3456, provided that:

''SEC. 901. ESTABLISHMENT.

''There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the 'Commission').

''SEC. 902. COMPOSITION AND QUALIFICATIONS.

''(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

''(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community and no more than five of whom shall be members of the same political party.

''(B) Two members shall be appointed by the majority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

''(C) Two members shall be appointed by the minority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

''(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

''(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

''(2) The members of the Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

''(b) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate two of the members appointed from private life to serve as Chairman and Vice Chairman, respectively, of the Commission.

''(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

''(d) DEADLINE FOR APPOINTMENTS.—The appointments required by subsection (a) shall be made within 45 days after the date of enactment of this Act [Oct. 14, 1994].

''(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

''(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

''(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

''(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

''(h) APPLICATION OF CERTAIN PROVISIONS OF LAW.—In light of the extraordinary and sensitive nature of its deliberations, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall not apply to the Commission. Further, the provisions of section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), shall not apply to the Commission; however, records of the Commission shall be subject to the Federal Records Act [probably means chapters 21 to 31 of Title 44, Public Printing and Documents] and, when transferred to the National Archives and Records Agency, shall no longer be exempt from the provisions of such section 552.

''SEC. 903. DUTIES OF THE COMMISSION.

''(a) IN GENERAL.—It shall be the duty of the Commission—

''(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-cold war global environment; and

''(2) to prepare and transmit the reports described in section 904.

''(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

''(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments and how should these relate to tactical intelligence activities.

''(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include, for example, economic issues, environmental issues, and health issues.

''(3) What functions, if any, should continue to be assigned to the organizations of the intelligence community, including the Central Intelligence Agency, and what capabilities should these organizations retain for the future.

''(4) Whether the existing organization and management framework of the organizations of the intelligence community, including the Central Intelligence Agency, provide the optimal structure for the accomplishment of their missions.

''(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

''(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

''(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

''(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

''(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

''(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

''(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

''(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

''(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

''(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

''(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

''(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

''(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of other countries.

''(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

''(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually shared objectives are adequate.

''SEC. 904. REPORTS.

''(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

''(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

''(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of

the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

''SEC. 905. POWERS.

''(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

''(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

''(c) POSTAL, PRINTING AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

''(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

''SEC. 906. PERSONNEL MATTERS.

''(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

''(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(c) STAFF.—

''(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The staff director of the Commission shall be appointed from private life, and such appointment shall be subject to the approval of the Commission as a whole. No member of the professional staff may be a current officer or employee of an intelligence agency, except that up to three current employees of intelligence agencies who are on rotational assignment to the Executive Office of the President may serve on the Commission staff, subject to the approval of the Commission as a whole.

''(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

''(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

''(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

''(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

''SEC. 907. PAYMENT OF COMMISSION EXPENSES.

''The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

''SEC. 908. TERMINATION OF THE COMMISSION.

''The Commission shall terminate one month after the date of the submission of the report required by section 904(c).

''SEC. 909. DEFINITIONS.

''For purposes of this title—

''(1) the term 'intelligence agency' means any agency, office, or element of the intelligence community;

''(2) the term 'intelligence community' shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

''(3) the term 'congressional intelligence committees' refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''

NATIONAL COMMISSION ON DEFENSE AND NATIONAL SECURITY

Pub. L. 101–511, title VIII, §8104, Nov. 5, 1990, 104 Stat. 1898, as amended by Pub. L. 102–172, title VIII, §8078, Nov. 26, 1991, 105 Stat. 1189, provided that:

''SECTION 1. This section establishes the National Commission on Defense and National Security.

''SEC. 2. FINDINGS.

''The Congress makes the following findings:

''(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

''(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

''(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

''(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce

a world more dangerous than we have faced in the past.

''(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

''(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

''(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

''SEC. 3. ESTABLISHMENT.

''There is established a commission to be known as [the] National Commission on Defense and National Security (hereinafter in this Act referred to as the 'Commission'). The Commission is established until 30 days following submission of the final report required by section 6 of this section.

''SEC. 4. DUTIES OF COMMISSION.

''(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

''(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

''(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

''(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

''(A) the developments in Eastern Europe and the Soviet Union;

''(B) the question of German unification;

''(C) the future of NATO and European economic integration;

''(D) the future of the Pacific Basin; and

''(E) potential instability resulting from regional conflicts or economic problems in the developing world.

''(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

''(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

''(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

''SEC. 5. MEMBERSHIP.

''(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

''(1) Three appointed by the President.

''(2) Three appointed by the Speaker of the House of Representatives.

''(3) One appointed by the minority leader of the House of Representatives.

''(4) Two appointed by the majority leader of the Senate.

''(5) One appointed by the minority leader of the Senate.

''(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

''(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) BASIC PAY.—Members of the Commission shall serve without pay.

''(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

''(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

''(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

''(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act [Nov. 5, 1990].

''SEC. 6. REPORTS.

''(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

''(b) FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following submission of the initial report under subsection (a).

''(c) CONTENTS OF REPORTS.—The report under subsection (b) shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such report shall include a comprehensive description and discussion of the matters set forth in section 4.

''(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

''(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

''SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

''(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

''(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

''(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

''SEC. 8. POWERS OF COMMISSION

''(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

''(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

''(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

''(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 9. INITIAL FUNDING OF COMMISSION.

''If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.''

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

INTELLIGENCE PRIORITIES AND REORGANIZATION

Pub. L. 101–510, div. A, title IX, §907, Nov. 5, 1990, 104 Stat. 1622, provided that:

''(a) REVISION OF PRIORITIES AND CONSOLIDATION OF FUNCTIONS.—The Secretary of Defense, together with the Director of Central Intelligence, shall conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) programs and the National Foreign Intelligence Program (NFIP). The Secretary, together with the Director, shall take the following actions with respect to those activities:

''(1) In cases in which redundancy or fragmentation exist, consolidate functions, programs, organizations, and operations to improve the efficiency and effectiveness of the conduct of those intelligence activities or programs.

''(2) Revise intelligence collection and analysis priorities and resource allocations to reflect changes in the international security environment.

''(3) Strengthen joint intelligence functions, operations, and organizations.

''(4) Improve the quality and independence of intelligence support to the weapons acquisition process.

''(5) Improve the responsiveness and utility of national intelligence systems and organizations to the needs of the combatant commanders.

''(b) PERSONNEL REDUCTIONS.—(1) The number of personnel assigned or detailed to the National Foreign Intelligence Program and related Tactical Intelligence and Related Activities programs shall be reduced by not less than 5 percent of the number of such personnel described in paragraph (2) during each of fiscal years 1992 through 1996.

''(2) The number of personnel referred to in paragraph (1) is the number of personnel assigned or detailed to such programs on September 30, 1990.''

FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

For provisions relating to the exercise of certain authority respecting foreign intelligence electronic surveillance, see Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, set out under section 1802 of this title.

CHANGE OF TITLES OF SECRETARY OF DEFENSE, ET AL.; REAPPOINTMENT

Section 12(f) of act Aug. 10, 1949, provided in part that: ''The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, shall not be changed by virtue of this Act [see Short Title of 1949 Amendment note set out above] and the reappointment of the officials holding such titles on the effective date of this Act [Aug. 10, 1949] shall not be required.''

REORGANIZATION PLAN NO. 8 OF 1949

Section 12(i) of act Aug. 10, 1949, provided that: ''Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949 [set out in Appendix to Title 5, Government Organization and Employees] pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.''

EX. ORD. NO. 10431. NATIONAL SECURITY MEDAL

Ex. Ord. No. 10431, Jan. 19, 1953, 18 F.R. 437, provided:

1. There is hereby established a medal to be known as the National Security Medal with accompanying ribbons and appurtenances. The medal and its appurtenances shall be of appropriate design, approved by the Executive Secretary of the National Security Council.

2. The National Security Medal may be awarded to any person, without regard to nationality, including members of the armed forces of the United States, for distinguished achievement or outstanding contribution on or after July 26, 1947, in the field of intelligence relating to the national security.

3. The decoration established by this order shall be awarded by the President of the United States or, under regulations approved by him, by such person or persons as he may designate.

4. No more than one National Security Medal shall be awarded to any one person, but for subsequent services justifying an award, a suitable device may be awarded to be worn with the Medal.

5. Members of the armed forces of the United States who are awarded the decoration established by this order are authorized to wear the medal and the ribbon symbolic of the award, as may be authorized by uniform regulations approved by the Secretary of Defense.

6. The decoration established by this order may be awarded posthumously.

REGULATIONS GOVERNING THE AWARD OF THE NATIONAL SECURITY MEDAL

Pursuant to Paragraph 2 of Executive Order 10431, the following regulations are hereby issued to govern the award of the National Security Medal:

1. The National Security Medal may be awarded to any person without regard to nationality, including a member of the Armed Forces of the United States, who, on or after 26 July 1947, has made an outstanding contribution to the National intelligence effort. This contribution may consist of either exceptionally meritorious service performed in a position of high responsibility or of an act of valor requiring personal courage of a high degree and complete disregard of personal safety.

2. The National Security Medal with accompanying ribbon and appurtenances, shall be of appropriate de-

sign to be approved by the Executive Secretary of the National Security Council.

3. The National Security Medal shall be awarded only by the President or his designee for that purpose.

4. Recommendations may be submitted to the Executive Secretary of the National Security Council by any individual having personal knowledge of the facts of the exceptionally meritorious conduct or act of valor of the candidate in the performance of outstanding services, either as an eyewitness or from the testimony of others who have personal knowledge or were eyewitnesses. Any recommendations shall be accompanied by complete documentation, including where necessary, certificates, affidavits or sworn transcripts of testimony. Each recommendation for an award shall show the exact status, at the time of the rendition of the service on which the recommendation is based, with respect to citizenship, employment, and all other material factors, of the person who is being recommended for the National Security Medal.

5. Each recommendation shall contain a draft of an appropriate citation to accompany the award of the National Security Medal.

EXECUTIVE ORDER NO. 10865

For Ex. Ord. No. 10865, see note under section 435 of this title.

EXECUTIVE ORDER NO. 11652

For Ex. Ord. No. 11652, see note under section 435 of this title.

EXECUTIVE ORDER NO. 11905

Ex. Ord. No. 11905, Feb. 18, 1976, 41 F.R. 7703, as amended by Ex. Ord. No. 11985, May 13, 1977, 42 F.R. 25487; Ex. Ord. No. 11994, June 1, 1977, 42 F.R. 28869, which related to United States foreign intelligence activities, was superseded by Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, formerly set out below.

EXECUTIVE ORDER NO. 11932

For Ex. Ord. No. 11932, see note under section 435 of this title.

EXECUTIVE ORDER NO. 12036

Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, as amended by Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, which related to United States foreign intelligence activities, was revoked by Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, set out below.

EXECUTIVE ORDER NO. 12065

For Ex. Ord. No. 12065, see note under section 435 of this title.

EX. ORD. NO. 12333. UNITED STATES INTELLIGENCE ACTIVITIES

Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, provided:

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended [see Short Title note above], and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1—GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT

1.1 GOALS

The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 THE NATIONAL SECURITY COUNCIL

(a) *Purpose*. The National Security Council (NSC) was established by the National Security Act of 1947 [see Short Title note above] to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees*. The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 NATIONAL FOREIGN INTELLIGENCE ADVISORY GROUPS

(a) *Establishment and Duties*. The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

(1) Production, review and coordination of national foreign intelligence;

(2) Priorities for the National Foreign Intelligence Program budget;

(3) Interagency exchanges of foreign intelligence information;

(4) Arrangements with foreign governments on intelligence matters;

(5) Protection of intelligence sources and methods;

(6) Activities of common concern; and

(7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership*. Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 THE INTELLIGENCE COMMUNITY

The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 DIRECTOR OF CENTRAL INTELLIGENCE

In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(*l*) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(*o*) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 SENIOR OFFICIALS OF THE INTELLIGENCE COMMUNITY

The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 THE CENTRAL INTELLIGENCE AGENCY

All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended [see Short Title note above]; the CIA Act of 1949, as amended [see Short Title of 1949 Amendment note above]; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon [by] the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855) [50 U.S.C. 1541 et seq.]) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and [sic] through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 THE DEPARTMENT OF STATE

The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 THE DEPARTMENT OF THE TREASURY

The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 THE DEPARTMENT OF DEFENSE

The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 INTELLIGENCE COMPONENTS UTILIZED BY THE SECRETARY OF DEFENSE

In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense*. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 The Department of Energy

The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 The Federal Bureau of Investigation

Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

PART 2—CONDUCT OF INTELLIGENCE ACTIVITIES

2.1 Need

Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 Purpose

This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 Collection of Information

Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for

purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 COLLECTION TECHNIQUES

Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 ATTORNEY GENERAL APPROVAL

The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978 [50 U.S.C. 1801 et seq.], shall be conducted in accordance with that Act, as well as this Order.

2.6 ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 CONTRACTING

Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 CONSISTENCY WITH OTHER LAWS

Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 UNDISCLOSED PARTICIPATION IN ORGANIZATIONS WITHIN THE UNITED STATES

No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 HUMAN EXPERIMENTATION

No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 PROHIBITION ON ASSASSINATION

No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 INDIRECT PARTICIPATION

No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

PART 3—GENERAL PROVISIONS

3.1 CONGRESSIONAL OVERSIGHT

The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 IMPLEMENTATION

The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 PROCEDURES

Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036 [formerly set out above]. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 DEFINITIONS

For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visably [sic] present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 PURPOSE AND EFFECT

This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 REVOCATION

Executive Order No. 12036 of January 24, 1978, as amended, entitled ''United States Intelligence Activities,'' is revoked.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12334

Ex. Ord. No. 12334, Dec. 4, 1981, 46 F.R. 59955, as amended by Ex. Ord. No. 12701, Feb. 14, 1990, 55 F.R. 5953, which established the President's Intelligence Oversight Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, set out below.

EXECUTIVE ORDER NO. 12356

For Ex. Ord. No. 12356, see note under section 435 of this title.

EX. ORD. NO. 12863. PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 12863, Sept. 13, 1993, 58 F.R. 48441, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, and to assure the legality of activities of the Intelligence Community, it is ordered as follows:

PART I. ASSESSMENT OF INTELLIGENCE ACTIVITIES

SECTION 1.1. There is hereby established within the White House Office, Executive Office of the President,

the President's Foreign Intelligence Advisory Board (PFIAB). The PFIAB shall consist of not more than 16 members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the PFIAB at any one time shall be comprised of members whose term of service does not exceed 2 years. The President shall designate a Chairman and Vice Chairman from among the members. The PFIAB shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

SEC. 1.2. The PFIAB shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities. The PFIAB shall have the authority to review continually the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The PFIAB shall further be authorized to assess the adequacy of management, personnel and organization in the intelligence agencies. The heads of departments and agencies of the Federal Government, to the extent permitted by law, shall provide the PFIAB with access to all information that the PFIAB deems necessary to carry out its responsibilities.

SEC. 1.3. The PFIAB shall report directly to the President and advise him concerning the objectives, conduct, management and coordination of the various activities of the agencies of the Intelligence Community. The PFIAB shall report periodically, but at least semiannually, concerning its findings and appraisals and shall make appropriate recommendations for the improvement and enhancement of the intelligence efforts of the United States.

SEC. 1.4. The PFIAB shall consider and recommend appropriate action with respect to matters, identified to the PFIAB by the Director of Central Intelligence, the Central Intelligence Agency, or other Government agencies engaged in intelligence or related activities, in which the advice of the PFIAB will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the PFIAB shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other Government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

PART II. OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 2.1. The Intelligence Oversight Board (IOB) is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members appointed from among the membership of the PFIAB by the Chairman of the PFIAB. The Chairman of the IOB shall be appointed by the Chairman of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman of the IOB. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the PFIAB.

SEC. 2.2. The IOB shall:

(a) prepare for the President reports of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;

(b) forward to the Attorney General reports received concerning intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;

(c) review the internal guidelines of each agency within the Intelligence Community that concern the lawfulness of intelligence activities;

(d) review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) conduct such investigations as the IOB deems necessary to carry out its functions under this order.

SEC. 2.3. The IOB shall, when required by this order, report to the President through the Chairman of the PFIAB. The IOB shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the IOB shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency and other agencies of the Intelligence Community.

SEC. 2.4. The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

PART III. GENERAL PROVISIONS

SEC. 3.1. Information made available to the PFIAB, or members of the PFIAB acting in their IOB capacity, shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the PFIAB, each member of the PFIAB's staff and each of the PFIAB's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her services with the PFIAB except to the President or to such persons as the President may designate.

SEC. 3.2. Members of the PFIAB shall serve without compensation but may receive transportation expenses and per diem allowance as authorized by law. Staff and consultants to the PFIAB shall receive pay and allowances as authorized by the President.

SEC. 3.3. Executive Order No. 12334 of December 4, 1981, as amended, and Executive Order No. 12537 of October 28, 1985, as amended [50 U.S.C. 403 note], are revoked.

WILLIAM J. CLINTON.

ACT REFERRED TO IN OTHER SECTIONS

The National Security Act of 1947 is referred to in section 47e of this title; section 469 of Appendix to this title; title 21 section 1503.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 113, 125, 155.

§ 401a. Definitions

As used in this Act:

(1) The term ''intelligence'' includes foreign intelligence and counterintelligence.

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons.

(3) The term ''counterintelligence'' means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term ''intelligence community'' includes—

(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 403–5(b)(3)[1] of this title), and such other offices as the Director may designate;

(B) the Central Intelligence Agency;

(C) the National Security Agency;

(D) the Defense Intelligence Agency;

(E) the Central Imagery Office;

(F) the National Reconnaissance Office;

(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;

(I) the Bureau of Intelligence and Research of the Department of State; and

(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms ''national intelligence'' and ''intelligence related to the national security''—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.[2]

(6) The term ''National Foreign Intelligence Program'' refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(July 26, 1947, ch. 343, § 3, as added Oct. 24, 1992, Pub. L. 102–496, title VII, § 702, 106 Stat. 3188; amended Oct. 14, 1994, Pub. L. 103–359, title V, § 501(a)(1), 108 Stat. 3428.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

This title, referred to in par. (5)(B), probably should be ''this Act'', meaning act July 26, 1947, see above, because this section is not a part of any title of act of July 26, 1947.

AMENDMENTS

1994—Par. (4)(E). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''the central imagery authority within the Department of Defense''.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403–2a of this title.

SUBCHAPTER I—COORDINATION FOR NATIONAL SECURITY

§ 402. National Security Council

(a) Establishment; presiding officer; functions; composition

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the ''Council'').

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the Secretary of State;

(4) the Secretary of Defense;

(5) the Director for Mutual Security;

(6) the Chairman of the National Security Resources Board; and

(7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) Additional functions

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national secu-

[1] So in original. Probably should be section ''403–3(b)(3)''.

[2] See References in Text note below.

rity, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment; staff employees

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) Participation of Chairman or Vice Chairman of Joint Chiefs of Staff

The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(f) Participation by Director of National Drug Control Policy

The Director of National Drug Control Policy may, in his role as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(g) Board for Low Intensity Conflict

The President shall establish within the National Security Council a board to be known as the ''Board for Low Intensity Conflict''. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

(h) Participation of Director of Central Intelligence

The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(July 26, 1947, ch. 343, title I, §101, 61 Stat. 496; Aug. 10, 1949, ch. 412, §3, 63 Stat. 579; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Oct. 10, 1951, ch. 479, title V, §501(e)(1), 65 Stat. 378; Oct. 1, 1986, Pub. L. 99–433, title II, §203, 100 Stat. 1011; Oct. 18, 1986, Pub. L. 99–500, §101(c) [title IX, §9115(f)], 100 Stat. 1783–82, 1783–125, and Oct. 30, 1986, Pub. L. 99–591, §101(c) [title IX, §9115(f)], 100 Stat. 3341–82, 3341–125; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, §1311(f), 100 Stat. 3986; Nov. 18, 1988, Pub. L. 100–690, title I, §1003(a)(3), 102 Stat. 4182; Oct. 24, 1992, Pub. L. 102–496, title VII, §703, 106 Stat. 3189.)

AMENDMENT OF SECTION

For repeal of amendment by section 1506 of Title 21, Food and Drugs, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

This Act, referred to in subsec. (h), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

In subsec. (c), provisions that specified compensation of $10,000 per year for the executive secretary to the Council were omitted. Section 304(b) of Pub. L. 88–426 amended section 105 of Title 3, The President, to include the executive secretary of the Council among those whose compensation was authorized to be fixed by the President. Section 1(a) of Pub. L. 95–570 further amended section 105 of Title 3 to authorize the President to appoint and fix the pay of the employees of the White House Office subject to certain provisions.

In subsec. (c), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (h). Pub. L. 102–496 added subsec. (h).

1988—Subsecs. (f), (g). Pub. L. 100–690, §§1003(a)(3), 1009, temporarily added subsec. (f) and redesignated former subsec. (f) as (g). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (e). Pub. L. 99–433 added subsec. (e).

Subsec. (f). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended section identically adding subsec. (f).

1951—Subsec. (a). Act Oct. 10, 1951, inserted cl. (5) relating to Director for Mutual Security, in fourth paragraph, and renumbered former cls. (5) and (6) thereof as cls. (6) and (7), respectively.

1949—Subsec. (a). Act Aug. 10, 1949, added the Vice President to the Council, removed the Secretaries of the military departments, to authorize the President to add, with the consent of the Senate, Secretaries and Under Secretaries of other executive departments and of the military department, and the Chairmen of the Munitions Board and the Research and Development Board.

Subsec. (c). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923, as amended''.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and repealed Sept. 30, 1997, see section 1506 of Title 21, Food and Drugs, and section 1012 of Pub. L. 100–690, set out as an Effective Date note under section 1501 of Title 21.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Office of Director for Mutual Security abolished and functions of Director, including those as a member of

National Security Council, transferred to Director of Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541, set out in the Appendix to Title 5, Government Organization and Employees. Foreign Operations Administration abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices transferred to Department of State to be administered by International Cooperation Administration. For later transfer, see section 2381 of Title 22, Foreign Relations and Intercourse, and notes set out under that section.

National Security Resources Board, together with Office of Chairman, abolished by section 6 of Reorg. Plan No. 3 of 1953, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out under section 404 of this title. Functions of Chairman with limited exception, including his functions as a member of National Security Council transferred to Office of Defense Mobilization by section 2(a) of Reorg. Plan No. 3 of 1953. Functions of Director of Office of Defense Mobilization with respect to being a member of National Security Council transferred to Director of Office of Civil and Defense Mobilization by Reorg. Plan No. 1 of 1958, § 4, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861, set out as a note under section 5195 of Title 42, The Public Health and Welfare. For subsequent transfers to Office of Emergency Planning, Office of Emergency Preparedness, and President, see Transfer of Functions notes set out under section 404 of this title.

Munitions Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. All functions vested in Munitions Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

Research and Development Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. Functions vested in Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

National Security Council, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067, set out in the Appendix to Title 5, Government Organization and Employees.

RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661

For rule of construction for certain duplicate provisions of Public Laws 99–500, 99–591, and 99–661, see section 6 of Pub. L. 100–26, set out as a note under section 2302 of Title 10, Armed Forces.

SECTION AS UNAFFECTED BY REPEALS

Repeals by section 542(a) of Mutual Security Act of 1954 did not repeal amendment to this section by act Oct. 10, 1951.

NATIONAL SECURITY AGENCY ACT OF 1959

Pub. L. 86–36, May 29, 1959, 73 Stat. 63, as amended by Pub. L. 87–367, title II, §§ 201, 204, Oct. 4, 1961, 75 Stat. 789, 791; Pub. L. 87–793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88–426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88–631, § 3(d), 78 Stat. 1008; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 660; Oct. 8, 1966, Pub. L. 89–632, § 1(e), 80 Stat. 878; Pub. L. 91–187, § 2, Dec. 30, 1969, 83 Stat. 850; Pub. L. 96–450, title IV, § 402(a), Oct. 14, 1980, 94 Stat. 1977; Pub. L. 97–89, title VI, §§ 601–603, Dec. 4, 1981, 95 Stat. 1154–1156, eff. Oct. 1, 1981; Pub. L. 99–335, title V, § 507(a), June 6, 1986, 100 Stat. 628; Pub. L. 99–569, title V, § 505, Oct. 27, 1986, 100 Stat. 3200; Pub. L. 101–193, title V, § 505(b), Nov. 30, 1989, 103 Stat. 1709; Pub. L. 101–194, title V, § 506(c)(2), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 102–88, title V, § 503, Aug. 14, 1991, 105 Stat. 436; Pub. L. 102–183, title IV, § 405, Dec. 4, 1991, 105 Stat. 1267; Pub. L. 102–496, title III, § 304(a), title IV, § 405, title VIII, § 803(b), Oct. 24, 1992, 106 Stat. 3183, 3186, 3253; Pub. L. 103–359, title VIII, § 806(b)(2), Oct. 14, 1994, 108 Stat. 3442, provided: "That this Act [this note] may be cited as the 'National Security Agency Act of 1959'. [Amended Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 660; Pub. L. 96–450, title IV, § 402(a)(2), Oct. 14, 1980, 94 Stat. 1978.]

"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.

[Amended Pub. L. 87–367, title II, § 201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88–426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88–631, § 3(d), 78 Stat. 1008; Oct. 8, 1966, Pub. L. 89–632, § 1(e)(1), 80 Stat. 878; Pub. L. 102–496, title IV, § 405, Oct. 24, 1992, 106 Stat. 3186.]

"SEC. 3. [Amended section 1581(a) of Title 10, Armed Forces.]

"SEC. 4. The Secretary of Defense (or his designee for the purpose) is authorized to—

"(1) establish in the National Security Agency (A) professional engineering positions primarily concerned with research and development and (B) professional positions in the physical and natural sciences, medicine, and cryptology; and

"(2) fix the respective rates of pay of such positions at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

Officers and employees appointed to positions established under this section shall be in addition to the number of officers and employees appointed to positions under section 2 of this Act who may be paid at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule. [As amended Pub. L. 87–367, title II, § 204, Oct. 4, 1961, 75 Stat. 791; Pub. L. 87–793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Pub. L. 89–632, § 1(e)(2), Oct. 8, 1966, 80 Stat. 878; Pub. L. 91–187, § 2, Dec. 30, 1969, 83 Stat. 850].

"SEC. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1949, as amended (5 U.S.C. 118h) [see 5 U.S.C. 5941], for employees whose rates of basic compensation are fixed by statute.

"SEC. 6. (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and sec-

tion 2 of the Act of August 28, 1935 (5 U.S.C. 654) [repealed by Pub. L. 86–626, title I, §101, July 12, 1960, 74 Stat. 427]) shall be construed to require the disclosure of the organization or any function of the National Security Agency, or any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

''(b) The reporting requirements of section 1582 of title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

''SEC. 7. [Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 660.]

''SEC. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act.

''SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

''(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

''(1) allowances and benefits—

''(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

''(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency;

''(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing; and

''(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) [50 U.S.C. 2001 et seq.] and in section 18 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403r].

''(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

''(d) Members of the Armed Forces may not receive benefits under both subsection (b)(1) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

''(e) Regulations issued pursuant to subsection (b)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

[Amended Pub. L. 102–496, title VIII, §803(b), Oct. 24, 1992, 106 Stat. 3253. Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.]

[Amended Pub. L. 101–193, title V, §505(b), Nov. 30, 1989, 103 Stat. 1709.]

[Amended Pub. L. 99–335, title V, §507(a), June 6, 1986, 100 Stat. 628. Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.]

[Amended Pub. L. 97–89, title VI, §601, Dec. 4, 1981, 95 Stat. 1154.]

[Added Pub. L. 96–450, title IV, §401(a)(1), Oct. 14, 1980, 94 Stat. 1977.]

''SEC. 10. (a) The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

''(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

''(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

''(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

''(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

''(b)(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

''(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

''(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

''(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

''(c)(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a cryptologic linguist reserve. The cryptologic linguist reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the cryptologic linguist reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

''(2) In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

''(3) In order to provide training and support for members of the cryptologic linguist reserve, the Director—

''(A) may pay all or part of the tuition and other expenses related to the training of individuals in the cryptologic linguist reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

''(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the cryptologic linguist reserve who are assigned to training at sites away from their homes or regular places of business.

''(d)(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

''(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

''(B) in the case of individuals accepted for membership in the cryptologic linguist reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

''(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

''(e)(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

''(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

''(f) The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

''(g) The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

''(h) Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

''(i) The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines. [Added Pub. L. 96–450, title IV, § 402(a)(1), Oct. 14, 1980, 94 Stat. 1978, and amended Pub. L. 97–89, title VI, § 602, Dec. 4, 1981, 95 Stat. 1154.]

''SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction. [Added Pub. L. 96–450, title IV, § 402(a)(1), Oct. 14, 1980, 94 Stat. 1978.]

''SEC. 12. (a)(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

''(A) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

''(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

''(C) provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

''(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

''(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

''(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title;

''(G) provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.[;] and

''(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

''(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

''(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

''(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

''(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

''(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

''(5) The Director of the National Security Agency shall each year submit to the Permanent Select Com-

mittee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the Budget is submitted by the President to the Congress for the next fiscal year, a report on executive personnel in the National Security Agency. The report shall include—

''(A) the total number of positions added to or deleted from the Senior Cryptologic Executive Service during the preceding fiscal year;

''(B) the number of executive personnel (including all members of the Senior Cryptologic Executive Service) being paid at each grade level and pay rate in effect at the end of the preceding fiscal year;

''(C) the number, distribution, and amount of awards paid to members of the Senior Cryptologic Executive Service during the preceding fiscal year; and

''(D) the number of individuals removed from the Senior Cryptologic Executive Service during the preceding fiscal year for less than fully successful performance.

''(b) The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

''(c) Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule [5 U.S.C. 5312] in effect at the end of such year. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

[Amended Pub. L. 101–194, title V, §506(c)(2), Nov. 30, 1989, 103 Stat. 1759. Amendment by Pub. L. 101–194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101–194, set out as an Effective Date of 1989 Amendment note under section 3151 of Title 5, Government Organization and Employees.]

''SEC. 13. (a) The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

''(b) The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) [31 U.S.C. 6301 et seq.] to the extent that such Act is consistent with and in accordance with section 6 of this Act.

''(c) The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 14. Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 15. (a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words 'National Security Agency', the initials 'NSA', the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

''(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

''(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

''(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

''(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

''(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

''(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

''(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

''(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

''(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

''(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

''(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary de-

termines that equity or the interests of the United States so require.

''(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

''(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

''(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

''(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

''(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section. [Added Pub. L. 99–569, title V, § 505, Oct. 27, 1986, 100 Stat. 3200.]

''SEC. 17. [Repealed. Pub. L. 103–359, title VIII, § 806(b)(2), Oct. 14, 1994, 108 Stat. 3442.]

''SEC. 18. (a) The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

''(b) For the purposes of this section, the term 'rotational tour of duty', with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.'' [Added Pub. L. 102–183, title IV, § 405, Dec. 4, 1991, 105 Stat. 1267; amended Pub. L. 102–496, title III, § 304(a), Oct. 24, 1992, 106 Stat. 3183.]

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

EXECUTIVE ORDER NO. 10483

Ex. Ord. No. 10483, Sept. 2, 1953, 18 F.R. 5379, as amended by Ex. Ord. No. 10598, Feb. 28, 1955, 20 F.R. 1237, which provided for an Operations Coordinating Board, was superseded by Ex. Ord. No. 10700, Feb. 25, 1957, formerly set out below.

EXECUTIVE ORDER NO. 10700

Ex. Ord. No. 10700, Feb. 25, 1957, 22 F.R. 1111, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. 10838, Sept. 16, 1959, 24 F.R. 7519, which provided for the Operations Coordinating Board, was revoked by Ex. Ord. No. 10920, Feb. 18, 1961, 26 F.R. 1463.

§ 402a. Coordination of counterintelligence activities

(a) Establishment of Counterintelligence Policy Board

There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the ''Board''). The Board shall report to the President through the National Security Council.

(b) Function of Board

The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

(c) Coordination of counterintelligence matters with Federal Bureau of Investigation

(1) Except as provided in paragraph (3), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

(2) Except as provided in paragraph (3), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency after a report has been provided pursuant to paragraph (1)(A).

(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1) or (2), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or

as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in accordance with applicable security procedures, the Committees on the Judiciary of the House of Representatives and the Senate with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(6) As used in this section, the terms ''foreign power'' and ''agent of a foreign power'' have the same meanings as set forth in sections[1] 1801(a) and (b), respectively, of this title.

(Pub. L. 103–359, title VIII, § 811, Oct. 14, 1994, 108 Stat. 3455.)

CODIFICATION

Section was enacted as part of the Counterintelligence and Security Enhancements Act of 1994 and also as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403. Central Intelligence Agency

(a) Establishment; Director

(1) There is established a Central Intelligence Agency.

(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

(A) serve as head of the United States intelligence community;

(B) act as the principal adviser to the President for intelligence matters related to the national security; and

(C) serve as head of the Central Intelligence Agency.

(b) Deputy Director

To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during the Director's absence or disability.

(c) Commissioned officers as Director or Deputy Director; powers and limitations; effect on commissioned status

(1) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

(2) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

(3)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3),[1] while serving in such position—

(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3)[1] shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

(C) A commissioned officer of the Armed Forces appointed pursuant to subsection (a) or (b) of this section, while serving in such position, shall continue to receive military pay and allowances (including retired pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.

(d) Office of Director within Agency

The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.

(July 26, 1947, ch. 343, title I, § 102, 61 Stat. 497; Apr. 4, 1953, ch. 16, 67 Stat. 19; Oct. 24, 1992, Pub. L. 102–496, title VII, § 704, 106 Stat. 3189.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 designated existing provisions as par. (1), struck out ''under the National

[1] So in original. Probably should be ''section''.

[1] So in original. Probably should be ''subsection (a) or (b)''.

Security Council'' after ''established'', struck out ''with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability'' after ''Agency'', struck out after first sentence ''The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however*, That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.'', and added par. (2).

Subsecs. (b) to (f). Pub. L. 102–496, § 704(3), added subsecs. (b) to (d) and struck out former subsecs. (b) to (f) which related to, in subsec. (b), commissioned officers of the Armed Forces serving as Director or Deputy Director, powers and limitations, and effect on commissioned status, in subsec. (c), termination of employment of officers and employees and effect on right of subsequent employment, in subsec. (d), powers and duties of Agency, in subsec. (e), inspection of intelligence of other departments, and in subsec. (f), termination of National Intelligence Authority along with transfer of personnel, property, records, and unexpended funds.

1953—Subsecs. (a), (b). Act Apr. 4, 1953, provided for appointment of a Deputy Director of Central Intelligence and defined his duties and status.

SUPPORT FOR SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

Pub. L. 103–178, title IV, § 401, Dec. 3, 1993, 107 Stat. 2037, provided that:

''(a) GENERAL AUTHORITY.—In recognition of the importance of science, mathematics, and engineering to the national security and in order to encourage students to pursue studies in science, mathematics, and engineering, the Director of Central Intelligence may carry out a program in fiscal years 1994 and 1995 to award cash prizes and visits to the Central Intelligence Agency (including the payment of costs associated with such visits) for students who participate in high school science fairs within the United States.

''(b) MERIT.—Awards made under subsection (a) shall be made solely on the basis of merit.

''(c) EQUITABLE REGIONAL REPRESENTATION.—The Director shall ensure that there is equitable regional representation with respect to the program carried out under subsection (a).

''(d) LIMITATION ON EXPENDITURES.—The Director may not expend more than $5,000 for each of the fiscal years 1994 and 1995 to carry out this section.''

CENTRAL INTELLIGENCE AGENCY CONSOLIDATION PLAN

Pub. L. 102–183, title VI, § 601, Dec. 4, 1991, 105 Stat. 1269, provided that:

''(a) FUNDING LIMITATION.—Of the amount authorized by this Act [see Tables for classification] for the Central Intelligence Agency Program, not more than $10,000,000 is authorized for costs associated with the land acquisition and related expenditures necessary to implement a plan for consolidation of Central Intelligence Agency facilities. None of such funds may be obligated to implement such plan until all of the conditions set forth in subsection (d) have been met and (except as provided in subsection (c)) a period of 60 days beginning on the date on which all of such conditions have been met has expired. Any certification or report required under that subsection shall be provided in writing to the intelligence committees and the appropriations committees. If any of the required certifications cannot be provided, then the Director of Central Intelligence shall reopen the planning process with respect to the consolidation plan to the extent required to address any procedures that were determined to be deficient.

''(b) ADDITIONAL FUNDING.—Pursuant to the procedures set forth in the joint explanatory statement of managers to accompany the conference report on the bill H.R. 2038 of the 102d Congress [Pub. L. 102–183], an amount not to exceed $20,000,000 is authorized and may be made available if the Director determines that funds in addition to the amount specified in subsection (a) are required during fiscal year 1992 for costs associated with the land acquisition and related expenditures necessary to implement the consolidation plan.

''(c) LIMITED WAIVER OF 60-DAY REVIEW PERIOD.—The Director may spend not to exceed $500,000 of the funds specified in subsection (a) for options and agreements to ensure the continued availability of property under consideration for the consolidation plan without regard to the 60-day period specified in subsection (a).

''(d) CONDITIONS.—The following conditions and certifications must be met before the funds specified in subsection (a) may be obligated:

''(1) The Director of Central Intelligence has certified—

''(A) that with respect to procedures governing land acquisition by the Central Intelligence Agency—

''(i) there are written procedures for such acquisition currently in effect;

''(ii) those procedures are consistent with land acquisition procedures of the General Services Administration; and

''(iii) the process used by the Central Intelligence Agency in developing the consolidation plan was in accordance with those written procedures; and

''(B) that with respect to contracts of the Agency for construction and for the acquisition of movable property, equipment, and services, the procedures of the Agency are consistent with procedures under the Federal Acquisition Regulation.

''(2) The Administrator of General Services has provided a written report stating that in the opinion of the Administrator (A) implementing the consolidation plan will result in cost savings to the United States Government, and (B) the consolidation plan will conform to applicable local governmental regulations.

''(3) The Director of the Office of Management and Budget has certified—

''(A) that the consolidation plan (and associated costs) have been reviewed by the Office of Management and Budget;

''(B) that the funding for such plan is consistent with the 1990 budget agreement; and

''(C) that funding for such plan has been approved by the Administration for fiscal year 1992.

''(4) The Inspector General of the Central Intelligence Agency has certified that corrective actions, if any, recommended as a result of the Inspector General's inquiry into the consolidation plan, and concurred in by the Director of Central Intelligence, will be implemented.

''(5) The Director of Central Intelligence has provided to the intelligence committees and appropriations committees a written report on the consolidation plan that includes—

''(A) a comprehensive site evaluation, including zoning, site engineering, and environmental requirements, logistics, physical and technical security, and communications compatibility;

''(B) a description of the anticipated effect of implementing the consolidation plan on personnel of the Central Intelligence Agency, including a discussion of the organizations and personnel that will be relocated and the rationale for such relocations and the Director's assurance that personnel are consulted and considered in the consolidation effort; and

''(C) the Director's assurances that the Director, in evaluating and approving the plan, has considered global changes and budget constraints that may have the effect of reducing Central Intel-

ligence Agency personnel requirements in the future.

''(e) DEFINITIONS.—For purposes of this section:

''(1) The term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

''(2) The term 'appropriations committees' means the Committees on Appropriations of the Senate and the House of Representatives.''

Similar provisions were contained in Pub. L. 102–172, title VIII, § 8083A, Nov. 26, 1991, 105 Stat. 1191.

EQUAL EMPLOYMENT OPPORTUNITY PLAN

Pub. L. 100–453, title IV, § 403, Sept. 29, 1988, 102 Stat. 1908, directed Director of Central Intelligence and Secretary of Defense, 90 days after Sept. 29, 1988, to submit to Congress a report setting forth an analysis of each equal employment opportunity group's representation in Central Intelligence Agency and National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by Sept. 30, 1991, and further directed submission of interim reports on Feb. 1, 1989, 1990, and 1991 concerning Central Intelligence Agency and National Security Agency respectively detailing efforts made, and progress realized, by each such agency in achieving objectives of each such plan, including, but not limited to, number of applications from, and hiring, promotion, and training of, members of each equal employment opportunity group.

STUDY OF INTELLIGENCE PERSONNEL SYSTEMS

Pub. L. 100–178, title VII, § 701, Dec. 2, 1987, 101 Stat. 1016, provided for submission, no later than Jan. 20, 1989, to Congress by Director of Central Intelligence Agency, of classified objective study to consist of a comprehensive review and comparative analysis of all personnel management and compensation systems affecting civilian personnel of agencies and entities of intelligence community, accompanied by such recommendations for legislative, regulative or other changes as determined advisable.

COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

Compensation of Director and Deputy Director, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90–539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91–185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91–626, §§ 1–6, Dec. 31, 1970, 84 Stat. 1872–1874; Pub. L. 93–31, May 8, 1973, 87 Stat. 65; Pub. L. 93–210, § 1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94–361, title VIII, § 801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94–522, title I, §§ 101, 102, title II, §§ 201–213, Oct. 17, 1976, 90 Stat. 2467–2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97–269, title VI, §§ 602–611, Sept. 27, 1982, 96 Stat. 1145–1148, 1152–1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98–618, title III, § 302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99–169, title VII, § 702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99–335, title V, §§ 501–506, June 6, 1986, 100 Stat. 622–624; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–569, title III, § 302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100–178, title IV, §§ 401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012–1014; Pub. L. 100–453, title III, § 302(a), (b)(1), (c)(1), (d)(1), (2), title V, § 502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101–193, title III, §§ 302–304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–88, title III, §§ 302–305(a), 306–307(b), Aug. 14, 1991, 105 Stat. 431–433; Pub. L. 102–183, title III, §§ 302(a)–(c), 303(a), 304–306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262–1266; Pub. L. 102–496, title III, § 304(b), Oct. 24, 1992, 106 Stat. 3183, known as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, was revised generally by Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196. As so revised, Pub. L. 88–643, now known as the Central Intelligence Agency Retirement Act, has been transferred to chapter 38 (§ 2001 et seq.) of this title. All notes, Executive orders, and other provisions relating to this Act have been transferred to section 2001 of this title.

COMMUNICATION OF RESTRICTED DATA

Authorization for the communication of Restricted Data by the Central Intelligence Agency, see Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, set out as a note under section 2162 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10656

Ex. Ord. No. 10656, Feb. 6, 1956, 21 F.R. 859, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, formerly set out below.

EXECUTIVE ORDER NO. 10938

Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, formerly set out below.

EXECUTIVE ORDER NO. 11460

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out below.

EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12331

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, formerly set out below.

EXECUTIVE ORDER NO. 12537

Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, as amended by Ex. Ord. No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411 of this title; title 5 section 2305; title 42 section 2162.

§ 403–1. Repealed. Pub. L. 102–496, title VII, § 705(a)(1), Oct. 24, 1992, 106 Stat. 3190

Section, act July 26, 1947, ch. 343, title I, § 102a, as added Dec. 9, 1983, Pub. L. 98–215, title IV, § 403, 97 Stat. 1477, related to appointment of Director of the Intelligence Community Staff.

§ 403–2. Intelligence Community contracting

The Director of Central Intelligence shall direct that elements of the Intelligence Commu-

nity, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term ''Intelligence Community'' has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

(Pub. L. 102–183, title IV, § 403, Dec. 4, 1991, 105 Stat. 1267.)

REFERENCES IN TEXT

Executive Order 12333, referred to in text, is set out as a note under section 401 of this title.

CODIFICATION

Section was enacted as part of the authorization act cited as the credit to this section, and not as part of the National Security Act of 1947 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act: Pub. L. 102–88, title IV, § 404, Aug. 14, 1991, 105 Stat. 434.

§ 403–2a. Construction of intelligence community facilities; Presidential authorization

(a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request or otherwise specifically authorized and appropriated if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term ''intelligence community'' has the same meaning given that term in section 401a(4) of this title.

(Pub. L. 103–335, title VIII, § 8131, Sept. 30, 1994, 108 Stat. 2653.)

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403–2b. Limitation on construction of facilities to be used primarily by intelligence community

(a) In general

(1) In general

Except as provided in subsection (b) of this section, no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of $750,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

(2) Notification

In the case of a project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost greater than $500,000 but less than $750,000, or where any improvement project to such a facility has an estimated Federal cost greater than $500,000, the Director of Central Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

(b) Exception

(1) In general

Notwithstanding subsection (a) of this section but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of Central Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) Report

When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of Central Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (A) the justification for the project and the current estimate of the cost of the project, (B) the justification for carrying out the project under this subsection, and (C) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

(3) Projects primarily for CIA

If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of Central Intelligence shall make the determination and submit the report required by paragraphs (1) and (2).

(4) Limitation

A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

(c) Application

This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

(Pub. L. 103–359, title VI, § 602, Oct. 14, 1994, 108 Stat. 3432.)

REFERENCES IN TEXT

Section 601, referred to in subsec. (c), means section 601 of Pub. L. 103–359, title VI, Oct. 14, 1994, 108 Stat. 3431, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

DEFINITIONS

Section 604 of title VI of Pub. L. 103–359 provided that: ''As used in this title [enacting this section and provisions set out as a note under section 403–3 of this title]:

''(1) INTELLIGENCE COMMITTEES.—The term 'intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''

§ 403–3. Responsibilities of Director of Central Intelligence

(a) Provision of intelligence

(1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

(b) National Intelligence Council

(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the ''Council''). The Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence.

(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(2) The Council shall—

(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community; and

(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a) of this section.

(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the Government.

(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(5) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

(c) Head of intelligence community

In the Director's capacity as head of the intelligence community, the Director shall—

(1) develop and present to the President an annual budget for the National Foreign Intelligence Program of the United States;

(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;

(3) promote and evaluate the utility of national intelligence to consumers within the Government;

(4) eliminate waste and unnecessary duplication within the intelligence community;

(5) protect intelligence sources and methods from unauthorized disclosure; and

(6) perform such other functions as the President or the National Security Council may direct.

(d) Head of Central Intelligence Agency

In the Director's capacity as head of the Central Intelligence Agency, the Director shall—

(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

(3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

(July 26, 1947, ch. 343, title I, § 103, as added Oct. 24, 1992, Pub. L. 102–496, title VII, § 705(a)(3), 106 Stat. 3190; amended Dec. 3, 1993, Pub. L. 103–178, title V, § 502, 107 Stat. 2038.)

PRIOR PROVISIONS

A prior section 103 of act July 26, 1947, was renumbered section 107 and is classified to section 404 of this title.

AMENDMENTS

1993—Subsec. (d)(3). Pub. L. 103–178 substituted ''provide'' for ''providing''.

IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET

Pub. L. 103–359, title VI, § 603, Oct. 14, 1994, 108 Stat. 3433, provided that: ''The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401a, 403–5, 403f, 403g, 411, 2011 of this title.

§ 403–4. Authorities of Director of Central Intelligence

(a) Access to intelligence

To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

(b) Approval of budgets

The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

(c) Role of DCI in reprogramming

No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

(d) Transfer of funds or personnel within National Foreign Intelligence Program

(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

(2) A transfer of funds or personnel may be made under this subsection only if—

(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(B) the need for funds or personnel for such activity is based on unforeseen requirements;

(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

(E) the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.

(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(5) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(e) Coordination with foreign governments

Under the direction of the National Security Council and in a manner consistent with section 3927 of title 22, the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(f) Use of personnel

The Director shall, in coordination with the heads of departments and agencies with elements in the intelligence community, institute policies and programs within the intelligence community—

(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.

(g) Termination of employment of CIA employees

Notwithstanding the provisions of any other law, the Director may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.

(July 26, 1947, ch. 343, title I, §104, as added Oct. 24, 1992, Pub. L. 102–496, title VII, §705(a)(3), 106 Stat. 3192.)

PRIOR PROVISIONS

A prior section 104 of act July 26, 1947, was renumbered section 108 and is classified to section 404a of this title.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SEPARATION PAY PROGRAM FOR VOLUNTARY SEPARATION FROM SERVICE

Pub. L. 103–36, §2, June 8, 1993, 107 Stat. 104, as amended by Pub. L. 103–226, §8(b), Mar. 30, 1994, 108 Stat. 118, provided that:

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'Director' means the Director of Central Intelligence; and

''(2) the term 'employee' means an employee of the Central Intelligence Agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

''(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

''(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

''(b) ESTABLISHMENT OF PROGRAM.—In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether by retirement or resignation). An employee who receives separation pay under such program may not be reemployed by the Central Intelligence Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 [Mar. 30, 1994] and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''(c) BAR ON CERTAIN EMPLOYMENT.—

''(1) BAR.—An employee may not be separated from service under this section unless the employee agrees that the employee will not—

''(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Central Intelligence Agency; or

''(B) participate in any manner in the award, modification, extension, or performance of any contract for property or services with the Central Intelligence Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

''(2) PENALTY.—An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section times the proportion of the 12-month period during which the employee was in violation of the agreement.

''(d) LIMITATIONS.—Under this program, separation pay may be offered only—

''(1) with the prior approval of the Director; and

''(2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

''(e) AMOUNT AND TREATMENT FOR OTHER PURPOSES.—Such separation pay—

''(1) shall be paid in a lump sum;

''(2) shall be equal to the lesser of—

''(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

''(B) $25,000;

''(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

''(4) shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation.

''(f) TERMINATION.—No amount shall be payable under this section based on any separation occurring after September 30, 1997.

''(g) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

''(h) REPORTING REQUIREMENTS.—

''(1) OFFERING NOTIFICATION.—The Director may not make an offering of voluntary separation pay pursuant to this section until 30 days after submitting to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (d).

''(2) ANNUAL REPORT.—At the end of each of the fiscal years 1993 through 1997, the Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and costs of carrying out this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403–5, 403f, 411 of this title.

§ 403–5. Responsibilities of Secretary of Defense pertaining to National Foreign Intelligence Program

(a) In general

The Secretary of Defense shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman[1] of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) Responsibility for performance of specific functions

Consistent with sections 403–3 and 403–4 of this title, the Secretary of Defense shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

(A) the requirements of the Director of Central Intelligence;

(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

(C) the requirements of the unified and specified combatant commands and of joint operations; and

(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

(c) Use of elements of Department of Defense

The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

(July 26, 1947, ch. 343, title I, § 105, as added Oct. 24, 1992, Pub. L. 102–496, title VII, § 706(a), 106 Stat. 3194; amended Oct. 14, 1994, Pub. L. 103–359, title V, § 501(a)(2), 108 Stat. 3428.)

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''a central imagery authority''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411 of this title.

§ 403–6. Administrative provisions pertaining to defense elements within intelligence community

(a) Consultations with regard to certain appointments

The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the National Reconnaissance Office, or the Defense Intelligence Agency.

[1] So in original. Probably should be capitalized.

(b) Appointment of head of Central Imagery Office

The Secretary shall appoint, upon the recommendation of the Director, the head of the Central Imagery Office within the Department of Defense.

(July 26, 1947, ch. 343, title I, § 106, as added Oct. 24, 1992, Pub. L. 102–496, title VII, § 706(a), 106 Stat. 3195; amended Oct. 14, 1994, Pub. L. 103–359, title V, § 501(a)(3), 108 Stat. 3428.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–359 substituted ''Central Imagery Office'' for ''central imagery authority'' in heading and text.

§ 403a. Definitions relating to Central Intelligence Agency

When used in sections 403a to 403s of this title, the term—

(a) ''Agency'' means the Central Intelligence Agency;

(b) ''Director'' means the Director of Central Intelligence;

(c) ''Government agency'' means any executive department, commission, council, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.

(June 20, 1949, ch. 227, § 1, 63 Stat. 208; Sept. 6, 1960, Pub. L. 86–707, title V, § 511(a)(3), (c)(1), 74 Stat. 800, 801.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1960—Subsec. (c). Pub. L. 86–707, § 511(c)(1), substituted ''Government.'' for ''Government; and''.

Subsec. (d). Pub. L. 86–707, § 511(a)(3), repealed subsec. (d) which defined ''continental United States''. See section 5921 of Title 5, Government Organization and Employees.

SHORT TITLE

Act June 20, 1949, ch. 227, § 10, formerly § 12, 63 Stat. 212; renumbered § 10, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337, provided that: ''This Act [enacting section 403a et seq. of this title] may be cited as the 'Central Intelligence Agency Act of 1949'.''

SEPARABILITY

Act June 20, 1949, § 9, formerly § 11, 63 Stat. 212; renumbered § 9, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337, provided that: ''If any provision of this Act [enacting sections 403a et seq. of this title], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''

ACT REFERRED TO IN OTHER SECTIONS

The Central Intelligence Agency Act of 1949 is referred to in title 5 sections 2305, 5373.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403e, 403f of this title.

§ 403b. Seal of office of Central Intelligence Agency

The Director of Central Intelligence shall cause a seal of office to be made for the Central Intelligence Agency, of such design as the President shall approve, and judicial notice shall be taken thereof.

(June 20, 1949, ch. 227, § 2, 63 Stat. 208.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403c. Procurement authority of Central Intelligence Agency

(a) Purchases and contracts for supplies and services

In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2304(a)(1) to (6), (10), (12), (15), (17), and sections 2305(a) to (c), 2306, 2307, 2308, 2309, 2312, and 2313 of title 10.[1]

(b) "Agency head" defined

In the exercise of the authorities granted in subsection (a) of this section, the term ''Agency head'' shall mean the Director, the Deputy Director, or the Executive of the Agency.

(c) Classes of purchases and contracts; finality of decision; powers delegable

The determinations and decisions provided in subsection (a) of this section to be made by the Agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (d) of this section, the Agency head is authorized to delegate his powers provided in this section, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the Agency.

(d) Powers not delegable; written findings

The power of the Agency head to make the determinations or decisions specified in paragraphs (12) and (15) of section 2304(a) and section 2307(a) of title 10[1] shall not be delegable. Each determination or decision required by paragraphs (12) and (15) of section 2304(a), by sections 2306 and 2313, or by section 2307(a) of title 10,[1] shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination.

(e) Automatic data processing equipment and services

Notwithstanding subsection (e) of section 759 of title 40, the provisions of section 759 of title 40 relating to the procurement of automatic

[1] See Codification note below.

data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.

(June 20, 1949, ch. 227, § 3, 63 Stat. 208; Sept. 27, 1982, Pub. L. 97–269, title V, § 502(a), 96 Stat. 1145.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

In subsecs. (a) and (d), references to the appropriate sections of title 10 were substituted for references to sections 2(c)(1) to (6), (10), (12), (15), (17), 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress), on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces. Prior to the enactment of Title 10, sections 2 to 6 and 10 of the Armed Services Procurement Act of 1947 were classified to sections 151 to 155 and 159 of Title 41, Public Contracts. Cited sections of the Act were restated in sections of Title 10 as follows:

Act	*Title 10*
2(c)	2304(a)
3	2305(a)–(c)
4	2306, 2313
5	2307
5(a)	2307(a)
6	2312
10	2308, 2309

Sections 2304 and 2305 of title 10 were amended generally by Pub. L. 98–369, and as so amended contain provisions differing from those referred to in subsecs. (a) and (d). Section 2308 of title 10 was repealed by Pub. L. 103–355, title I, § 1503(b)(1), Oct. 13, 1994, 108 Stat. 3297. For similar provisions, see section 2311 of title 10.

AMENDMENTS

1982—Subsec. (e). Pub. L. 97–269 added subsec. (e).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–269 effective Sept. 27, 1982, see section 703 of Pub. L. 97–269 set out as an Effective Date note under section 202 of Title 10, Armed Forces.

PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES; CONTRACTS MADE BEFORE SEPTEMBER 27, 1982

Section 502(b) of Pub. L. 97–269 provided that: ''Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of the enactment of this Act [Sept. 27, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403d. Repealed. Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337

Section, act June 20, 1949, ch. 227, § 4, 63 Stat. 208, related to education and training of officers and employees. See section 4101 et seq. of Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403e. Central Intelligence Agency personnel; allowances and benefits

(a) Travel, allowances, and related expenses for officers and employees assigned to duty stations outside United States

Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, shall—

(1)(A) pay the travel expenses of officers and employees of the Agency, including expenses incurred while traveling pursuant to authorized home leave;

(B) pay the travel expenses of members of the family of an officer or employee of the Agency when proceeding to or returning from his post of duty; accompanying him on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the terms of sections 403a to 403s of this title or any other Act;

(C) pay the cost of transporting the furniture and household and personal effects of an officer or employee of the Agency to his successive posts of duty and, on the termination of his services, to his residence at time of appointment or to a point not more distant, or, upon retirement, to the place where he will reside;

(D) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency, when he is absent from his post of assignment under orders, or when he is assigned to a post to which he cannot take or at which he is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations, when not otherwise fixed by law;

(E) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency in connection with assignment or transfer to a new post, from the date of his departure from his last post or from the date of his departure, from his place of residence in the case of a new officer or employee and for not to exceed three months after arrival at the new post, or until the establishment of residence quarters, whichever shall be shorter; and in connection with separation of an officer or employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed three months, his furniture and household and personal effects; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the max-

imum limitations fixed by regulations, when not otherwise fixed by law.[1]

(F) pay the travel expenses and transportation costs incident to the removal of the members of the family of an officer or employee of the Agency and his furniture and household and personal effects, including automobiles, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions; or to such other post as may in the meantime have become the post to which such officer or employee has been assigned.

(2) Charge expenses in connection with travel of personnel, their dependents, and transportation of their household goods and personal effects, involving a change of permanent station, to the appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year, or the travel and transfer orders may have been issued during the prior fiscal year.

(3)(A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter.

(B) While in the United States (as described in paragraph (3)(A) of this subsection)[2] on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe; and the time of such work or duty shall not be counted as leave.

(C) Where an officer or employee on leave returns to the United States (as described in paragraph (3)(A) of this subsection),[2] leave of absence granted shall be exclusive of the time actually and necessarily occupied in going to and from the United States (as so described) and such time as may be necessarily occupied in awaiting transportation.

(4) Notwithstanding the provisions of any other law, transport for or on behalf of an officer or employee of the Agency, a privately owned motor vehicle in any case in which it shall be determined that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation. Not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this paragraph during any four-year period, except that, as a replacement for such motor vehicle, one additional motor vehicle of any such officer or employee may be so transported during such period upon approval, in advance, by the Director and upon a determination, in advance, by the Director that such replacement is necessary for reasons beyond the control of the officer or employee and is in the interest of the Government. After the expiration of a period of four years following the date of transportation under authority of this paragraph of a privately owned motor vehicle of any officer or employee who has remained in continuous service outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, during such period, the transportation of a replacement for such motor vehicle for such officer or employee may be authorized by the Director in accordance with this paragraph.

(5)(A) In the event of illness or injury requiring the hospitalization of an officer or full time employee of the Agency incurred while on assignment abroad, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee by whatever means the Director deems appropriate and without regard to the Standardized Government Travel Regulations and section 5731 of title 5, to the nearest locality where a suitable hospital or clinic exists and on the recovery of such officer or employee pay for the travel expenses of the return to the post of duty of such officer or employee. If the officer or employee is too ill to travel unattended, the Director may also pay the travel expenses of an attendant;

(B) Establish a first-aid station and provide for the services of a nurse at a post at which, in the opinion of the Director, sufficient personnel is employed to warrant such a station: *Provided*, That, in the opinion of the Director, it is not feasible to utilize an existing facility;

(C) In the event of illness or injury requiring hospitalization of an officer or full time employee of the Agency incurred in the line of duty while such person is assigned abroad, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

(D) Provide for the periodic physical examination of officers and employees of the Agency and for the cost of administering inoculation or vaccinations to such officers or employees.

(6) Pay the costs of preparing and transporting the remains of an officer or employee of the Agency or a member of his family who may die while in travel status or abroad, to his home or official station, or to such other place as the Director may determine to be the appropriate place of interment, provided that in no case shall the expense payable be greater than the amount which would have been payable had the destination been the home or official station.

(7) Pay the costs of travel of new appointees and their dependents, and the transportation of their household goods and personal effects, from places of actual residence in foreign countries at time of appointment to places of employment and return to their actual residences at the time of appointment or a point

[1] So in original. The period probably should be a semicolon.

[2] See Codification note below.

not more distant: *Provided*, That such appointees agree in writing to remain with the United States Government for a period of not less than twelve months from the time of appointment.

Violation of such agreement for personal convenience of an employee or because of separation for misconduct will bar such return payments and, if determined by the Director or his designee to be in the best interests of the United States, any money expended by the United States on account of such travel and transportation shall be considered as a debt due by the individual concerned to the United States.

(b) Allowances and benefits comparable to those paid members of Foreign Service; special requirements; persons detailed or assigned from other agencies; regulations

(1) The Director may pay to officers and employees of the Agency, and to persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces, allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law.

(2) The Director may pay allowances and benefits related to officially authorized travel, personnel and physical security activities, operational activities, and cover-related activities (whether or not such allowances and benefits are otherwise authorized under this section or any other provision of law) when payment of such allowances and benefits is necessary to meet the special requirements of work related to such activities. Payment of allowances and benefits under this paragraph shall be in accordance with regulations prescribed by the Director. Rates for allowances and benefits under this paragraph may not be set at rates in excess of those authorized by section 5724 and 5724a of title 5 when reimbursement is provided for relocation attributable, in whole or in part, to relocation within the United States.

(3) Notwithstanding any other provision of this section or any other provision of law relating to the officially authorized travel of Government employees, the Director, in order to reflect Agency requirements not taken into account in the formulation of Government-wide travel procedures, may by regulation—

(A) authorize the travel of officers and employees of the Agency, and of persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces who are engaged in the performance of intelligence functions, and

(B) provide for payment for such travel, in classes of cases, as determined by the Director, in which such travel is important to the performance of intelligence functions.

(4) Members of the Armed Forces may not receive benefits under both this section and title 37 for the same purpose. The Director and Secretary of Defense shall prescribe joint regulations to carry out the preceding sentence.

(5) Regulations issued pursuant to this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

(June 20, 1949, ch. 227, § 4, formerly § 5, 63 Stat. 209; renumbered § 4, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337; amended Sept. 6, 1960, Pub. L. 86–707, title III, §§ 301(b), 323, title V, § 511(a)(3), (c)(2)–(5), 74 Stat. 795, 798, 800, 801; Dec. 4, 1981, Pub. L. 97–89, title V, § 501, 95 Stat. 1152; Oct. 14, 1994, Pub. L. 103–359, title IV, § 401, 108 Stat. 3427.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b)(1), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 9 of title I of the Foreign Service Act of 1980 is classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

In subsec. (a)(3)(B), (C), ''this subsection'' substituted for ''this section'' as the probable intent of Congress in view of the designation of the existing provisions of this section as subsec. (a) and the addition of subsec. (b) by Pub. L. 97–89, title V, § 501, Dec. 4, 1981, 95 Stat. 1152.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1994—Subsec. (a)(5)(A). Pub. L. 103–359, § 401(1)(A)–(D), struck out '', not the result of vicious habits, intemperance, or misconduct on his part,'' after ''the Agency'' and substituted ''the Director deems'' for ''he shall deem'', ''section 5731 of title 5'' for ''section 10 of the Act of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 73b)'', and ''the recovery of such officer or employee'' for ''his recovery''.

Pub. L. 103–359, § 401(1)(E), which directed the substitution of ''the return to the post of duty of such officer or employee'' for ''his return to his post'', was executed by making the substitution for ''his return to his post of duty'' to reflect the probable intent of Congress.

Subsec. (a)(5)(B). Pub. L. 103–359, § 401(2), substituted ''the opinion of the Director'' for ''his opinion'' in two places.

Subsec. (a)(5)(C). Pub. L. 103–359, § 401(3), struck out '', not the result of vicious habits, intemperance, or misconduct on his part,'' after ''the Agency''.

1981—Pub. L. 97–89 designated existing provisions as subsec. (a) and added subsec. (b).

1960—Pub. L. 86–707, § 323(a), substituted ''duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia'' for ''permanent-duty stations outside the continental United States, its territories, and possessions'' in opening provisions, and struck out subsec. (a) designation.

Par. (1)(A). Pub. L. 86–707, § 511(c)(2), substituted ''pursuant to authorized home leave'' for ''pursuant to orders issued by the Director in accordance with the provisions of subsection (a)(3) of this section with regard to the granting of home leave''.

Par. (1)(D). Pub. L. 86–707, § 301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, extended authority to pay storage costs for an officer or employee assigned to a post to which he cannot take or at which he is unable to use his furniture and household personal effects by striking out provisions which restricted such payment only to cases where an emergency exists, empow-

ered Director to pay storage costs when it is in the public interest or more economical to authorize storage, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (1)(E). Pub. L. 86–707, § 301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, permitted payment from date of departure from officer's or employee's last post or from date of departure from place of residence in the case of a new officer or employee, empowered Director to pay storage costs in connection with separation of an officer or employee from the Agency, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (3)(A). Pub. L. 86–707, § 511(c)(3), substituted ''to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter'' for ''to the United States or its Territories and possessions on leave provided for in sections 30–30b of Title 5 [former Title 5, Executive Departments and Government Officers and Employees], or as such sections may hereafter be amended, every officer and employee of the agency who was a resident of the United States or its Territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter: Provided, That such officer or employee has accrued to his credit at the time of such order, annual leave sufficient to carry him in a pay status while in the United States for at least a thirty-day period''.

Par. (3)(B). Pub. L. 86–707, § 511(c)(4), substituted ''United States (as described in paragraph (3)(A) of this section) on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe'' for ''continental United States on leave, the service of any officer or employee shall not be available for work or duties except in the agency or for training or for reorientation for work''.

Par. (3)(C). Pub. L. 86–707, § 511(c)(5), substituted ''returns to the United States (as described in paragraph (3)(A) of this section)'' for ''returns to the United States or its Territories and possessions'', and ''from the United States (as so described)'' for ''from the United States or its Territories and possessions''.

Par. (4). Pub. L. 86–707, § 323(b), limited transportation of motor vehicles to one for any officer or employee during any four-year period, and empowered Director to approve transportation of one additional motor vehicle for replacement either during the four-year period or after expiration of four years following date of transportation of a motor vehicle of any officer or employee who has remained in continuous service outside the several States, excluding Alaska and Hawaii, but including the District of Columbia, for such period.

Pub. L. 86–707, § 511(a)(3), repealed subsec. (b) which authorized Director to grant allowances in accordance with provisions of section 1131(1), (2) of Title 22, Foreign Relations and Intercourse. See pars. (1)(D) and (1)(E) of this section.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

CLARIFICATION OF TERMS APPLIED TO FURNITURE, HOUSEHOLD GOODS, AND PERSONAL EFFECTS IN 1960 AMENDMENT

Section 301(d) of Pub. L. 86–707 provided that: ''The term 'furniture and household and personal effects', as used in the amendments made by this part to the Foreign Service Act of 1946, as amended [amending section 1136 of Title 22, Foreign Relations and Intercourse], and the Central Intelligence Agency Act of 1949, as amended [amending this section], and the term 'household goods and personal effects', as used in the amendments made by this part to the Administrative Expenses Act of 1946, as amended [amending section 73b–1 of former Title 5, Executive Departments and Government Officers and Employees], mean such personal property of an employee and the dependents of such employee as the Secretary of State and the Director of Central Intelligence, as the case may be, with respect to the term 'furniture and household and personal effects', and the President, with respect to the term 'household goods and personal effects', shall by regulation authorize to be transported or stored under the amendments made by this part to such Acts (including, in emergencies, motor vehicles authorized to be shipped at Government expense). Such motor vehicle shall be excluded from the weight and volume limitations prescribed by the laws set forth in this part.''

Section 301(d) of Pub. L. 86–707 was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 661, insofar as it is applicable to the Administrative Expenses Act of 1946, as amended.

EXECUTIVE ORDER NO. 10100

Ex. Ord. No. 10100, Jan. 28, 1950, 15 F.R. 499, which provided for regulations governing the granting of allowances by the Director of the Central Intelligence Agency under this section, was revoked by section 5(a) of Ex. Ord. No. 10903, Jan. 9, 1961, 26 F.R. 217, set out under section 5921 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403f of this title.

§ 403e–1. Eligibility for incentive awards

(a) Scope of authority with respect to Federal employees and members of Armed Forces

The Director of Central Intelligence may exercise the authority granted in section 4503 of title 5, with respect to Federal employees and members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff, in the same manner as such authority may be exercised with respect to the personnel of the Central Intelligence Agency and the Intelligence Community Staff.

(b) Time for exercise of authority

The authority granted by subsection (a) of this section may be exercised with respect to Federal employees or members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff on or after a date five years before December 9, 1983.

(c) Exercise of authority with respect to members of Armed Forces assigned to foreign intelligence duties

During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5 with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

(d) Payment and acceptance of award

An award made by the Director of Central Intelligence to an employee or member of the

Armed Forces under the authority of section 4503 of title 5 or this section may be paid and accepted notwithstanding—

(1) section 5536 of title 5; and

(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.

(Pub. L. 98–215, title IV, § 402, Dec. 9, 1983, 97 Stat. 1477; Pub. L. 99–569, title V, § 503, Oct. 27, 1986, 100 Stat. 3198.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1984, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1986—Subsecs. (c), (d). Pub. L. 99–569 added subsecs. (c) and (d).

§ 403f. General authorities of Agency

In the performance of its functions, the Central Intelligence Agency is authorized to—

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities authorized under subparagraphs (B) and (C) of section 403(a)(2) of this title, subsections (c)(5) and (d) of section 403–3 of this title, subsections (a) and (g) of section 403–4 of this title, and section 405 of this title, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a to 403s of this title without regard to limitations of appropriations from which transferred;

(b) Exchange funds without regard to section 3651 of the Revised Statutes;

(c) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

(d) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices;

(e) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor without regard to limitations on expenditures contained in the Act of June 30, 1932, as amended: *Provided*, That in each case the Director shall certify that exception from such limitations is necessary to the successful performance of the Agency's functions or to the security of its activities; and

(f) Determine and fix the minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency, notwithstanding the provision of any other law, in accordance with such criteria as the Director, in his discretion, may prescribe.

(June 20, 1949, ch. 227, § 5, formerly § 6, 63 Stat. 211; June 26, 1951, ch. 151, 65 Stat. 89; renumbered § 5, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337; amended Aug. 19, 1964, Pub. L. 88–448, title IV, § 402(a)(28), 78 Stat. 494; Dec. 4, 1981, Pub. L. 97–89, title V, § 502, 95 Stat. 1153; Dec. 9, 1983, Pub. L. 98–215, title IV, § 401, 97 Stat. 1477; Dec. 3, 1993, Pub. L. 103–178, title V, § 501(1), 107 Stat. 2038.)

REFERENCES IN TEXT

Section 403d of this title, included within the reference in subsec. (a) to sections 403a to 403q, was repealed by Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337.

Section 403i of this title, included within the reference in subsec. (a) to sections 403a to 403q, was repealed by act Sept. 1, 1954, ch. 1208, title VI, § 601(b), 68 Stat. 1115.

Section 3651 of the Revised Statutes, referred to in subsec. (b), was classified to section 543 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1084, the first section of which enacted Title 31, Money and Finance.

Act of June 30, 1932, as amended, referred to in subsec. (e), means act June 30, 1932, ch. 314, 47 Stat. 382, popularly known as the Legislative Branch Appropriation Act, 1933. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–178 substituted ''Office of Management and Budget'' for ''Bureau of the Budget'' and ''subparagraphs (B) and (C) of section 403(a)(2) of this title, subsections (c)(5) and (d) of section 403–3 of this title, subsections (a) and (g) of section 403–4 of this title, and section 405 of this title'' for ''sections 403 and 405 of this title''.

1983—Subsec. (f). Pub. L. 98–215 added subsec. (f).

1981—Subsec. (d). Pub. L. 97–89 substituted ''Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices; and'' for ''Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;''.

1964—Subsec. (f). Pub. L. 88–448 repealed subsec. (f) which authorized employment of not more than fifteen retired officers who must elect between civilian salary

and retired pay. See section 3101 et seq. of Title 5, Government Organization and Employees.

1951—Subsec. (f). Act June 26, 1951, added subsec. (f).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

RESTRICTION ON TRANSFER OF FUNDS AVAILABLE TO CENTRAL INTELLIGENCE AGENCY FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Pub. L. 103–335, title VIII, § 8154(b), Sept. 30, 1994, 108 Stat. 2658, provided that: ''None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e of this title.

§ 403g. Protection of nature of Agency's functions

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement section 403–3(c)(5) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2 of the Act of August 28, 1935 (49 Stat. 956, 957; 5 U.S.C. 654), and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 607 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

(June 20, 1949, ch. 227, § 6, formerly § 7, 63 Stat. 211; renumbered § 6, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337; amended Dec. 3, 1993, Pub. L. 103–178, title V, § 501(2), 107 Stat. 2038.)

REFERENCES IN TEXT

Act of August 28, 1935, referred to in text, which provided for the yearly publication of the Official Register of the United States, was repealed by Pub. L. 86–626, title I, § 101, July 12, 1960, 74 Stat. 427.

Section 607 of the Act of June 30, 1945, as amended, referred to in text, was repealed by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Pub. L. 103–178 substituted ''section 403–3(c)(5) of this title'' for ''the proviso of section 403(d)(3) of this title'' and ''Office of Management and Budget'' for ''Bureau of the Budget''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403h. Admission of essential aliens; limitation on number

Whenever the Director, the Attorney General, and the Commissioner of Immigration and Naturalization shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

(June 20, 1949, ch. 227, § 7, formerly § 8, 63 Stat. 212; renumbered § 7, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337.)

REFERENCES IN TEXT

The immigration laws, referred to in text, mean chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens. See section 1101(a)(17) of Title 8.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Ex. Ord. No. 6166, § 14, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees, consolidated Bureaus of Immigration and Naturalization of Department of Labor to form an Immigration and Naturalization Service in Department of Labor, to be administered by a Commissioner of Immigration and Naturalization, which was then transferred from Department of Labor to Department of Justice by Reorg. Plan No. V of 1940, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238, set out in the Appendix to Title 5. Accordingly, ''Commissioner of Immigration and Naturalization'' was substituted for ''Commissioner of Immigration''.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403i. Repealed. Sept. 1, 1954, ch. 1208, title VI, § 601(b), 68 Stat. 1115

Section, acts June 20, 1949, ch. 227, § 9, 63 Stat. 212; Aug. 16, 1950, ch. 719, 64 Stat. 450, related to establish-

ment of positions in the professional and scientific field.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403j. Central Intelligence Agency; appropriations; expenditures

(a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including—

(1) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; health-service program as authorized by law (5 U.S.C. 7901); rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication, and printing machines, equipment, and devices, and radio-receiving and radio-sending equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, and aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment, where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; payment of premiums or costs of surety bonds for officers or employees without regard to the provisions of section 14[1] of title 6; payment of claims pursuant to title 28; acquisition of necessary land and the clearing of such land; construction of buildings and facilities without regard to sections 259 and 267[1] of title 40; repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and

(2) supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director.

(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

(June 20, 1949, ch. 227, § 8, formerly § 10, 63 Stat. 212; renumbered § 8, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 14 of title 6, referred to in subsec. (a)(1), was repealed by Pub. L. 93–310, title II, § 203(1), June 6, 1972, 86 Stat. 202.

Sections 259 and 267 of title 40, referred to in subsec. (a)(1), were repealed by Pub. L. 86–249, § 17(12), Sept. 9, 1959, 73 Stat. 485. See section 601 et seq. of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In subsec. (a)(1), ''(5 U.S.C. 7901)'' substituted for ''(5 U.S.C. 150)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AVAILABILITY OF APPROPRIATIONS FOR CONSTRUCTION PROJECTS

Pub. L. 103–139, title VIII, § 8104, Nov. 11, 1993, 107 Stat. 1463, provided that: ''During the current fiscal year and thereafter, funds appropriated for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, § 9030, Oct. 6, 1992, 106 Stat. 1907.

Pub. L. 102–172, title VIII, § 8030, Nov. 26, 1991, 105 Stat. 1177.

Pub. L. 101–511, title VIII, § 8031, Nov. 5, 1990, 104 Stat. 1881.

Pub. L. 101–165, title IX, § 9042, Nov. 21, 1989, 103 Stat. 1137.

Pub. L. 100–463, title VIII, § 8074, Oct. 1, 1988, 102 Stat. 2270–29.

Pub. L. 100–202, § 101(b) [title VIII, § 8095], Dec. 22, 1987, 101 Stat. 1329–43, 1329–79.

Pub. L. 99–500, § 101(c) [title IX, § 9130], Oct. 18, 1986, 100 Stat. 1783–82, 1783–128; Pub. L. 99–591, § 101(c) [title IX, § 9130], Oct. 30, 1986, 100 Stat. 3341–82, 3341–128.

ACQUISITION OF CRITICAL SKILLS

Pub. L. 99–569, title V, § 506, Oct. 27, 1986, 100 Stat. 3202, provided that: ''Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title; title 5 section 5948; title 31 sections 1344, 3524.

§ 403k. Authority to pay death gratuities

(a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

(b) Any payment under subsection (a) of this section—

(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

(3) shall be made under the same conditions as apply to payments authorized by section 3973 of title 22.

(June 20, 1949, ch. 227, § 11, as added Oct. 14, 1980, Pub. L. 96–450, title IV, § 403(a), 94 Stat. 1978.)

CODIFICATION

In subsec. (b)(3), ''section 3973 of title 22'' substituted for ''section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)'' on authority of section 2401(c) of the Foreign Service Act of 1980 (22 U.S.C. 4172(c)), section 2205(10) of which repealed section 14 of the 1956 Act (22 U.S.C. 2679a).

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403*l*. Authority to accept gifts, devises and bequests

(a) Use for operational purposes prohibited

Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

(b) Sale, exchange and investment of gifts

Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(c) Deposit of gifts into special fund

There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b) of this section.

(d) Taxation of gifts

For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

(e) "Gift" defined

For the purposes of this section, the term ''gift'' includes a bequest or devise.

(June 20, 1949, ch. 227, § 12, as added Oct. 14, 1980, Pub. L. 96–450, title IV, § 404, 94 Stat. 1979.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403m. Misuse of Agency name, initials, or seal

(a) Prohibited acts

No person may, except with the written permission of the Director, knowingly use the words ''Central Intelligence Agency'', the initials ''CIA'', the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency.

(b) Injunction

Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a) of this section, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(June 20, 1949, ch. 227, § 13, as added Dec. 4, 1981, Pub. L. 97–89, title V, § 503, 95 Stat. 1153.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as a note under section 1601 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403n. Special provisions for spouses of Central Intelligence Agency employees applicable to Agency participants in Civil Service Retirement and Disability System

(a) Manner and extent of applicability

The provisions of sections 2002, 2031(b)(1)–(3), 2031(f), 2031(g), 2031(h)(2), 2031(i), 2031(*l*), 2032, 2033, 2034, 2035, 2052(b), 2071(b), 2071(d), and 2094(b) of this title establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

(b) Regulations

The Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe such regulations as may be necessary to implement the provisions of this section.

(June 20, 1949, ch. 227, § 14, as added Sept. 27, 1982, Pub. L. 97–269, title VI, § 612, 96 Stat. 1154; amended Oct. 27, 1986, Pub. L. 99–569, title III, § 302(b), 100 Stat. 3194; Pub. L. 100–178, title IV, §§ 401(b), 402(b)(3), Dec. 2, 1987, 101 Stat. 1013, 1014; Oct. 24, 1992, Pub. L. 102–496, title VIII, § 803(a)(1), 106 Stat. 3251.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 substituted references to sections 2002, 2031 to 2035, 2052, 2071, and 2094 of this title for references in original to sections 204, 221 to 225, 232, 234 and 263 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which were formerly set out in a note under section 403 of this title.

1987—Subsec. (a). Pub. L. 100–178, § 402(b)(3), inserted ''232(b),'' before ''234(c), 234(d),''.

Pub. L. 100–178, § 401(b), inserted ''225,'' after ''223, 224,''.

1986—Subsec. (a). Pub. L. 99–569 inserted ''224,'' after ''223,''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–178 effective Nov. 15, 1982, but not to be construed to require forfeiture by any individual of benefits received before Dec. 2, 1987, nor to require reduction in level of benefits received by any individual who was receiving benefits under section 232 of Pub. L. 88–643 before Dec. 2, 1987, see section 402(c)–(e) of Pub. L. 100–178, set out as an Effective Date of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 302(d) of Pub. L. 99–569 provided that: ''The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect on October 1, 1986.''

EFFECTIVE DATE

Section effective Nov. 15, 1982, see section 613 of Pub. L. 97–269 set out as an Effective Date of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403*o*. Security personnel at Agency installations

(a) Special policemen: functions and powers; regulations: promulgation and enforcement

The Director may authorize Agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under section 318 of title 40, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers only within Agency installations and the rules and regulations enforced by such personnel shall be rules and regulations promulgated by the Director.

(b) Penalties for violations of regulations

The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in section 318c of title 40.

(c) Identification

Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.

(June 20, 1949, ch. 227, § 15, as added Oct. 12, 1984, Pub. L. 98–473, title I, § 140, 98 Stat. 1973, as added Nov. 8, 1984, Pub. L. 98–618, title IV, § 401, 98 Stat. 3301.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

Provisions of this section were also enacted by the Intelligence Authorization Act for fiscal year 1985, Pub. L. 98–618, title IV, § 401, Nov. 8, 1984, 98 Stat. 3301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403p. Health benefits for certain former spouses of Central Intelligence Agency employees

(a) Persons eligible

Except as provided in subsection (e) of this section, any individual—

(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b) Enrollment for health benefits

(1) Any individual eligible for coverage under subsection (a) of this section may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on October 1, 1986, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a) of this section; and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.

(c) Eligibility of former wives or husbands

(1) Notwithstanding subsections (a) and (b) of this section and except as provided in subsections (d), (e), and (f) of this section, an individual—

(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 2013 of this title; and

(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1) of this section, except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.

(d) Continuation of eligibility

Notwithstanding subsections (a), (b), and (c) of this section and except as provided in subsections (e) and (f) of this section, an individual divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or Federal Employees' Retirement System Special Category who enrolled in a health benefits plan following the dissolution of the marriage to such participant may continue enrollment following the death of such participant notwithstanding the termination of the retirement annuity of such individual.

(e) Remarriage before age fifty-five; continued enrollment; restored eligibility

(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1) of this section.

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) of this section or to subsection (d) of this section may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan if such former spouse—

(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.

(f) Enrollment in health benefits plan under other authority

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(g) "Health benefits plan" defined

For purposes of this section the term ''health benefits plan'' means an approved health benefits plan under chapter 89 of title 5.

(June 20, 1949, ch. 227, § 16, as added Oct. 27, 1986, Pub. L. 99–569, title III, § 303(a), 100 Stat. 3194; amended Aug. 14, 1991, Pub. L. 102–88, title III, § 307(c), 105 Stat. 433; Dec. 3, 1993, Pub. L. 103–178, title II, § 203(c), 107 Stat. 2031.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–178, § 203(c)(2)(A), substituted ''subsection (e)'' for ''subsection (c)(1)'' in introductory provisions.

Subsecs. (c), (d). Pub. L. 103–178, § 203(c)(1), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 103–178, § 203(c)(2)(B), inserted ''or to subsection (d) of this section'' after ''subsection (b)(1) of this section'' in par. (2).

Pub. L. 103–178, § 203(c)(1)(A), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsecs. (f), (g). Pub. L. 103–178, § 203(c)(1)(A), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

1991—Subsec. (c)(3). Pub. L. 102–88 added par. (3).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(c) of Pub. L. 103–178 applicable to individuals on and after Oct. 1, 1994, with no benefits provided pursuant to section 203(c) payable with respect to any period before Oct. 1, 1994, except that subsec. (d) of this section applicable to individuals beginning Dec. 3, 1993, see section 203(e) of Pub. L. 103–178, set out as a Survivor Annuity, Retirement Annuity, and Health Benefits for Certain Ex-Spouses of Central Intelligence Agency Employees; Effective Date note under section 2032 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 307(d) of Pub. L. 102–88 provided that: ''The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect as of October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such date.''

EFFECTIVE DATE

Section 303(b) of Pub. L. 99–569 provided that: ''The amendment made by this section [enacting this section] shall take effect on October 1, 1986.''

COMPLIANCE WITH BUDGET ACT

Section 307(e) of Pub. L. 102–88 provided that: ''Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided pursuant to the amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403q. Inspector General for Agency

(a) Purpose; establishment

In order to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the ''intelligence committees'') are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the ''Office'').

(b) Appointment; supervision; removal

(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(2) The Inspector General shall report directly to and be under the general supervision of the Director.

(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

(5) In accordance with section 535 of title 28, the Director shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law involving any officer or employee of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Inspector General.

(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

(c) Duties and responsibilities

It shall be the duty and responsibility of the Inspector General appointed under this section—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

(d) Semiannual reports; immediate reports of serious or flagrant problems; reports of functional problems

(1) The Inspector General shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of Central Intelligence a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively. Within thirty days of receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

(C) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

(E) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and

(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

(C) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately report such matter to the intelligence committees.

(4) Pursuant to Title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the Director shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(e) Authorities of Inspector General

(1) The Inspector General shall have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this sec-

tion. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Agency—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath[1] affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(6) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, the Inspector General shall create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

(7) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any Federal agency. Upon request of the Inspector General for such information or assistance, the head of the Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency concerned, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(f) Separate budget account

Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of Central Intelligence in consultation with the intelligence committees, the Director of Central Intelligence shall include in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

(g) Transfer

There shall be transferred to the Office the office of the Agency referred to as the ''Office of Inspector General.'' The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such ''Office of Inspector General'' are hereby transferred to the Office established pursuant to this section.

(June 20, 1949, ch. 227, § 17, as added Sept. 29, 1988, Pub. L. 100–453, title V, § 504, 102 Stat. 1910; amended Nov. 30, 1989, Pub. L. 101–193, title VIII, § 801, 103 Stat. 1711; Oct. 24, 1992, Pub. L. 102–496, title VI, § 601, 106 Stat. 3187; Oct. 14, 1994, Pub. L. 103–359, title IV, § 402, 108 Stat. 3427.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (d)(4), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–359, § 402(1), substituted ''analysis, public administration, or auditing'' for ''analysis, or public administration''.

Subsec. (c)(1). Pub. L. 103–359, § 402(2), substituted ''to plan, conduct'' for ''to conduct''.

Subsec. (d)(1). Pub. L. 103–359, § 402(3), in introductory provisions, substituted ''January 31 and July 31'' for ''June 30 and December 31'' and ''periods ending December 31 (of the preceding year) and June 30, respectively'' for ''period'' and inserted ''of receipt of such reports'' after ''thirty days''.

Subsec. (d)(3)(C). Pub. L. 103–359, § 402(4), substituted ''investigation, inspection, or audit,'' for ''investigation,''.

Subsec. (d)(4). Pub. L. 103–359, § 402(5), inserted ''or findings and recommendations'' after ''report''.

Subsec. (e)(6). Pub. L. 103–359, § 402(6), substituted ''the Inspector General shall'' for ''it is the sense of Congress that the Inspector General should''.

1992—Subsec. (e)(3). Pub. L. 102–496, in introductory provisions, substituted ''any person'' for ''an employee of the Agency'' and inserted ''from an employee of the Agency'' after ''received''.

1989—Pub. L. 101–193 amended section generally, substituting subsecs. (a) to (g) relating to establishment of the Office of Inspector General and appointment, duties, and authority of Inspector General for introductory par. and subsecs. (a) to (e) relating to various reports to be filed with the intelligence committees by

[1] So in original. Probably should be followed by a comma.

Director of Central Intelligence concerning selection and activities of Inspector General.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§ 403r. Special annuity computation rules for certain employees' service abroad

(a) Officers and employees to whom rules apply

Notwithstanding any provision of chapter 83 of title 5, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 2013 of this title, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b) of this section.

(b) Computation rules

(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer's or employee's first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5 that is normally applicable only to so much of an employee's total service as exceeds ten years.

(2) The portion of the annuity relating to service abroad as described in subsection (a) of this section but that is actually performed at any time after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) of this section shall be computed as provided in the provisions of section 8339(a) of title 5 that would otherwise be applicable to such service.

(4) For purposes of this subsection, the term ''total service'' has the meaning given such term under chapter 83 of title 5.

(c) Annuities deemed annuities under section 8339 of title 5

For purposes of subsections (f) through (m) of section 8339 of title 5, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (*o*)[1] of section 8339 of title 5.

(d) Officers and employees entitled to greater annuities under section 8339 of title 5

The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5.

[1] See References in Text note below.

(June 20, 1949, ch. 227, § 18, as added Nov. 30, 1989, Pub. L. 101–193, title III, § 305, 103 Stat. 1704; amended Oct. 24, 1992, Pub. L. 102–496, title VIII, § 803(a)(2), 106 Stat. 3252.)

REFERENCES IN TEXT

Subsection (*o*) of section 8339 of title 5, referred to in subsec. (c), was redesignated subsec. (p) of that section by Pub. L. 102–378, § 2(62), Oct. 2, 1992, 106 Stat. 1354.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which was formerly set out as a note under section 403 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f, 403r–1, 2144 of this title; title 10 section 1605.

§ 403r–1. Portability of overseas service retirement benefit

The special accrual rates provided by section 2153 of this title and by section 403r of this title for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

(Pub. L. 101–193, title III, § 306, Nov. 30, 1989, 103 Stat. 1704; Pub. L. 103–178, title II, § 204(a), Dec. 3, 1993, 107 Stat. 2033.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act, Fiscal Year 1990, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Pub. L. 103–178 substituted reference to section 2153 of this title for reference in original to section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

§ 403s. Special rules for disability retirement and death-in-service benefits with respect to certain employees

(a) Officers and employees to whom section 2051 rules apply

Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83 of title 5 who—

(1) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,[1] as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) satisfies the requirements for disability retirement under section 8337 of title 5—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in section 2051 of this title, in lieu of an annuity computed as provided by section 8337 of title 5.

(b) Survivors of officers and employees to whom section 2052 rules apply

Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, who—

(1) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,[1] as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) is survived by a surviving spouse, former spouse, or child as defined in section 2002 of this title, who would otherwise be entitled to an annuity under section 8341 of title 5—

such surviving spouse, former spouse, or child of such officer or employee shall be entitled to an annuity computed in accordance with section 2052 of this title, in lieu of an annuity computed in accordance with section 8341 of title 5.

(c) Annuities under this section deemed annuities under chapter 83 of title 5

The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities, and shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained pursuant to section 2012 of this title.

(June 20, 1949, ch. 227, § 19, as added Nov. 30, 1989, Pub. L. 101–193, title III, § 307(a), 103 Stat. 1705; amended Oct. 24, 1992, Pub. L. 102–496, title VIII, § 803(a)(3), 106 Stat. 3252; Dec. 3, 1993, Pub. L. 103–178, title V, § 501(3), 107 Stat. 2038.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–178, § 501(3)(A), (C), substituted ''section 2052'' for ''section 2051'' in heading and closing provisions.

Subsec. (b)(2). Pub. L. 103–178, § 501(3)(B), made technical amendment to reference to section 2013 of this title to update reference to corresponding section of original act.

1992—Subsec. (a). Pub. L. 102–496, § 803(a)(3)(A), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated such cl. as par. (2), in cl. (iii), inserted ''such'' before reference to section 2013 of this title and redesignated such cl. as par. (3), redesignated cl. (iv) as par. (4), and substituted reference to section 2051 of this title for ''such section 231'' in concluding provisions.

Subsec. (b). Pub. L. 102–496, § 803(a)(3)(B)(i), (ii), (iv)–(vi), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated cl. (ii) as par. (2), redesignated cls. (iii) and (iv) as pars. (3) and (4), respectively, and in concluding provisions, substituted ''surviving spouse, former spouse, or child'' for ''widow or widower, former spouse, and/or child or children'' and substituted reference to section 2051 of this title for ''such section 232''.

Pub. L. 102–496, § 803(a)(3)(B)(iii), which directed the substitution of ''surviving spouse, former spouse, or child as defined in section 2002 of this title'' in cl. (iv) for ''widow or widower, former spouse, and/or child or children as defined in section 204 and section 232 of such the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', was executed by making the substitution for ''widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 102–496, § 803(a)(3)(D)(i)–(iii), inserted heading, struck out par. (1) designation before ''The annuities provided'', substituted ''maintained pursuant to section 2012 of this title'' for ''established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', and struck out par. (2) which read as follows: ''The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities and/or benefits, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.''

Pub. L. 102–496, § 803(a)(3)(C), (D), redesignated subsec. (e) as (c) and struck out former subsec. (c) which provided for retirement of officers and employees of the Central Intelligence Agency as though designated pursuant to section 302(a) of Pub. L. 88–643 which was formerly set out as a note under section 403 of this title.

Subsec. (d). Pub. L. 102–496, § 803(a)(3)(C), struck out subsec. (d) which provided that survivors of officers and employees of the Central Intelligence Agency were to receive benefits as though deceased had been designated pursuant to section 302(a) of Pub. L. 88–643, which was formerly set out as a note under section 403 of this title.

Subsec. (e). Pub. L. 102–496, § 803(a)(3)(D), redesignated subsec. (e) as (c).

[1] So in original. The comma probably should not appear.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

§404. Emergency preparedness

(a) Employment of personnel

The Director of the Federal Emergency Management Agency, subject to the direction of the President, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to assist him in carrying out his functions.

(b) Functions

It shall be the function of the Director of the Federal Emergency Management Agency to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(c) Utilization of Government resources and facilities

In performing his functions, the Director of the Federal Emergency Management Agency shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

(July 26, 1947, ch. 343, title I, §107, formerly §103, 61 Stat. 499; Oct. 28, 1949, ch. 782, title IX, §1106(a), 63 Stat. 972; 1950 Reorg. Plan No. 25, §1, eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280; 1953 Reorg. Plan No. 3, §2(a), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; Sept. 3, 1954, ch. 1263, §50, 68 Stat. 1244; 1958 Reorg. Plan No. 1, §2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Ex. Ord. No. 11725, §3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§1–103, 4–102, July 20, 1979, 44 F.R. 43239; renumbered §107, Oct. 24, 1992, Pub. L. 102–496, title VII, §705(a)(2), 106 Stat. 3190.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1954—Act Sept. 3, 1954, struck out subsec. (a) relating to establishment of National Security Resources Board, and redesignated subsecs. (b) to (d) as subsecs. (a) to (c), respectively.

1949—Subsec. (b). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

''Director of the Federal Emergency Management Agency'' substituted for ''Chairman of the Board'' in subsec. (a), and for ''Board'' in subsecs. (b) and (c), on authority of the following:

''Chairman of the Board'', meaning Chairman of National Security Resources Board, substituted in subsecs. (b) and (c) for ''Board'', meaning National Security Resources Board, on authority of section 1 of Reorg. Plan No. 25 of 1950, set out below.

''Director of the Office of Defense Mobilization'' substituted in text for ''Chairman of Board'' meaning National Security Resources Board, pursuant to Reorg. Plan No. 3 of 1953, §§1(a), 2(a), and 6, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out below, which established Office of Defense Mobilization, as an agency within Executive Office of President, abolished National Security Resources Board, and transferred to Director of Office of Defense Mobilization functions, records, property, personnel, and funds of Board.

Office of Defense Mobilization and Federal Civil Defense Administration consolidated to form Office of Emergency Planning, an agency within Executive Office of President, by section 2 of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended, set out in the Appendix to Title 5, Government Organization and Employees, and functions vested by law in Office of Defense Mobilization and Director thereof transferred to President, with power to delegate, by section 1 of Reorg. Plan No. 1 of 1958.

Office of Emergency Planning changed to Office of Emergency Preparedness pursuant to section 402 of Pub. L. 90–608, Oct. 21, 1968, 82 Stat. 1194, which provided that references in laws to Office of Emergency Planning after Oct. 21, 1968, should be deemed references to Office of Emergency Preparedness.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Functions vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order,

proclamation, or other directive issued by or on behalf of President or otherwise under this section and Ex. Ord. No. 10421, formerly set out below, with certain exceptions, transferred to Administrator of General Services by Ex. Ord. No. 11725, § 3, June 27, 1973, 38 F.R. 17175, formerly set out under section 2271 of the Appendix to this title, to be exercised in conformance with such guidance as provided by National Security Council and, with respect to economic and disposal aspects of stockpiling of strategic and critical materials by Council on Economic Policy. Functions of Administrator of General Services under this chapter performed by Federal Preparedness Agency within General Services Administration.

Functions of Director of Office of Defense Mobilization under this section, which were previously transferred to President, delegated to Director of Federal Emergency Management Agency by sections 1–103 and 4–102 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Director of Federal Emergency Management Agency, see parts 1, 2, and 17 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

OFFICE OF EMERGENCY PLANNING

Pub. L. 87–296, § 2, Sept. 22, 1961, 75 Stat. 630, provided that: ''Any reference in any other law to the Office of Civil and Defense Mobilization shall, after the date of this Act [Sept. 22, 1961], be deemed to refer to the Office of Emergency Planning.''

REORGANIZATION PLAN NO. 25 OF 1950

Eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

NATIONAL SECURITY RESOURCES BOARD

SECTION 1. FUNCTIONS OF CHAIRMAN AND OF BOARD

The functions of the National Security Resources Board are hereby transferred to the Chairman of the National Security Resources Board, and the Board shall hereafter advise and consult with the Chairman with respect to such matters within his jurisdiction as he may request.

SEC. 2. VICE CHAIRMAN

There is hereby established the office of Vice Chairman of the National Security Resources Board. Such Vice Chairman shall (1) be an additional member of the National Security Resources Board, (2) be appointed from civilian life by the President, by and with the advice and consent of the Senate, (3) receive compensation at the rate of $16,000 per annum, and (4) perform such of the duties of the Chairman as the Chairman shall designate.

SEC. 3. PERFORMANCE OF FUNCTIONS OF CHAIRMAN

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Security Resources Board of any function of the Chairman.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 25 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the function of the National Security Resources Board from the Board to the Chairman of the Board and makes the Board advisory to the Chairman. The plan also provides for a Vice Chairman, appointed by the President and confirmed by the Senate.

The function assigned to the National Security Resources Board by the National Security Act of 1947 is ''to advise the President concerning the coordination of military, industrial and civilian mobilization.'' Proper performance of this function requires action by the Board and its staff in two broad areas:

(1) The conduct of advance mobilization planning which identifies the problems which will arise and the measures necessary to meet these problems if and when the Nation moves from a peacetime into a wartime situation.

(2) The formulation of current policies and programs which will help the Nation achieve an adequate state of readiness against the eventuality of a future war.

The role assigned the National Security Resources Board is clearly one of staff assistance to the President. The Congress recently recognized this fact in its approval of Reorganization Plan No. 4 of 1949 which, pursuant to the specific recommendation of the Hoover Commission, placed the National Security Resources Board in the Executive Office of the President.

The accompanying reorganization plan is designed to make the National Security Resources Board a more effective instrument. Successful performance of the Board's mission requires a wide range of detailed study and analysis to cover all the major aspects of national mobilization. A committee of department heads or departmental representatives encounters some natural difficulties in providing supervision and leadership in such an extensive and detailed activity. The Chairman has the difficult task of exercising discretion as to which matters shall be submitted for Board approval. The departmental members of the Board cannot possibly supervise or approve the Board's extensive and detailed activities and yet, as Board members, must accept ultimate responsibility for all such activities. Likewise, the departmental members are encumbered by the difficulty of having to reach collective and speedy decisions on a great many matters for which they, as Board members, are responsible.

By vesting the functions of the Board in the Chairman, the difficulties of Board operation will be overcome. At the same time, the reorganization plan provides for the continued participation of the several departments and agencies in the task of mobilization planning. This is not only a matter of established policy but also a requirement of the National Security Act. The departments will continue to have representation on the Board. The Board, in an advisory relationship to the Chairman, will be a useful arrangement for obtaining the necessary participation of departments in mobilization planning and for coordination of their activity. It will enable the departments to keep abreast of the total range of security resources planning. Without reliance on the departments for the execution of much of the actual job of mobilization planning, coordination with the total range of governmental policies and objectives would be lost.

The Congress in passing the National Security Act Amendments of 1949 recognized the difficulty which exists when functions of staff advice and assistance are placed in a board-type agency. The National Security Act Amendments of 1949, in clarifying the role of the Chairman of the Munitions Board and the Research and Development Board, strengthened and increased the effectiveness of these staff agencies of the Secretary of Defense by providing for the exclusive exercise of responsibilities by the Chairman. This plan achieves the same objective for the National Security Resources Board.

The accompanying reorganization plan provides for a Vice Chairman appointed by the President and confirmed by the Senate. The tremendous responsibilities of the National Security Resources Board and the heavy workload on the Chairman fully warrant this. Providing the Chairman with a principal associate for

the exercise of his responsibilities is consistent with the usual practice in other agencies of the executive branch.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 25 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of a Vice Chairman of the National Security Resources Board. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 25 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in security resources planning.

The security of this Nation requires that these steps be taken to enable security resources planning to move forward more effectively. It is for that reason that Reorganization Plan No. 25 is today submitted to the Congress. It is for that reason, and that reason alone, that I strongly urge congressional acceptance of Reorganization Plan No. 25.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

REORGANIZATION PLAN NO. 3 OF 1953

Eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 2, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

OFFICE OF DEFENSE MOBILIZATION

SECTION 1. ESTABLISHMENT OF OFFICE

(a) There is hereby established in the Executive Office of the President a new agency which shall be known as the Office of Defense Mobilization, hereinafter referred to as the ''Office.''

(b) There shall be at the head of the Office a Director of the Office of Defense Mobilization, hereinafter referred to as the ''Director,'' who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $22,500 per annum.

(c) There shall be in the Office a Deputy Director of the Office of Defense Mobilization, who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate of $17,500 per annum, shall perform such functions as the Director shall designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

SEC. 2. TRANSFER OF FUNCTIONS

There are hereby transferred to the Director:

(a) All functions of the Chairman of the National Security Resources Board, including his functions as a member of the National Security Council, but excluding the functions abolished by section 5(a) of this reorganization plan.

(b) All functions under the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), vested in the Secretaries of the Army, Navy, Air Force, and Interior or in any of them or in any combination of them, including the functions which were vested in the Army and Navy Munitions Board by the item No. (2) in section 6(a) of the said Act (60 Stat. 598) [former section 98e(a)(2) of this title], but excluding functions vested in the Secretary of the Interior by section 7 of said Act [former section 98f of this title].

(c) The functions vested in the Munitions Board by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), and by section 204(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(e)).

(d) All functions now vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order Numbered 10193 (15 F.R. 9031) [revoked by Ex. Ord. No. 10480, 18 F.R. 4939, formerly set out as a note under section 2153 of Appendix to this title].

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

(a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Office, of any function of the Director, exclusive of the function of being a member of the National Security Council.

(b) When authorized by the Director, any function transferred to him by the provisions of this reorganization plan (exclusive of the function of being a member of the National Security Council) may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate.

(c) In addition to the representatives who by virtue of the last sentence of section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a(a) of this title], and section 2 of this reorganization plan are designated to cooperate with the Director, the Secretary of Defense, the Secretary of the Interior, and the heads of such other agencies having functions regarding strategic or critical materials as the Director shall from time to time designate, shall each designate representatives who shall similarly cooperate with the Director.

SEC. 4. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There shall be transferred with the functions transferred by this reorganization plan from the Chairman of the National Security Resources Board and the Department of Defense, respectively, so much of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, used, held, employed, available, or to be made available in connection with the said functions, as the Director shall determine to be required for the performance of the transferred functions by the Office, but all transfers from the Department of Defense under the foregoing provisions of this section shall be subject to the approval of the Secretary of Defense.

SEC. 5. ABOLITION OF FUNCTIONS

(a) The functions of the Chairman of the National Security Resources Board under section 18 of the Universal Military Training and Service Act (50 U.S.C. App. 468), as affected by Reorganization Plan Numbered 25 of 1950 (64 Stat. 1280) [set out above], with respect to being consulted by and furnishing advice to the President as required by that section, are hereby abolished.

(b) So much of the functions of the Secretary of Defense under section 202(b) of the National Security Act of 1947, as amended [see 10 U.S.C. 113(b)], as consists of direction, authority, and control over functions transferred by this reorganization plan is hereby abolished.

(c) Any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as agent through which the Secretaries of the Army, Navy, Air Force, and Interior jointly act, under section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a of this title], are hereby abolished.

SEC. 6. ABOLITION OF NATIONAL SECURITY RESOURCES BOARD

The National Security Resources Board (established by the National Security Act of 1947, 61 Stat. 499 [this

section]), including the offices of Chairman and Vice Chairman of the National Security Resources Board, is hereby abolished, and the Director shall provide for winding up any outstanding affairs of the said Board or offices not otherwise provided for in this reorganization plan.

[For subsequent history relating to Office of Defense Mobilization, see notes set out under this section.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

The reorganization plan is designed to achieve two primary objectives: The first is to improve the organization of the Executive Office of the President; the second is to enable one Executive Office agency to exercise strong leadership in our national mobilization effort, including both current defense activities and readiness for any future national emergency.

The National Security Resources Board was established by the National Security Act of 1947 to advise the President concerning various aspects of future military, industrial, and civilian mobilization. The areas of responsibility assigned to the Board included the use of national and industrial resources for military and civilian needs; the sufficiency of productive facilities; the strategic relocation of industries; the mobilization and maximum utilization of manpower; and the maintenance and stabilization of the civilian economy.

The vigorous and efficient discharge of these vital functions is not well served by the simultaneous existence in the Executive Office of the President of the National Security Resources Board (charged with planning for the future) and the present Office of Defense Mobilization (charged with programs of the present). The progress of the current mobilization effort has made plain how artificial is the present separation of these functions.

Both functions should now be combined into one defense mobilization agency. Accordingly, the reorganization plan would create in the Executive Office of the President a new agency, to be known as the Office of Defense Mobilization. It would transfer to the new Office the functions of the Chairman of the National Security Resources Board and abolish that Board, including the offices of Chairman and Vice Chairman.

The reorganization plan also transfers to the new agency the statutory functions of the present Office of Defense Mobilization. These are of a minor nature, the major functions of the present Office of Defense Mobilization having been delegated to it by the President, principally under the Defense Production Act of 1950, as amended. It is my intention to transfer the latter functions to the new agency by Executive order, and to abolish the Office of Defense Mobilization established by Executive Order No. 10193. There will thus result a new agency which combines the activities of the National Security Resources Board and both the statutory and delegated functions of the heretofore existing Office of Defense Mobilization.

The proposed plan would also reorganize various activities relating to the stockpiling of strategic and critical materials. Those activities are principally provided for in the Strategic and Critical Materials Stock Piling Act, as amended. It has become increasingly apparent that the policy and program aspects of stockpiling are an integral part of mobilization planning. They should not be administered separately from plant expansion, conservation of materials, and materials procurement under the Defense Production Act of 1950, or from the duties placed in the National Security Resources Board by the National Security Act of 1947. Therefore, the reorganization plan would transfer to the Director of the new Office of Defense Mobilization responsibility for major stockpiling actions, including the determination of the nature and quantities of materials to be stockpiled. In the main, these functions are transferred from the Secretaries of the Army, Navy, and Air Force (acting jointly through the agency of the Munitions Board) and the Secretary of the Interior. The duties of the Administrator of General Services regarding the purchase of strategic and critical materials and the management of stockpiles are not affected by the reorganization plan, except that he will receive his directions, under the plan, from the Director of the Office of Defense Mobilization instead of from the Department of Defense.

This transfer of stockpiling functions will correct the present undesirable confusion of responsibilities. The functions of the heads of the military departments of the Department of Defense and the Secretary of the Interior under the Strategic and Critical Materials Stock Piling Act, as amended, are at present in considerable measure subject to other authority of delegates of the President springing from the Defense Production Act of 1950, as amended. The allocation and distribution of scarce materials among essential civilian and military activities and the continued maintenance of adequate stockpiles of strategic and critical materials are of major current importance. The reorganization plan will make possible more effective coordination and close control over the Government's whole stockpile program. It will speed decisions. It can result in significant economies.

The Department of Defense will, of course, continue to be responsible for presenting the needs of the military services. That Department and the Department of the Interior are specifically designated in the plan as additional agencies which shall appoint representatives to cooperate with the Director of the Office of Defense Mobilization in determining which materials are strategic and critical and how much of them is to be purchased. Final authority with regard to such determination will, however, be in the Director of the Office of Defense Mobilization.

Section 5(a) of the reorganization plan withholds from transfer to the Director and abolishes the functions of the Chairman of the National Security Resources Board with regard to being consulted by and furnishing advice to the President concerning the placing of orders of mandatory precedence for articles or materials for the use of the armed forces of the United States or for the use of the Atomic Energy Commission, and with regard to determining that a plant, mine, or other facility can be readily converted to the production or furnishing of such articles or materials. These abolished functions were vested in the National Security Resources Board by section 18 of the Selective Service Act of 1948 (later renamed as the Universal Military Training and Service Act) and were transferred to the Chairman of that Board by Reorganization Plan No. 25 of 1950. The practical effect of this abolition is to obviate a statutory mandate that the President consult and advise with another officer of the executive branch of the Government.

Section 5(b) of the reorganization plan abolishes the direction, authority, and control of the Secretary of Defense over functions transferred from the Department of Defense by the reorganization plan. The Secretary's functions in this regard are provided for in section 202(b) of the National Security Act of 1947, as amended (5 U.S.C. 171a(b)) [see 10 U.S.C. 113(b)].

Section 5(c) of the reorganization plan abolishes any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as the agent through which the Secretaries of the Army, Navy, Air Force, and the Interior jointly act in determining which materials are strategic and critical under the provisions of the Strategic and Critical Materials Stock Piling Act, as amended, and the quality and quantities of such materials to be stockpiled. These abolished functions are provided for in section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1953 is necessary to accomplish one or

more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of a Director and a Deputy Director of the Office of Defense Mobilization. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will permit better organization and management of the Federal programs relating to materials and requirements and will thus help to achieve the maximum degree of mobilization readiness at the least possible cost. It is not practicable, however, to itemize, in advance of actual experience, the reductions of expenditures to be brought about by the taking effect of the reorganizations included in Reorganization Plan No. 3 of 1953.

I urge that the Congress allow the proposed reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 2, 1953.

EXECUTIVE ORDER NO. 9905

Ex. Ord. No. 9905, Nov. 13, 1947, 12 F.R. 7613, as amended by Ex. Ord. No. 9931, Feb. 19, 1948, 13 F.R. 763, provided for membership of National Security Resources Board and defined functions, duties and authority of Chairman of Board.

EXECUTIVE ORDER NO. 10169

Ex. Ord. No. 10169, Oct. 11, 1950, 15 F.R. 6901, which provided for a National Advisory Committee on Mobilization Policy, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out under section 2153 of the Appendix to this title.

EXECUTIVE ORDER NO. 10421

Ex. Ord. No. 10421, Dec. 31, 1952, 18 F.R. 57, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which related to physical security of defense facilities, was revoked by Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10438

Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491, which related to transfer of functions to Director of Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out under section 5195 of Title 42, The Public Health and Welfare.

§ 404a. Annual national security strategy report

(a) Transmittal to Congress

(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a ''national security strategy report'').

(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31.

(b) Contents

Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

(c) Classified and unclassified form

Each national security strategy report shall be transmitted in both a classified and an unclassified form.

(July 26, 1947, ch. 343, title I, § 108, formerly § 104, as added Oct. 1, 1986, Pub. L. 99–433, title VI, § 603(a)(1), 100 Stat. 1074; renumbered § 108, Oct. 24, 1992, Pub. L. 102–496, title VII, § 705(a)(2), 106 Stat. 3190.)

NATIONAL COMMISSION ON THE FUTURE ROLE OF UNITED STATES NUCLEAR WEAPONS, PROBLEMS OF COMMAND, CONTROL, AND SAFETY OF SOVIET NUCLEAR WEAPONS, AND REDUCTION OF NUCLEAR WEAPONS

Pub. L. 102–172, title VIII, § 8132, Nov. 26, 1991, 105 Stat. 1208, provided for establishment of a National Commission which was to submit to Congress, not later than May 1, 1993, a final report containing an assessment and recommendations regarding role of, and requirements for, nuclear weapons in security strategy of United States as result of significant changes in former Warsaw Pact, former Soviet Union, and Third World, including possibilities for international cooperation with former Soviet Union regarding such problems, and safeguards to protect against accidental or unauthorized use of nuclear weapons, further directed Commission to obtain study from National Academy of Sciences on these matters, further authorized establishment of joint working group comprised of experts from governments of United States and former Soviet Union which was to meet on regular basis and provide recommendations regarding these matters, and further provided for composition of Commission as well as powers, procedures, personnel matters, appropriations, and termination of Commission upon submission of its final report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 113, 2501.

§ 404b. Multiyear national foreign intelligence program

(a) Annual submission of multiyear national foreign intelligence program

The Director of Central Intelligence shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent

Select Committee on Intelligence of the House of Representatives each year a multiyear national foreign intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national foreign intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) Time of submission

The Director shall submit the report required by subsection (a) of this section each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31.

(c) Consistency with budget estimates

The Director of Central Intelligence and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) of this section are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a[1] of title 10.

(Pub. L. 101–510, div. A, title XIV, § 1403, Nov. 5, 1990, 104 Stat. 1675.)

REFERENCES IN TEXT

Section 114a of title 10, referred to in subsec. (c), was renumbered section 221 of title 10 by Pub. L. 102–484, div. A, title X, § 1002(c)(1), Oct. 23, 1992, 106 Stat. 2480.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 404c. Annual report on United States security arrangements and commitments with other nations

(a) Report requirements

The President shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) Matters to be included

The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) Deadline for report

(1) Except as provided in paragraph (2), the President shall submit the report required by subsection (a) of this section not later than February 1 of each year.

(2) In the case of the report required to be submitted in 1991, the evaluation, plan, and assessment referred to in paragraphs (2), (3), and (4) of subsection (b) of this section may be submitted not later than May 1, 1991.

(Pub. L. 101–510, div. A, title XIV, § 1457, Nov. 5, 1990, 104 Stat. 1696.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 404d. Annual report on intelligence community activities

(a) In general

The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

(b) Matters to be covered in annual report

Each report under this section shall describe—

(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.

(c) Time for submission

The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31.

(July 26, 1947, ch. 343, title I, § 109, as added Dec. 3, 1993, Pub. L. 103–178, title III, § 304(a), 107 Stat. 2034.)

[1] See References in Text note below.

SUBCHAPTER II—MISCELLANEOUS AND CONFORMING PROVISIONS

§405. Advisory committees; appointment; compensation of part-time personnel; applicability of other laws

(a) The Director of the Federal Emergency Management Agency, the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207 of title 18, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

(July 26, 1947, ch. 343, title III, §303, 61 Stat. 507; Aug. 10, 1949, ch. 412, §10(c), 63 Stat. 585; Sept. 3, 1954, ch. 1263, §8, 68 Stat. 1228; Aug. 10, 1956, ch. 1041, §53(b), 68A Stat. 676, 684; 1958 Reorg. Plan No. 1, §2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Ex. Ord. No. 11725, §3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§1–103, 4–102, July 20, 1979, 44 F.R. 43239; Dec. 4, 1981, Pub. L. 97–89, title V, §504, 95 Stat. 1153; Sept. 29, 1988, Pub. L. 100–453, title V, §503, 102 Stat. 1910.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–453 substituted "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other" for "Other" in last sentence.

1981—Subsec. (a). Pub. L. 97–89, §504(a), substituted "at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5" for "at a rate not to exceed $50 for each day of service".

Subsec. (b). Pub. L. 97–89, §504(b), substituted "section 203, 205, or 207 of title 18" for "section 281, 283, or 284 of title 18".

1956—Subsec. (a). Act Aug. 10, 1956, struck out "Secretary of Defense, the" after "The".

1954—Act Sept. 3, 1954, amended section generally, substituting the "Director of the Office of Defense Mobilization" for "Chairman of the National Security Resources Board" in subsec. (a), and substituting "sections 281, 283, or 284 of title 18" for "sections 198 or 203 of title 18 or section 119(e) of title 41".

1949—Subsec. (a). Act Aug. 10, 1949, inserted reference to National Security Council, and increased per diem payable to consultants from $35 to $50.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

"Director of the Federal Emergency Management Agency" substituted in subsec. (a) for "Director of the Office of Defense Mobilization". See note set out under section 404 of this title.

National Security Council transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067. See note set out under section 402 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§406. Omitted

CODIFICATION

Section, act June 24, 1948, ch. 632, 62 Stat. 648, which related to authority of former Chairman of National Security Resources Board to appoint advisory committee members and part-time advisory personnel at rates up to $50 per day, has been superseded by section 405(a) of this title.

§407. Study or plan of surrender; use of appropriations

No part of the funds appropriated in any act shall be used to pay (1) any person, firm, or cor-

poration, or any combinations of persons, firms, or corporations, to conduct a study or to plan when and how or in what circumstances the Government of the United States should surrender this country and its people to any foreign power, (2) the salary or compensation of any employee or official of the Government of the United States who proposes or contracts or who has entered into contracts for the making of studies or plans for the surrender by the Government of the United States of this country and its people to any foreign power in any event or under any circumstances.

(Pub. L. 85–766, ch. XVI, § 1602, Aug. 27, 1958, 72 Stat. 884.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriation Act, 1959, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 408. Applicable laws

Except to the extent inconsistent with the provisions of this Act, the provisions of title 4 of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.

(July 26, 1947, ch. 343, title II, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title 4 of the Revised Statutes, referred to in text, was entitled ''Provisions Applicable to All Executive Departments'', and consisted of R.S. §§ 158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, and 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514 and 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 171–1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 409. Definitions of military departments

(a) The term ''Department of the Army'' as used in this Act shall be construed to mean the Department of the Army at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(b) The term ''Department of the Navy'' as used in this Act shall be construed to mean the Department of the Navy at the seat of the government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(c) The term ''Department of the Air Force'' as used in this Act shall be construed to mean the Department of the Air Force at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(July 26, 1947, ch. 343, title II, §§ 205(c), 206(a), 207(c), 61 Stat. 501, 502.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was formerly classified to section 171–2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

Prior to the enactment of Title 10, Armed Forces, by act Aug. 10, 1956, subsecs. (a), (b), and (c) of this section were classified to sections 181–1(c), 411a(a), and 626(c), respectively, of former Title 5.

§ 410. "Function" and "Department of Defense" defined

(a) As used in this Act, the term ''function'' includes functions, powers, and duties.

(b) As used in this Act, the term ''Department of Defense'' shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

(July 26, 1947, ch. 343, title III, § 308, 61 Stat. 509; Aug. 10, 1949, ch. 412, § 12(e), 63 Stat. 591.)

PARTIAL REPEAL

Section 307 of Pub. L. 87–651, title III, Sept. 7, 1962, 76 Stat. 526, repealed subsection (a) of this section less its applicability to sections 401, 402, 403, 404, and 405 of this title.

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title II of this Act, referred to in subsec. (b), means title II of the National Security Act of 1947, act July 26, 1947, ch. 343, 61 Stat. 499, as amended, which enacted sections 408 and 409 of this title and sections 171, 171–1, 171–2, 171a, 171c, 171d, and 171e to 171i of former Title 5, Executive Department and Government Officers and Employees, amended sections 1 and 11 of former Title 5 and section 1517 of Title 15, Commerce and Trade, and enacted a provision formerly set out as a note under section 135 [now 137] of Title 10, Armed Forces. Section 171 of former Title 5 was repealed by Pub. L. 87–651, title III, § 307, Sept. 7, 1962, and reenacted in part as section 131 of Title 10. Sections 171e, 171f, and 171g of former Title 5 were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 171, 141, 142, and 143 of Title 10, respectively. Sections 171–1 and 171–2 of former Title 5 were transferred to sections 408 and 409 of this title, respectively. For complete classification of title II to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 171n of Title 5 prior to the general revision and enactment of

Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1949—Subsec. (b). Act Aug. 10, 1949, substituted definition of ''Department of Defense'' for definition of ''budget program''.

§411. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 [50 U.S.C. 403, 403–3, 403–4, 403–5] and titles V, VI, and VII [50 U.S.C. 413 et seq., 421 et seq., 431 et seq.]).

(July 26, 1947, ch. 343, title III, §307, 61 Stat. 509; Dec. 3, 1993, Pub. L. 103–178, title III, §309, 107 Stat. 2036.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. Titles V, VI, and VII of the Act are classified generally to subchapters III (§413 et seq.), IV (§421 et seq.), and V (§431 et seq.) of this chapter, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was formerly classified to section 171m of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1993—Pub. L. 103–178 substituted ''provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII)'' for ''provisions and purposes of this Act''.

§412. Repealing and savings provisions

All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.

(July 26, 1947, ch. 343, title IV, §411, as added Aug. 10, 1949, ch. 412, §11, 63 Stat. 585.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act July 26, 1947, ch. 343, as added Aug. 10, 1949, ch. 412, §11, 63 Stat. 585, which enacted section 412 of this title and sections 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, and amended section 172e of former Title 5 and section 72 of former Title 31, Money and Finance. Section 172 of former Title 5 was repealed by Pub. L. 87–651, title III, §307, Sept. 7, 1962, 76 Stat. 526, and reenacted as section 136 [now 138] of Title 10, Armed Forces. Section 172a of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, and reenacted as sections 3014, 5061, and 8014 of Title 10. Sections 172b to 172d and 172f to 172h of former Title 5 were repealed by Pub. L. 87–651, title III, §307, Sept. 7, 1962, 76 Stat. 526, and reenacted as sections 2203, 2204, 2208, 2207, 126, and 2206 of Title 10, respectively. Section 172i of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, and reenacted as section 2701 of Title 10. Section 172j, of former Title 5 was transferred to section 412 of this title. For complete classification of title IV to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 172j of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

SUBCHAPTER III—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 403q, 411 of this title; title 10 sections 167, 421, 437, 2547; title 22 sections 2321m, 2776, 2780, 2799aa–1.

§413. General Congressional oversight provisions

(a) Reports to Congressional committees of intelligence activities and anticipated activities

(1) The President shall ensure that the intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this subchapter.

(2) As used in this subchapter, 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.

(3) Nothing in this subchapter shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

(b) Reports concerning illegal intelligence activities

The President shall ensure that any illegal intelligence activity is reported promptly to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

(c) Procedures for reporting information

The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this subchapter.

(d) Procedures to protect from unauthorized disclosure

The House of Representatives and the Senate shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the in-

telligence committees or to Members of Congress under this subchapter. Such procedures shall be established in consultation with the Director of Central Intelligence. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

(e) Construction of authority conferred

Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

(f) "Intelligence activities" defined

As used in this section, the term ''intelligence activities'' includes covert actions as defined in section 413b(e) of this title.

(July 26, 1947, ch. 343, title V, § 501, as added Aug. 14, 1991, Pub. L. 102–88, title VI, § 602(a)(2), 105 Stat. 441.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

PRIOR PROVISIONS

A prior section 413, act July 26, 1947, ch. 343, title V, § 501, as added Oct. 14, 1980, Pub. L. 96–450, title IV, § 407(b)(1), 94 Stat. 1981, related to Congressional oversight of intelligence activities, prior to repeal by Pub. L. 102–88, § 602(a)(2).

§ 413a. Reporting of intelligence activities other than covert actions

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 413b(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

(July 26, 1947, ch. 343, title V, § 502, as added Aug. 14, 1991, Pub. L. 102–88, title VI, § 602(a)(2), 105 Stat. 442.)

PRIOR PROVISIONS

A prior section 502 of act July 26, 1947, ch. 343, was renumbered section 504 and is classified to section 414 of this title.

FURNISHING OF INTELLIGENCE INFORMATION TO SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE

Section 405 of Pub. L. 102–88 provided that:

''(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate.

''(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, Ninety-Fourth Congress, and House Resolution 658, Ninety-Fifth Congress, the committees named in subsection (a) shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff.''

§ 413b. Presidential approval and reporting of covert actions

(a) Presidential findings

The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

(4) Each finding shall specify whether it is contemplated that any third party which is

not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

(b) Reports to intelligence committees; production of information

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) shall keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

(c) Timing of reports; access to finding

(1) The President shall ensure that any finding approved pursuant to subsection (a) of this section shall be reported to the intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section,[1] the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. When access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

[1] So in original. Probably should be ''subsection,''.

(d) Changes in previously approved actions

The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2) of this section, are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c) of this section.

(e) "Covert action" defined

As used in this subchapter, the term ''covert action'' means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(f) Prohibition on covert actions intended to influence United States political processes, etc.

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

(July 26, 1947, ch. 343, title V, §503, as added Aug. 14, 1991, Pub. L. 102–88, title VI, §602(a)(2), 105 Stat. 442.)

PRIOR PROVISIONS

A prior section 503 of act July 26, 1947, ch. 343, was renumbered section 505 and is classified to section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 413, 413a, 414 of this title.

§414. Funding of intelligence activities

(a) Obligations and expenditures for intelligence or intelligence-related activity; prerequisites

Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) those funds were specifically authorized by the Congress for use for such activities; or

(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 413b of this title concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

(B) the need for funds for such activity is based on unforseen[1] requirements; and

(C) the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;

(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31.

(b) Activities denied funding by Congress

Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

(c) Presidential finding required for expenditure of funds on covert action

No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 413b(e) of this title, unless and until a Presidential finding required by subsection (a) of section 413b of this title has been signed or otherwise issued in accordance with that subsection.

(d) Report to Congressional committees required for expenditure of nonappropriated funds for intelligence activity

(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—

(A) the types of activities for which nonappropriated funds may be expended; and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the intelligence committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense.

(e) Definitions

As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term ''appropriate congressional committees'' means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

(3) the term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

(July 26, 1947, ch. 343, title V, § 504, formerly § 502, as added Dec. 4, 1985, Pub. L. 99–169, title IV, § 401(a), 99 Stat. 1004; renumbered § 504 and amended Aug. 14, 1991, Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(1), 603, 105 Stat. 441, 444.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–88, § 602(c)(1), substituted ''section 413b'' for ''section 413''.

Subsecs. (c) to (e). Pub. L. 102–88, § 603, added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

LIMITATION ON TRANSFER OF FUNDS BETWEEN CIA AND DEPARTMENT OF DEFENSE; CONGRESSIONAL NOTIFICATION REQUIRED

Pub. L. 103–139, title VIII, § 8107, Nov. 11, 1993, 107 Stat. 1464, provided that: ''During the current fiscal year and thereafter, no funds may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, § 9014, Oct. 6, 1992, 106 Stat. 1903.

Pub. L. 102–172, title VIII, § 8014, Nov. 26, 1991, 105 Stat. 1174.

Pub. L. 101–511, title VIII, § 8015, Nov. 5, 1990, 104 Stat. 1878.

Pub. L. 101–165, title IX, § 9022, Nov. 21, 1989, 103 Stat. 1134.

Pub. L. 100–463, title VIII, § 8035, Oct. 1, 1988, 102 Stat. 2270–23.

Pub. L. 100–202, § 101(b) [title VIII, § 8037], Dec. 22, 1987, 101 Stat. 1329–43, 1329–68.

SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET

Pub. L. 102–496, title III, § 303, Oct. 24, 1992, 106 Stat. 3183, provided that: ''It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.'' Similar provisions were contained in the following prior appropriation act: Pub. L. 102–183, title VII, § 701, Dec. 4, 1991, 105 Stat. 1270.

LIMITATION OF EXPENDITURE OF FUNDS APPROPRIATED FOR DEPARTMENT OF DEFENSE INTELLIGENCE PROGRAMS

Pub. L. 102–172, title VIII, § 8089, Nov. 26, 1991, 105 Stat. 1193, provided that: ''During the current fiscal

[1] So in original. Probably should be ''unforeseen''.

year and hereafter, none of the funds appropriated for intelligence programs to the Department of Defense which are transferred to another Federal agency for execution shall be expended by the Department of Defense in any fiscal year in excess of amounts required for expenditure during such fiscal year by the Federal agency to which such funds are transferred.''

ENHANCED SECURITY COUNTERMEASURES CAPABILITIES; APPLICATION OF SECTION

Section 401(c) of Pub. L. 99–169 provided that: ''The amendment made by section 401(a) of this Act [enacting this section] shall not apply with respect to funds appropriated to the Director of Central Intelligence under the heading 'ENHANCED SECURITY COUNTERMEASURES CAPABILITIES' in the Supplemental Appropriations Act, 1985 (Public Law 99–88) [Aug. 15, 1985, 99 Stat. 311].''

§ 415. Notice to Congress of certain transfers of defense articles and defense services

(a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this subchapter.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2301 et seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], title 10 (including a law enacted pursuant to section 7307(a) of that title), or the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms ''defense articles'' and ''defense services'' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act [22 U.S.C. 2778] (22 CFR part 121);

(3) the term ''transfer'' means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term ''value'' means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

(July 26, 1947, ch. 343, title V, § 505, formerly § 503, as added Oct. 27, 1986, Pub. L. 99–569, title VI, § 602(a), 100 Stat. 3203; renumbered § 505 and amended Aug. 14, 1991, Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(2), 604, 105 Stat. 441, 444, 445; Nov. 30, 1993, Pub. L. 103–160, div. A, title VIII, § 828(d)(1), 107 Stat. 1715.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(B)(i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Part II of the Act is classified generally to subchapter II (§ 2301 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to subchapter II to exclude parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II, see section 202(b) of Pub. L. 92–228, set out as a note under section 2346 of Title 22, and sections 2348c and 2349aa–5 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2)(B)(i), is Pub. L. 90–269, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(2)(B)(i), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1993—Subsec. (a)(2)(B)(i). Pub. L. 103–160 substituted ''section 7307(a)'' for ''section 7307(b)(1)''.

1991—Subsec. (a)(1). Pub. L. 102–88 inserted '', or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,'' after ''service'' and substituted ''this subchapter'' for ''section 413 of this title''.

SUBCHAPTER IV—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 411 of this title.

§ 421. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources

(a) Disclosure of information by persons having or having had access to classified information that identifies covert agent

Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified in-

formation, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

(b) Disclosure of information by persons who learn identity of covert agents as result of having access to classified information

Whoever, as a result of having authorized access to classified information, learns the identify of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

(c) Disclosure of information by persons in course of pattern of activities intended to identify and expose covert agents

Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years, or both.

(July 26, 1947, ch. 343, title VI, § 601, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 122.)

SHORT TITLE

For short title of this subchapter as the ''Intelligence Identities Protection Act of 1982'', see section 1 of Pub. L. 97–200, set out as a Short Title of 1982 Amendment note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422, 424 of this title; title 5 section 8312; title 8 section 1101; title 18 section 3239; title 22 section 2778.

§ 422. Defenses and exceptions

(a) Disclosure by United States of identity of covert agent

It is a defense to a prosecution under section 421 of this title that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(b) Conspiracy, misprision of felony, aiding and abetting, etc.

(1) Subject to paragraph (2), no person other than a person committing an offense under section 421 of this title shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18 or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

(c) Disclosure to select Congressional committees on intelligence

It shall not be an offense under section 421 of this title to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

(d) Disclosure by agent of own identity

It shall not be an offense under section 421 of this title for an individual to disclose information that solely identifies himself as a covert agent.

(July 26, 1947, ch. 343, title VI, § 602, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 122.)

§ 423. Report

(a) Annual report by President to Congress on measures to protect identities of covert agents

The President, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

(b) Exemption from disclosure; date of initial submission

The report described in subsection (a) of this section shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

(July 26, 1947, ch. 343, title VI, § 603, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 123.)

§ 424. Extraterritorial jurisdiction

There is jurisdiction over an offense under section 421 of this title committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 1101(a)(20) of title 8).

(July 26, 1947, ch. 343, title VI, § 604, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 123.)

§ 425. Providing information to Congress

Nothing in this subchapter may be construed as authority to withhold information from the

Congress or from a committee of either House of Congress.

(July 26, 1947, ch. 343, title VI, § 605, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 123.)

§ 426. Definitions

For the purposes of this subchapter:

(1) The term ''classified information'' means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term ''authorized'', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term ''disclose'' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term ''covert agent'' means—

(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term ''intelligence agency'' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

(6) The term ''informant'' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms ''officer'' and ''employee'' have the meanings given such terms by section 2104 and 2105, respectively, of title 5.

(8) The term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term ''United States'', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term ''pattern of activities'' requires a series of acts with a common purpose or objective.

(July 26, 1947, ch. 343, title VI, § 606, as added June 23, 1982, Pub. L. 97–200, § 2(a), 96 Stat. 123.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER V—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 411 of this title.

§ 431. Exemption of certain operational files from search, review, publication, or disclosure

(a) Exemption by Director of Central Intelligence

Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5 (Freedom of Information Act) which require publication or disclosure, or search or review in connection therewith.

(b) "Operational files" defined

For the purposes of this title the term ''operational files'' means—

(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

(c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

(1) United States citizens or aliens lawfully admitted for permanent residence who have

requested information on themselves pursuant to the provisions of section 552 of title 5 (Freedom of Information Act) or section 552a of title 5 (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5 (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(d) Information derived or disseminated from exempted operational files

(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Supersedure of prior law

The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after October 15, 1984, and which specifically cites and repeals or modifies its provisions.

(f) Allegation; improper withholding of records; judicial review

Whenever any person who has requested agency records under section 552 of title 5 (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, except that—

(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(July 26, 1947, ch. 343, title VII, § 701, as added Oct. 15, 1984, Pub. L. 98–477, § 2(a), 98 Stat. 2209.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 4 of Pub. L. 98–477 provided that: ''The amendments made by subsections (a) and (b) of section 2 [enacting this subchapter and amending section 552a of Title 5, Government Organization and Employees] shall be effective upon enactment of this Act [Oct. 15, 1984] and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 432 of this title.

§ 432. Decennial review of exempted operational files

(a) Review by Director of Central Intelligence

Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 431 of this title to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(b) Consideration; historical value; public interest

The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(c) Judicial review

A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 702, as added Oct. 15, 1984, Pub. L. 98–477, § 2(a), 98 Stat. 2211.)

EFFECTIVE DATE

Section effective Oct. 15, 1984, and applicable with respect to any request for records, whether or not such request was made prior to Oct. 15, 1984, and applicable to all civil actions not commenced prior to Feb. 7, 1984, see section 4 of Pub. L. 98–477, set out as a note under section 431 of this title.

DECLASSIFICATION AND RELEASE OF CIA INFORMATION OF HISTORICAL VALUE

Section 3 of Pub. L. 98–477 directed Director of Central Intelligence, in consultation with Archivist of the United States, Librarian of Congress, and appropriate representatives of historical discipline selected by Archivist, to prepare and submit report to Congress by June 1, 1985, on feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value. Director was also required to prepare and submit four unclassified reports, one each six months beginning by Apr. 15, 1985, which were to include a description of the specific measures established by Director to improve processing of requests under section 552 of title 5, United States Code, current budgetary and personnel allocations for such processing, the number of such requests (i) received and processed during the preceding six months, and (ii) pending at time of submission of such report, and an estimate of current average response time for completing the processing of such requests.

SUBCHAPTER VI—ACCESS TO CLASSIFIED INFORMATION

§ 435. Procedures

(a) Not later than 180 days after October 14, 1994, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, as determined by the President, in accordance with section 436 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this subchapter are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) Subsection (a) of this section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed

by subsection (a) of this section cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(July 26, 1947, ch. 343, title VIII, § 801, as added Oct. 14, 1994, Pub. L. 103–359, title VIII, § 802(a), 108 Stat. 3435.)

EFFECTIVE DATE

Section 802(c) of Pub. L. 103–359 provided that: ''The amendments made by subsections (a) and (b) [enacting this subchapter] shall take effect 180 days after the date of enactment of this Act [Oct. 14, 1994].''

COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Pub. L. 103–236, title IX, Apr. 30, 1994, 108 Stat. 525, provided that:

''SEC. 901. SHORT TITLE.

''This title may be cited as the 'Protection and Reduction of Government Secrecy Act'.

''SEC. 902. FINDINGS.

''The Congress makes the following findings:

''(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

''(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

''(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

''(4) It has been estimated that private businesses spend more than $14 billion each year implementing government mandated regulations for protecting classified information.

''(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

''(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that 'more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information'.

''(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

''(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

''SEC. 903. PURPOSE.

''It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

''(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

''(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

''SEC. 904. COMPOSITION OF THE COMMISSION.

''(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the 'Commission').

''(b) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

''(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

''(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

''(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

''(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

''(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

''(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

''(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

''(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title [Apr. 30, 1994].

''(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

''SEC. 905. FUNCTIONS OF THE COMMISSION.

''The functions of the Commission shall be—

''(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

''(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

''SEC. 906. POWERS OF THE COMMISSION.

''(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

''(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

''(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may deem advisable.

''(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by

any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

''(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

''(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

''(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

''(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(3) In addition to the assistance set forth in paragraphs (1) and (2), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

''(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

''SEC. 907. STAFF OF THE COMMISSION.

''(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

''(b) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''SEC. 908. COMPENSATION AND TRAVEL EXPENSES.

''(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

''(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

''(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

''SEC. 909. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

''The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

''SEC. 910. FINAL REPORT OF COMMISSION; TERMINATION.

''(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

''(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

''(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.''

REPORTS RELATING TO CERTAIN SPECIAL ACCESS PROGRAMS AND SIMILAR PROGRAMS

Pub. L. 103–160, div. A, title XI, §1152, Nov. 30, 1993, 107 Stat. 1758, provided that:

''(a) IN GENERAL.—(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress 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, United States Code, 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 Congress 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 Congress 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 Congress 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 Congress.

''(f) INITIATION OF PROGRAMS.—A special access program may not be initiated by a covered department or agency until—

''(1) the appropriate 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) 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, United States Code);

''(ii) 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 93 of the Atomic Energy Act of 1954 [42 U.S.C. 2122a]); or

''(iii) an agency in the Intelligence Community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a)).

''(2) SPECIAL ACCESS PROGRAM.—The term 'special access program' means any program that, under the authority of Executive Order 12356 [set out below] (or any successor Executive 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'.''

DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF COLD WAR, KOREAN CONFLICT, AND VIETNAM ERA

Pub. L. 102–190, div. A, title X, § 1082, Dec. 5, 1991, 105 Stat. 1480, as amended by Pub. L. 103–337, div. A, title X, § 1036, Oct. 5, 1994, 108 Stat. 2841, provided that:

''(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

''(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

''(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

''(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

''(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

''(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

''(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

''(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

''(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located after a reasonable effort.

''(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

''(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

''(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995. Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

''(2) Whenever a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

''(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity, then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

''(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

''(3) The term 'official custodian' means—

''(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

''(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.''

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

Pub. L. 100–453, title IV, §404, Sept. 29, 1988, 102 Stat. 1908, provided that:

''(a) This section is enacted to ensure that current disclosure policy is incorporated into law.

''(b) Except as provided in subsection (c), the head of each department or agency—

''(1) with respect to which funds are authorized under this Act [see Tables for classification], and

''(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

''(c) Subsection (b) does not apply with respect to—

''(1) information that would reveal or compromise sources and methods of intelligence collection; or

''(2) specific information that previously has been made available to the next-of-kin.

''(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.''

EXECUTIVE ORDER NO. 10501

Ex. Ord. No. 10501, Nov. 5, 1953, 18 F.R. 7049, as amended by Ex. Ord. No. 10816, May 7, 1959, 24 F.R. 3777; Ex. Ord. No. 10901, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 10964, Sept. 20, 1961, 26 F.R. 8932; Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EX. ORD. NO. 10865. SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 17, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12829, §203(g), Jan. 6, 1993, 58 F.R. 3479, provided:

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. When used in this order, the term ''head of a department'' means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term ''head of a department'' also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829 [set out below].

SEC. 2. An authorization for access to classified information pursuant to Executive Order No. 12829 [set out below] may be granted by the head of a department or his designee, including but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an ''applicant'', for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SEC. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked pursuant to Executive Order No. 12829 [set out below] by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee including, but not limited to, those officials named in section 8 of this

order for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SEC. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 6. The head of a department of the United States or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SEC. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SEC. 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the the [sic] deputy of that department, or the principal assistant to the head of that department, as the case may be.

SEC. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

MODIFICATION OF EXECUTIVE ORDER NO. 10865

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out under section 7151 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10985

Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439, which amended Executive Order No. 10501, which related to

safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11097

Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11652

Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, as amended by Ex. Ord. No. 11714, Apr. 24, 1973, 38 F.R. 10245; Ex. Ord. No. 11862, June 11, 1975, 40 F.R. 25197; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which related to the classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, formerly set out below.

EX. ORD. NO. 11932. CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Ex. Ord. No. 11932, Aug. 4, 1976, 41 F.R. 32691, provided:

The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency. This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the International Energy Agency. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies. I have consulted with the Secretary of State, the Attorney General and the Administrator of the Federal Energy Administration concerning the handling and safeguarding of information and material in the possession of the United States which has been obtained pursuant to the program, and I find that some of such information and material requires protection as provided in Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above].

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above]. The Secretary of State shall have the responsibility for the classification, declassification and safeguarding of information and material in the possession of the United States Government which has been obtained pursuant to:

(a) Section 252(c)(3), (d)(2), or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871; 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or

(b) The Voluntary Agreement and Program relating to the International Energy Program (40 F.R. 16041, April 8, 1975), or

(c) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] after the date of this Order.

SEC. 2. Information or material classified pursuant to Section 1 of this Order may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 [formerly set out above] if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5(B) of such Order.

SEC. 3. (a) Within 60 days of the date of this Order, the Secretary of State shall promulgate regulations which implement his responsibilities under this Order.

(b) The directives issued under Section 6 of Executive Order No. 11652 [formerly set out above] shall not apply to information and material classified under this Order. However, the regulations promulgated by the Secretary of State shall:

(1) conform, to the extent practicable, to the policies set forth in Section 6 of Executive Order No. 11652 [formerly set out above], and

(2) provide that he may take such measures as he deems necessary and appropriate to ensure the confidentiality of any information and material classified under this Order that may remain in the custody or control of any person outside the United States Government.

GERALD R. FORD.

EXECUTIVE ORDER NO. 12065

Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which related to classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, set out below.

EX. ORD. NO. 12356. NATIONAL SECURITY INFORMATION

Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, provided:

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This Order prescribes a uniform system for classifying, declassifying, and safeguarding national security information. It recognizes that it is essential that the public be informed concerning the activities of its Government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security.

NOW, by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

PART 1—ORIGINAL CLASSIFICATION

SECTION 1.1 CLASSIFICATION LEVELS

(a) National security information (hereinafter ''classified information'') shall be classified at one of the following three levels:

(1) ''Top Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) ''Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) ''Confidential'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) Except as otherwise provided by statute, no other terms shall be used to identify classified information.

(c) If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified pending a determination by an original classification authority, who shall make this determination within thirty (30) days. If there is reasonable doubt about the appropriate level of classification, it shall be safeguarded at the higher level of classification pending a determination by an original classification authority, who shall make this determination within thirty (30) days.

SEC. 1.2 CLASSIFICATION AUTHORITY

(a) *Top Secret*. The authority to classify information originally as Top Secret may be exercised only by:

(1) the President;

(2) agency heads and officials designated by the President in the Federal Register; and

(3) officials delegated this authority pursuant to Section 1.2(d).

(b) *Secret*. The authority to classify information originally as Secret may be exercised only by:

(1) agency heads and officials designated by the President in the Federal Register;

(2) officials with original Top Secret classification authority; and

(3) officials delegated such authority pursuant to Section 1.2(d).

(c) *Confidential*. The authority to classify information originally as Confidential may be exercised only by:

(1) agency heads and officials designated by the President in the Federal Register;

(2) officials with original Top Secret or Secret classification authority; and

(3) officials delegated such authority pursuant to Section 1.2(d).

(d) *Delegation of Original Classification Authority*.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this Order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) Original Top Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Section 1.2(a)(2); and the senior official designated under Section 5.3(a), provided that official has been delegated original Top Secret classification authority by the agency head.

(3) Original Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2) and 1.2(b)(1); an official with original Top Secret classification authority; and the senior official designated under Section 5.3(a), provided that official has been delegated original Secret classification authority by the agency head.

(4) Original Confidential classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2), 1.2(b)(1) and 1.2(c)(1); an official with original Top Secret classification authority; and the senior official designated under Section 5.3(a), provided that official has been delegated original classification authority by the agency head.

(5) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this Order. It shall identify the official delegated the authority by name or position title. Delegated classification authority includes the authority to classify information at the level granted and lower levels of classification.

(e) *Exceptional Cases*. When an employee, contractor, licensee, or grantee of an agency that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this Order and its implementing directives. The information shall be transmitted promptly as provided under this Order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within thirty (30) days whether to classify this information. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

SEC. 1.3 CLASSIFICATION CATEGORIES

(a) Information shall be considered for classification if it concerns:

(1) military plans, weapons, or operations;

(2) the vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;

(3) foreign government information;

(4) intelligence activities (including special activities), or intelligence sources or methods;

(5) foreign relations or foreign activities of the United States;

(6) scientific, technological, or economic matters relating to the national security;

(7) United States Government programs for safeguarding nuclear materials or facilities;

(8) cryptology;

(9) a confidential source; or

(10) other categories of information that are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority by the President. Any determination made under this subsection shall be reported promptly to the Director of the Information Security Oversight Office.

(b) Information that is determined to concern one or more of the categories in Section 1.3(a) shall be classified when an original classification authority also determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(c) Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

(d) Information classified in accordance with Section 1.3 shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

SEC. 1.4 DURATION OF CLASSIFICATION

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor orders shall remain valid unless the classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The agency shall be responsible for notifying holders of the information of such extensions.

(c) Information classified under predecessor orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of this Order.

SEC. 1.5 IDENTIFICATION AND MARKINGS

(a) At the time of original classification, the following information shall be shown on the face of all classified documents, or clearly associated with other forms of classified information in a manner appropriate to the medium involved, unless this information itself would reveal a confidential source or relationship not otherwise evident in the document or information:

(1) one of the three classification levels defined in Section 1.1;

(2) the identity of the original classification authority if other than the person whose name appears as the approving or signing official;

(3) the agency and office of origin; and

(4) the date or event for declassification, or the notation ''Originating Agency's Determination Required.''

(b) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. Agency heads may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

(c) Marking designations implementing the provisions of this Order, including abbreviations, shall conform to the standards prescribed in implementing directives issued by the Information Security Oversight Office.

(d) Foreign government information shall either retain its original classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(e) Information assigned a level of classification under predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the officials specified in Section 3.1(b).

SEC. 1.6 LIMITATIONS ON CLASSIFICATION

(a) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) The President or an agency head or official designated under Sections 1.2(a)(2), 1.2(b)(1), or 1.2(c)(1) may reclassify information previously declassified and disclosed if it is determined in writing that (1) the information requires protection in the interest of national security; and (2) the information may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office.

(d) Information may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of this Order (Section 3.4) if such classification meets the requirements of this Order and is accomplished personally and on a document-by-document basis by the agency head, the deputy agency head, the senior agency official designated under Section 5.3(a), or an official with original Top Secret classification authority.

PART 2—DERIVATIVE CLASSIFICATION

SEC. 2.1 USE OF DERIVATIVE CLASSIFICATION

(a) Derivative classification is (1) the determination that information is in substance the same as information currently classified, and (2) the application of the same classification markings. Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) observe and respect original classification decisions; and

(2) carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

SEC. 2.2 CLASSIFICATION GUIDES

(a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official designated under Section 5.3(a); and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agency heads may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

PART 3—DECLASSIFICATION AND DOWNGRADING

SEC. 3.1 DECLASSIFICATION AUTHORITY

(a) Information shall be declassified or downgraded as soon as national security considerations permit. Agencies shall coordinate their review of classified information with other agencies that have a direct interest in the subject matter. Information that continues to meet the classification requirements prescribed by Section 1.3 despite the passage of time will continue to be protected in accordance with this Order.

(b) Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the agency head or the senior agency official designated pursuant to Section 5.3(a).

(c) If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified, pending a prompt decision on the appeal.

(d) The provisions of this Section shall also apply to agencies that, under the terms of this Order, do not have original classification authority, but that had such authority under predecessor orders.

SEC. 3.2 TRANSFERRED INFORMATION

(a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this Order.

(b) In the case of classified information that is not officially transferred as described in Section 3.2(a), but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purposes of this Order. Such information may be declassified or downgraded by the agency in possession after consultation with any other

agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and agency guidelines.

SEC. 3.3 SYSTEMATIC REVIEW FOR DECLASSIFICATION

(a) The Archivist of the United States shall, in accordance with procedures and timeframes prescribed in the Information Security Oversight Office's directives implementing this Order, systematically review for declassification or downgrading (1) classified records accessioned into the National Archives of the United States, and (2) classified presidential papers or records under the Archivist's control. Such information shall be reviewed by the Archivist for declassification or downgrading in accordance with systematic review guidelines that shall be provided by the head of the agency that originated the information, or in the case of foreign government information, by the Director of the Information Security Oversight Office in consultation with interested agency heads.

(b) Agency heads may conduct internal systematic review programs for classified information originated by their agencies contained in records determined by the Archivist to be permanently valuable but that have not been accessioned into the National Archives of the United States.

(c) After consultation with affected agencies, the Secretary of Defense may establish special procedures for systematic review for declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods.

SEC. 3.4 MANDATORY REVIEW FOR DECLASSIFICATION

(a) Except as provided in Section 3.4(b), all information classified under this Order or predecessor orders shall be subject to a review for declassification by the originating agency, if:

(1) the request is made by a United States citizen or permanent resident alien, a federal agency, or a State or local government; and

(2) the request describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort.

(b) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the provisions of Section 3.4(a). The Archivist of the United States shall have the authority to review, downgrade and declassify information under the control of the Administrator of General Services or the Archivist pursuant to sections 2107, 2107 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective presidential papers or records. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information no longer requiring protection under this Order. They shall release this information unless withholding is otherwise authorized under applicable law.

(d) Agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They shall also provide a means for administratively appealing a denial of a mandatory review request.

(e) The Secretary of Defense shall develop special procedures for the review of cryptologic information, and the Director of Central Intelligence shall develop special procedures for the review of information pertaining to intelligence activities (including special activities), or intelligence sources or methods, after consultation with affected agencies. The Archivist shall develop special procedures for the review of information accessioned into the National Archives of the United States.

(f) In response to a request for information under the Freedom of Information Act [5 U.S.C. 552], the Privacy Act of 1974 [5 U.S.C. 552a], or the mandatory review provisions of this Order:

(1) An agency shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under this Order.

(2) When an agency receives any request for documents in its custody that were classified by another agency, it shall refer copies of the request and the requested documents to the originating agency for processing, and may, after consultation with the originating agency, inform the requester of the referral. In cases in which the originating agency determines in writing that a response under Section 3.4(f)(1) is required, the referring agency shall respond to the requester in accordance with that Section.

PART 4—SAFEGUARDING

SEC. 4.1 GENERAL RESTRICTIONS ON ACCESS

(a) A person is eligible for access to classified information provided that a determination of trustworthiness has been made by agency heads or designated officials and provided that such access is essential to the accomplishment of lawful and authorized Government purposes.

(b) Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Classified information shall not be disseminated outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch.

(d) Except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. For purposes of this Section, the Department of Defense shall be considered one agency.

SEC. 4.2 SPECIAL ACCESS PROGRAMS

(a) Agency heads designated pursuant to Section 1.2(a) may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or predecessor orders. Such programs may be created or continued only at the written direction of these agency heads. For special access programs pertaining to intelligence activities (including special activities but not including military operational, strategic and tactical programs), or intelligence sources or methods, this function will be exercised by the Director of Central Intelligence.

(b) Each agency head shall establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office, consistent with the provisions of Section 5.2(b)(4), shall have nondelegable access to all such accountings.

SEC. 4.3 ACCESS BY HISTORICAL RESEARCHERS AND FORMER PRESIDENTIAL APPOINTEES

(a) The requirement in Section 4.1(a) that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes may be waived as provided in Section 4.3(b) for persons who:

(1) are engaged in historical research projects, or

(2) previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under Section 4.3(a) may be granted only if the originating agency:

(1) determines in writing that access is consistent with the interest of national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this Order; and

(3) limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

PART 5—IMPLEMENTATION AND REVIEW

SEC. 5.1 POLICY DIRECTION

(a) The National Security Council shall provide overall policy direction for the information security program.

(b) The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. The Administrator shall delegate the implementation and monitorship functions of this program to the Director of the Information Security Oversight Office.

SEC. 5.2 INFORMATION SECURITY OVERSIGHT OFFICE

(a) The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Director shall have the authority to appoint a staff for the Office.

(b) The Director shall:

(1) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order, which shall be binding on the agencies;

(2) oversee agency actions to ensure compliance with this Order and implementing directives;

(3) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority to conduct on-site reviews of the information security program of each agency that generates or handles classified information and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior official designated under Section 5.3(a) may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect pending a prompt decision on the appeal;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend presidential approval;

(6) consider and take action on compliants and suggestions from persons within or outside the Government with respect to the administration of the information security program;

(7) have the authority to prescribe, after consultation with affected agencies, standard forms that will promote the implementation of the information security program;

(8) report at least annually to the President through the National Security Council on the implementation of this Order; and

(9) have the authority to convene and chair interagency meetings to discuss matters pertaining to the information security program.

SEC. 5.3 GENERAL RESPONSIBILITIES

Agencies that originate or handle classified information shall:

(a) designate a senior agency official to direct and administer its information security program, which shall include an active oversight and security education program to ensure effective implementation of this Order.

(b) promulgate implementing regulations. Any unclassified regulations that establish agency information security policy shall be published in the Federal Register to the extent that these regulations affect members of the public;

(c) establish procedures to prevent unnecessary access to classified information, including procedures that (i) require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and (ii) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs; and

(d) develop special contingency plans for the protection of classified information used in or near hostile or potentially hostile areas.

SEC. 5.4 SANCTIONS

(a) If the Director of the Information Security Oversight Office finds that a violation of this Order or its implementing directives may have occurred, the Director shall make a report to the head of the agency or to the senior official designated under Section 5.3(a) so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, and grantees shall be subject to appropriate sanctions if they:

(1) knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under this Order or predecessor orders;

(2) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directive; or

(3) knowingly and willfully violate any other provision of this Order or implementing directive.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) Each agency head or the senior official designated under Section 5.3(a) shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5.4(b) occurs. Either shall ensure that the Director of the Information Security Oversight Office is promptly notified whenever a violation under Section 5.4(b)(1) or (2) occurs.

PART 6—GENERAL PROVISIONS

SEC. 6.1 DEFINITIONS

(a) ''Agency'' has the meaning provided at 5 U.S.C. 552(e).

(b) ''Information'' means any information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(c) ''National security information'' means information that has been determined pursuant to this Order or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(d) ''Foreign government information'' means:

(1) information provided by a foreign government or governments, an international organization of govern-

ments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

(e) ''National security'' means the national defense or foreign relations of the United States.

(f) ''Confidential source'' means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

(g) ''Original classification'' means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

SEC. 6.2 GENERAL

(a) Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. ''Restricted Data'' and ''Formerly Restricted Data'' shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this Order with respect to any question arising in the course of its administration.

(c) Nothing in this Order limits the protection afforded any information by other provisions of law.

(d) Executive Order No. 12065 of June 28, 1978, as amended, is revoked as of the effective date of this Order.

(e) This Order shall become effective on August 1, 1982.

RONALD REAGAN.

OFFICIALS DESIGNATED TO CLASSIFY NATIONAL SECURITY INFORMATION

Order of the President of the United States, dated May 7, 1982, 47 F.R. 20105, provided:

Pursuant to the provisions of Section 1.2 of Executive Order No. 12356 of April 2, 1982, entitled ''National Security Information,'' [set out above] I hereby designate the following officials to classify information originally as ''Top Secret'', ''Secret'', or ''Confidential'':

TOP SECRET

EXECUTIVE OFFICE OF THE PRESIDENT:

The Vice President
The Counsellor to the President
The Chief of Staff and Assistant to the President
The Deputy Chief of Staff and Assistant to the President
The Director, Office of Management and Budget
The United States Trade Representative
The Assistant to the President for National Security Affairs
The Director, Office of Science and Technology Policy
The Chairman, The President's Foreign Intelligence Advisory Board
The Chairman, The President's Intelligence Oversight Board
The Secretary of State
The Secretary of the Treasury
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Attorney General
The Secretary of Energy
The Chairman, Nuclear Regulatory Commission
The Director, United States Arms Control and Disarmament Agency
The Director of Central Intelligence
The Administrator, National Aeronautics and Space Administration
The Administrator of General Services
The Director, Federal Emergency Management Agency

SECRET

EXECUTIVE OFFICE OF THE PRESIDENT:

The Chairman, Council of Economic Advisers
The President's Personal Representative for Micronesian Status Negotiations
The Secretary of Commerce
The Secretary of Transportation
The Administrator, Agency for International Development
The Director, International Communication Agency

CONFIDENTIAL

The President, Export-Import Bank of the United States
The President, Overseas Private Investment Corporation
The Administrator, Environmental Protection Agency

Any delegation of this authority shall be in accordance with Section 1.2(d) of the Order.

This Order shall be published in the Federal Register.

RONALD REAGAN.

Order of the President of the United States, dated May 4, 1990, 55 F.R. 19235, provided:

Pursuant to the provisions of Section 1.2 of Executive Order No. 12356 of April 2, 1982, entitled ''National Security Information,'' [set out above] I hereby designate the Director of National Drug Control Policy to classify information originally as ''Top Secret.''

This order shall be published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12812. DECLASSIFICATION AND RELEASE OF MATERIALS PERTAINING TO PRISONERS OF WAR AND MISSING IN ACTION

Ex. Ord. No. 12812, July 22, 1992, 57 F.R. 32879, provided:

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I ''expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;'' and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356 [set out above].

SEC. 2. All executive departments and agencies shall make publicly available documents, files, and other

materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

SEC. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH.

EX. ORD. NO. 12829. NATIONAL INDUSTRIAL SECURITY PROGRAM

Ex. Ord. No. 12829, Jan. 6, 1993, 58 F.R. 3479, as amended by Ex. Ord. No. 12885, Dec. 14, 1993, 58 F.R. 65863, provided:

This order establishes a National Industrial Security Program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. To promote our national interests, the United States Government issues contracts, licenses, and grants to nongovernment organizations. When these arrangements require access to classified information, the national security requires that this information be safeguarded in a manner equivalent to its protection within the executive branch of Government. The national security also requires that our industrial security program promote the economic and technological interests of the United States. Redundant, overlapping, or unnecessary requirements impede those interests. Therefore, the National Industrial Security Program shall serve as a single, integrated, cohesive industrial security program to protect classified information and to preserve our Nation's economic and technological interests.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2286) [42 U.S.C. 2011 et seq.], the National Security Act of 1947, as amended (codified as amended in scattered sections of the United States Code) [see Short Title note set out under section 401 of this title], and the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2) [5 App. U.S.C.], it is hereby ordered as follows:

PART 1. ESTABLISHMENT AND POLICY

SECTION 101. *Establishment*. (a) There is established a National Industrial Security Program. The purpose of this program is to safeguard classified information that may be released or has been released to current, prospective, or former contractors, licensees, or grantees of United States agencies. For the purposes of this order, the terms ''contractor, licensee, or grantee'' means current, prospective, or former contractors, licensees, or grantees of United States agencies. The National Industrial Security Program shall be applicable to all executive branch departments and agencies.

(b) The National Industrial Security Program shall provide for the protection of information classified pursuant to Executive Order No. 12356 of April 2, 1982 [set out above], or its successor, and the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) For the purposes of this order, the term ''contractor'' does not include individuals engaged under personal services contracts.

SEC. 102. *Policy Direction*. (a) The National Security Council shall provide overall policy direction for the National Industrial Security Program.

(b) The Director of the Information Security Oversight Office, established under Executive Order No. 12356 of April 2, 1982 [set out above], shall be responsible for implementing and monitoring the National Industrial Security Program and shall:

(1) develop, in consultation with the agencies, and promulgate subject to the approval of the National Security Council, directives for the implementation of this order, which shall be binding on the agencies;

(2) oversee agency, contractor, licensee, and grantee actions to ensure compliance with this order and implementing directives;

(3) review all agency implementing regulations, internal rules, or guidelines. The Director shall require any regulation, rule, or guideline to be changed if it is not consistent with this order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation, rule, or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority, pursuant to terms of applicable contracts, licenses, grants, or regulations, to conduct on-site reviews of the implementation of the National Industrial Security Program by each agency, contractor, licensee, and grantee that has access to or stores classified information and to require of each agency, contractor, licensee, and grantee those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific classified information, or other forms of cooperation, would pose an exceptional national security risk, the affected agency head or the senior official designated under section 203(a) of this order may request the National Security Council to deny access to the Director. The Director shall not have access pending a prompt decision by the National Security Council;

(5) report any violations of this order or its implementing directives to the head of the agency or to the senior official designated under section 203(a) of this order so that corrective action, if appropriate, may be taken. Any such report pertaining to the implementation of the National Industrial Security Program by a contractor, licensee, or grantee shall be directed to the agency that is exercising operational oversight over the contractor, licensee, or grantee under section 202 of this order;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the National Industrial Security Program;

(7) consider, in consultation with the advisory committee established by this order, affected agencies, contractors, licensees, and grantees, and recommend to the President through the National Security Council changes to this order; and

(8) report at least annually to the President through the National Security Council on the implementation of the National Industrial Security Program.

(c) Nothing in this order shall be construed to supersede the authority of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], or the authority of the Director of Central Intelligence under the National Security Act of 1947, as amended [see Short Title note set out under section 401 of this title], or Executive Order No. 12333 of December 8, 1981 [50 U.S.C. 401 note].

SEC. 103. *National Industrial Security Program Policy Advisory Committee*. (a) *Establishment*. There is established the National Industrial Security Program Policy Advisory Committee (''Committee''). The Director of the Information Security Oversight Office shall serve as Chairman of the Committee and appoint the members of the Committee. The members of the Committee shall be the representatives of those departments and agencies most affected by the National Industrial Security Program and nongovernment representatives of contractors, licensees, or grantees involved with classified contracts, licenses, or grants, as determined by the Chairman.

(b) *Functions*. (1) The Committee members shall advise the Chairman of the Committee on all matters concerning the policies of the National Industrial Security Program, including recommended changes to those policies as reflected in this order, its implementing directives, or the operating manual established under this order, and serve as a forum to discuss policy issues in dispute.

(2) The Committee shall meet at the request of the Chairman, but at least twice during the calendar year.

(c) *Administration.* (1) Members of the Committee shall serve without compensation for their work on the Committee. However, nongovernment members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(2) To the extent permitted by law and subject to the availability of funds, the Administrator of General Services shall provide the Committee with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

(d) *General.* Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 App. U.S.C.], except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of General Services in accordance with the guidelines and procedures established by the General Services Administration.

PART 2. OPERATIONS

SEC. 201. *National Industrial Security Program Operating Manual.* (a) The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence, shall issue and maintain a National Industrial Security Program Operating Manual (''Manual''). The Secretary of Energy and the Nuclear Regulatory Commission shall prescribe and issue that portion of the Manual that pertains to information classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Director of Central Intelligence shall prescribe and issue that portion of the Manual that pertains to intelligence sources and methods, including Sensitive Compartmented Information.

(b) The Manual shall prescribe specific requirements, restrictions, and other safeguards that are necessary to preclude unauthorized disclosure and control authorized disclosure of classified information to contractors, licensees, or grantees. The Manual shall apply to the release of classified information during all phases of the contracting process including bidding, negotiation, award, performance, and termination of contracts, the licensing process, or the grant process, with or under the control of departments or agencies.

(c) The Manual shall also prescribe requirements, restrictions, and other safeguards that are necessary to protect special classes of classified information, including Restricted Data, Formerly Restricted Data, intelligence sources and methods information, Sensitive Compartmented Information, and Special Access Program information.

(d) In establishing particular requirements, restrictions, and other safeguards within the Manual, the Secretary of Defense, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence shall take into account these factors: (i) the damage to the national security that reasonably could be expected to result from an unauthorized disclosure; (ii) the existing or anticipated threat to the disclosure of information; and (iii) the short- and long-term costs of the requirements, restrictions, and other safeguards.

(e) To the extent that is practicable and reasonable, the requirements, restrictions, and safeguards that the Manual establishes for the protection of classified information by contractors, licensees, and grantees shall be consistent with the requirements, restrictions, and safeguards that directives implementing Executive Order No. 12356 of April 2, 1982 [set out above], or the Atomic Energy Act of 1954, as amended, establish for the protection of classified information by agencies. Upon request by the Chairman of the Committee, the Secretary of Defense shall provide an explanation and justification for any requirement, restriction, or safeguard that results in a standard for the protection of classified information by contractors, licensees, and grantees that differs from the standard that applies to agencies.

(f) The Manual shall be issued to correspond as closely as possible to pertinent decisions of the Secretary of Defense and the Director of Central Intelligence made pursuant to the recommendations of the Joint Security Review Commission and to revisions to the security classification system that result from Presidential Review Directive 29, but in any event no later than June 30, 1994.

SEC. 202. *Operational Oversight.* (a) The Secretary of Defense shall serve as Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to, or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. The heads of agencies shall enter into agreements with the Secretary of Defense that establish the terms of the Secretary's responsibilities on behalf of these agency heads.

(b) The Director of Central Intelligence retains authority over access to intelligence sources and methods, including Sensitive Compartmented Information. The Director of Central Intelligence may inspect and monitcr [sic] contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on the Director's behalf.

(c) The Secretary of Energy and the Nuclear Regulatory Commission retain authority over access to information under their respective programs classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Secretary or the Commission may inspect and monitor contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on behalf of the Secretary or the Commission, respectively.

(d) The Executive Agent shall have the authority to issue, after consultation with affected agencies, standard forms or other standardization that will promote the implementation of the National Industrial Security Program.

SEC. 203. *Implementation.* (a) The head of each agency that enters into classified contracts, licenses, or grants shall designate a senior agency official to direct and administer the agency's implementation and compliance with the National Industrial Security Program.

(b) Agency implementing regulations, internal rules, or guidelines shall be consistent with this order, its implementing directives, and the Manual. Agencies shall issue these regulations, rules, or guidelines no later than 180 days from the issuance of the Manual. They may incorporate all or portions of the Manual by reference.

(c) Each agency head or the senior official designated under paragraph (a) above shall take appropriate and prompt corrective action whenever a violation of this order, its implementing directives, or the Manual occurs.

(d) The senior agency official designated under paragraph (a) above shall account each year for the costs within the agency associated with the implementation of the National Industrial Security Program. These costs shall be reported to the Director of the Information Security Oversight Office, who shall include them in the reports to the President prescribed by this order.

(e) The Secretary of Defense, with the concurrence of the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and such other agency heads or officials who may be responsible, shall amend the Federal Acquisition Regulation to be consistent with the implementation of the National Industrial Security Program.

(f) All contracts, licenses, or grants that involve access to classified information and that are advertised or proposed following the issuance of agency regulations, rules, or guidelines described in paragraph (b) above shall comply with the National Industrial Security Program. To the extent that is feasible, economical, and permitted by law, agencies shall amend, modify, or convert preexisting contracts, licenses, or grants, or previously advertised or proposed contracts, licenses, or grants, that involve access to classified information for operation under the National Industrial Security Program. Any direct inspection or monitoring of contractors, licensees, or grantees specified by this order shall be carried out pursuant to the terms of a contract, license, grant, or regulation.

(g) Executive Order No. 10865 of February 20, 1960 [set out above], as amended by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, is hereby amended as follows:

(1) Section 1(a) and (b) are revoked as of the effective date of this order.

(2) Section 1(c) is renumbered as Section 1 and is amended to read as follows:

''SECTION 1. When used in this order, the term 'head of a department' means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term 'head of a department' also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829.''

(3) Section 2 is amended by inserting the words ''pursuant to Executive Order No. 12829'' after the word ''information.''

(4) Section 3 is amended by inserting the words ''pursuant to Executive Order No. 12829'' between the words ''revoked'' and ''by'' in the second clause of that section.

(5) Section 6 is amended by striking out the words ''The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section (1)(b),'' at the beginning of the first sentence, and inserting in their place ''The head of a department of the United States . . . .''

(6) Section 8 is amended by striking out paragraphs (1) through (7) and inserting in their place ''. . . the deputy of that department, or the principal assistant to the head of that department, as the case may be.''

(h) All delegations, rules, regulations, orders, directives, agreements, contracts, licenses, and grants issued under preexisting authorities, including section 1(a) and (b) of Executive Order No. 10865 of February 20, 1960, as amended, by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, shall remain in full force and effect until amended, modified, or terminated pursuant to authority of this order.

(i) This order shall be effective immediately.

EX. ORD. NO. 12937. DECLASSIFICATION OF SELECTED RECORDS WITHIN NATIONAL ARCHIVES OF UNITED STATES

Ex. Ord. No. 12937, Nov. 10, 1994, 59 F.R. 59097, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. The records in the National Archives of the United States referenced in the list accompanying this order are hereby declassified.

SEC. 2. The Archivist of the United States shall take such actions as are necessary to make such records available for public research no later than 30 days from the date of this Order, except to the extent that the head of an affected agency and the Archivist have determined that specific information within such records must be protected from disclosure pursuant to an authorized exemption to the Freedom of Information Act, 5 U.S.C. 552, other than the exemption that pertains to national security information.

SEC. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

Records in the following record groups (''RG'') in the National Archives of the United States shall be declassified. Page numbers are approximate. A complete list of the selected records is available from the Archivist of the United States.

I. All unreviewed World War II and earlier records, including:		
A.	RG 18, Army Air Forces	1,722,400 pp.
B.	RG 65, Federal Bureau of Investigation	362,500 pp.
C.	RG 127, United States Marine Corps	195,000 pp.
D.	RG 216, Office of Censorship	112,500 pp.
E.	RG 226, Office of Strategic Services	415,000 pp.
F.	RG 60, United States Occupation Headquarters	4,422,500 pp.
G.	RG 331, Allied Operational and Occupation Headquarters, World War II (including 350 reels of Allied Force Headquarters)	3,097,500 pp.
H.	RG 332, United States Theaters of War, World War II	1,182,500 pp.
I.	RG 338, Mediterranean Theater of Operations and European Command	9,500,000 pp.
	Subtotal for World War II and earlier	21.0 million pp.
II. Post-1945 Collections (Military and Civil)		
A.	RG 19, Bureau of Ships, Pre-1950 General Correspondence (selected records)	1,732,500 pp.
B.	RG 51, Bureau of the Budget, 52.12 Budget Preparation Branch, 1952–69	142,500 pp.
C.	RG 72, Bureau of Aeronautics (Navy) (selected records)	5,655,000 pp.
D.	RG 166, Foreign Agricultural Service, Narrative Reports, 1955–61	1,272,500 pp.
E.	RG 313, Naval Operating Forces (selected records)	407,500 pp.
F.	RG 319, Office of the Chief of Military History Manuscripts and Background Papers (selected records)	933,000 pp.
G.	RG 337, Headquarters, Army Ground Forces (selected records)	1,269,700 pp.
H.	RG 341, Headquarters, United States Air Force (selected records)	4,870,000 pp.
I.	RG 389, Office of the Provost Marshal General (selected records)	448,000 pp.
J.	RG 391, United States Army Regular Army Mobil Units	240,000 pp.
K.	RG 428, General Records of the Department of the Navy (selected records)	31,250 pp.
L.	RG 472, Army Vietnam Collection (selected records)	5,864,000 pp.

Subtotal for Other	22.9 million pp.
TOTAL	43.9 million pp.

§ 436. Requests by authorized investigative agencies

(a) Generally

(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where—

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request—

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b) of this section.

(b) Disclosure of requests

Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

(c) Records or information; inspection or copying

(1) Notwithstanding any other provision of law (other than section 6103 of title 26), an entity receiving a request for records or information under subsection (a) of this section shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Reimbursement of costs

Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

(e) Dissemination of records or information received

An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

(f) Construction of section

Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(July 26, 1947, ch. 343, title VIII, §802, as added Oct. 14, 1994, Pub. L. 103–359, title VIII, §802(a), 108 Stat. 3436.)

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (f), probably means the Right to Financial Privacy Act of 1978, which is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, as amended, and is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (f), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1601 of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 435 of this title.

§437. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, §803, as added Oct. 14, 1994, Pub. L. 103–359, title VIII, §802(a), 108 Stat. 3437.)

§438. Definitions

For purposes of this subchapter—

(1) the term ''authorized investigative agency'' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term ''classified information'' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term ''consumer reporting agency'' has the meaning given such term in section 1681a of title 15;

(4) the term ''employee'' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms ''financial agency'' and ''financial institution'' have the meanings given to such terms in section 5312(a) of title 31 and the term ''holding company'' has the meaning given to such term in section 3401(6) of title 12;

(6) the terms ''foreign power'' and ''agent of a foreign power'' have the same meanings as set forth in sections[1] 1801(a) and (b), respectively, of this title; and

(7) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States.

(July 26, 1947, ch. 343, title VIII, §804, as added Oct. 14, 1994, Pub. L. 103–359, title VIII, §802(a), 108 Stat. 3438.)

REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), is set out as a note under section 435 of this title.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, as amended, which is classified generally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

CHAPTER 16—DEFENSE INDUSTRIAL RESERVES

Sec.
451 to 454. Transferred or Repealed.
455. Authorization of appropriations.
456 to 462. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 sections 474, 490.

§§451 to 453. Transferred

CODIFICATION

Sections 451, 452, and 453 of this title were transferred to section 2535 of Title 10, Armed Forces, and redesignated as subsecs. (a), (c), and (b), respectively, of section 2535 by Pub. L. 102–484, div. D, title XLII, §4235(a)(2), (3), (b), Oct. 23, 1992, 106 Stat. 2690, 2691.

Section 451, acts July 2, 1948, ch. 811, §2, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617, related to Congressional declaration of purpose and policy in enacting this chapter.

Section 452, acts July 2, 1948, ch. 811, §3, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617, defined ''Secretary'', ''Defense Industrial Reserve'', and ''plant equipment package'' for purposes of this chapter.

Section 453, acts July 2, 1948, ch. 811, §4, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, §1359(a), 100 Stat. 3999, related to powers and duties of Secretary of Defense, reimbursement for transferred Defense Industrial Reserve equipment, and regulations.

SHORT TITLE

Section 1 of act July 2, 1948, as amended by Pub. L. 93–155, §809, provided: ''That this Act [enacting this chapter] may be cited as the 'Defense Industrial Reserve Act'.''

§454. Repealed. Pub. L. 101–510, div. A, title XIII, §1303(a), Nov. 5, 1990, 104 Stat. 1669

Section, acts July 2, 1948, ch. 811, §5, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 618, related to reports concerning status of defense industrial reserve.

[1] So in original. Probably should be ''section''.

§ 455. Authorization of appropriations

There are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the provisions of this chapter.

(July 2, 1948, ch. 811, § 6, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, § 809, 87 Stat. 618.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 14 of act July 2, 1948, ch. 811, 62 Stat. 1228 (classified to section 462 of this title) prior to the general amendment of act July 2, 1948, by Pub. L. 93–155.

AMENDMENTS

1973—Pub. L. 93–155 substituted provisions respecting authorization of appropriations, for prior provisions respecting acceptance of plants by Administrator of General Services, disposition of plants, and conditions of lease, now covered in section 453 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1941f of Appendix to this title.

§§ 456 to 462. Omitted

CODIFICATION

Sections 456 to 462 were omitted in the general amendment of act July 2, 1948, ch. 811 by Pub. L. 93–155, title VIII, § 809, Nov. 16, 1973, 87 Stat. 617. See sections 453 to 455 of this title.

Section 456, act July 2, 1948, ch. 811, § 7, 62 Stat. 1227, related to powers of Secretary of Defense respecting property in national industrial reserve. See section 453 of this title.

Section 457, act July 2, 1948, ch. 811, § 8, 62 Stat. 1227, related to transportation, maintenance, disposition, etc., of transferred property. See section 453 of this title.

Section 458, act July 2, 1948, ch. 811, § 9, 62 Stat. 1227, related to limitation on acquisition of property.

Section 459, act July 2, 1948, ch. 811, § 10, 62 Stat. 1227, provided for an Industrial Reserve Review Committee, its composition, appointment, tenure, and compensation and related to inapplicability of certain laws to Committee solely by reason of appointment to and membership on such Committee.

Section 460, act July 2, 1948, ch. 811, § 11, 62 Stat. 1228, related to duties of Industrial Reserve Review Committee, including making of recommendations to Secretary of Defense.

Section 461, act July 2, 1948, ch. 811, § 12, 62 Stat. 1228, provided for reports to Congress. See section 454 of this title.

Section 462, acts July 2, 1948, ch. 811, § 14, 62 Stat. 1228; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, authorized appropriations. See section 455 of this title.

CHAPTER 17—ARMING AMERICAN VESSELS

§ 481. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act June 29, 1948, ch. 715, § 1, 62 Stat. 1095, provided for arming of American vessels during a war or national emergency. See section 351 of Title 10, Armed Forces.

CHAPTER 18—AIR-WARNING SCREEN

Sec.
491. Establishment and development of land-based air warning and control installations and facilities; extent of appropriation; procurement of communication services.
492. Acquisition of land.
493. Authorization of appropriations.
494. Supervision and control of project.

§ 491. Establishment and development of land-based air warning and control installations and facilities; extent of appropriation; procurement of communication services

The Secretary of the Air Force is authorized to establish and develop within and without the continental limits of the United States in fulfilling the air defense responsibilities of the Department of the Air Force such land-based air warning and control installations and facilities, by the construction, installation, or equipment of temporary or permanent public works, including buildings, facilities, appurtenances, utilities, and access roads, and to provide for necessary administration and planning therefor, without regard to section 3324(a) and (b) of title 31, as he may deem necessary in the interest of national security: *Provided*, That not to exceed $85,500,000 shall be appropriated for the construction of public works authorized by this section.

The Secretary of the Air Force is authorized to procure communication services required for the semiautomatic ground environment system. No contract for such services may be for a period of more than ten years from the date communication services are first furnished under such contract. The aggregate contingent liability of the Government under the termination provisions of all contracts authorized hereunder may not exceed a total of $222,000,000 and no termination payment shall be final until audited and approved by the General Accounting Office which shall have access to such carrier records and accounts as it may deem necessary for the purpose. In procuring such services, the Secretary of the Air Force shall utilize to the fullest extent practicable the facilities and capabilities of communication common carriers, including rural telephone cooperatives, within their respective service areas and for power supply, shall utilize to the fullest extent practicable, the facilities and capabilities of public utilities and rural electric cooperatives within their respective service areas. Negotiations with communication common carriers, including cooperatives, and representation in proceedings involving such carriers before Federal and State regulatory bodies where such negotiations or proceedings involve contracts authorized by this paragraph shall be in accordance with the provisions of section 481 of title 40.

(Mar. 30, 1949, ch. 41, § 1, 63 Stat. 17; Aug. 3, 1956, ch. 939, title III, § 303, 70 Stat. 1012; July 12, 1982, Pub. L. 97–214, § 10(b)(4), 96 Stat. 175.)

CODIFICATION

"Section 3324(a) and (b) of title 31" substituted in text for "section 3648 of the Revised Statutes (31 U.S.C. 529)" on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1982—Pub. L. 97–214 struck out reference to sections 1136 [10 U.S.C. 4774, 9774] and 3734 [40 U.S.C. 259, 267] of the Revised Statutes.

1956—Act Aug. 3, 1956, authorized procurement of communication services required for the semiautomatic ground environment system.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 492 of this title.

§ 492. Acquisition of land

In furtherance of section 491 of this title, the Secretary of the Air Force is authorized to make surveys and to acquire lands and rights pertaining thereto or other interests therein, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise, and to place permanent and temporary improvements thereon whether such lands are held in fee or under lease, or under other temporary tenure.

(Mar. 30, 1949, ch. 41, § 2, 63 Stat. 17.)

§ 493. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, such sums as may be necessary to carry out the purposes of this chapter, and when so specified in an appropriation Act such amounts shall remain available until expended.

(Mar. 30, 1949, ch. 41, § 3, 63 Stat. 18.)

§ 494. Supervision and control of project

The provisions of this chapter shall be subject to the duties and authority of the Secretary of Defense and the departments and agencies of the Department of Defense as provided in the National Security Act of 1947.

(Mar. 30, 1949, ch. 41, § 4, 63 Stat. 18; Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in text, is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CHANGE OF NAME

''Department of Defense'' substituted in text for ''National Military Establishment'' on authority of act Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591.

CHAPTER 19—GUIDED MISSILES

Sec.
501. Establishment of long-range proving ground for guided missiles and other weapons; jurisdiction of Secretary of the Air Force; use by all Services.
502. Acquisition of land.
503. Authorization of appropriations.
504. Delegation of authority by Secretary of Defense; contributions for support.

§ 501. Establishment of long-range proving ground for guided missiles and other weapons; jurisdiction of Secretary of the Air Force; use by all Services

The Secretary of the Air Force is authorized to establish a joint long-range proving ground for guided missiles and other weapons by the construction, installation, or equipment of temporary or permanent public works, including buildings, facilities, appurtenances, and utilities, within or without the continental limits of the United States, for scientific study, testing, and training purposes by the Departments of the Army, Navy, and Air Force.

(May 11, 1949, ch. 98, § 1, 63 Stat. 66.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 503, 504 of this title.

§ 502. Acquisition of land

The Secretary of the Air Force is authorized in discharging the authority given in section 501 of this title to make surveys, to acquire lands and rights or other interests pertaining thereto, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise, without regard to section 3324(a) and (b) of title 31. Prior to the acquisition under the authority of this section of any lands or rights or other interests pertaining thereto, the Secretary of the Air Force shall come into agreement with the Armed Services Committees of the Senate and the House of Representatives with respect to the acquisition of such lands, rights, or other interests.

(May 11, 1949, ch. 98, § 2, 63 Stat. 66.)

CODIFICATION

''Section 3324(a) and (b) of title 31'' substituted in text for ''section 3648, Revised Statutes, as amended [31 U.S.C. 529]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504 of this title.

§ 503. Authorization of appropriations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $75,000,000 to carry out the purposes of sections 501 and 502 of this title.

(May 11, 1949, ch. 98, § 3, 63 Stat. 66.)

§ 504. Delegation of authority by Secretary of Defense; contributions for support

The Secretary of Defense is authorized, in his discretion, to transfer to the Secretary of the Army or the Secretary of the Navy, and to retransfer from either of such Secretaries to the other or to the Secretary of the Air Force, all, or any part of, the authority granted by sections 501 and 502 of this title; and, in connection with any such transfer or retransfer, to transfer all or any part of the funds available for the establishment and support of the joint long-range proving ground for guided missiles and other weapons. The Secretary of Defense is further author-

ized to permit, to the extent that he may deem appropriate, the Secretaries of the Army, the Navy, and the Air Force to contribute, with or without reimbursement, to the establishment and support of the joint long-range proving ground for guided missiles authorized by this chapter, by the loan, assignment, or transfer of personnel, supplies, equipment, and services.

(May 11, 1949, ch. 98, § 4, 63 Stat. 66.)

CHAPTER 20—WIND TUNNELS

SUBCHAPTER I—CONSTRUCTION OF WIND-TUNNEL FACILITIES

Sec.
511. Joint development of unitary plan for construction of facilities; construction at educational institutions.
512. Limitation on cost of construction and equipment; vesting of title to facilities.
513. Expansion of existing facilities; appropriations; testing of models.
514. Expansion of facilities at Carderock, Maryland.
515. Reports to Congress.

SUBCHAPTER II—AIR ENGINEERING DEVELOPMENT CENTER

521. Establishment; construction, maintenance, and operation of public works and wind tunnels.
522. Acquisition of lands; advance payments for construction.
523. Employment of civilian personnel.
524. Authorization of appropriations.

SUBCHAPTER I—CONSTRUCTION OF WIND-TUNNEL FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 521 of this title.

§ 511. Joint development of unitary plan for construction of facilities; construction at educational institutions

The Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the ''Administrator'') and the Secretary of Defense are authorized and directed jointly to develop a unitary plan for the construction of transsonic and supersonic wind-tunnel facilities for the solution of research, development, and evaluation problems in aeronautics, including the construction of facilities at educational institutions within the continental limits of the United States for training and research in aeronautics, and to revise the uncompleted portions of the unitary plan from time to time to accord with changes in national defense requirements and scientific and technical advances. The Administrator and the Secretaries of the Army, the Navy, and the Air Force are authorized to proceed with the construction and equipment of facilities in implementation of the unitary plan to the extent permitted by appropriations pursuant to existing authority and the authority contained in this chapter. Any further implementation of the unitary plan shall be subject to such additional authorizations as may be approved by Congress.

(Oct. 27, 1949, ch. 766, title I, § 101, 63 Stat. 936; July 29, 1958, Pub. L. 85–568, title III, § 301(d)(1), (2), 72 Stat. 433.)

AMENDMENTS

1958—Pub. L. 85–568 substituted ''The Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the 'Administrator')'' for ''The National Advisory Committee for Aeronautics (hereinafter referred to as the 'Committee')'', and ''Administrator'' for ''Committee'' in second sentence.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–568 effective 90 days after July 29, 1958, or on any earlier date on which the Administrator of the National Aeronautics and Space Administration determines, and announces by proclamation, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it, see section 301(e) of Pub. L. 85–568, set out as a note under section 2302 of Title 10, Armed Forces.

SHORT TITLE

Section 106 of title I of act Oct. 27, 1949, provided that: ''This title [enacting this subchapter] may be cited as the 'Unitary Wind Tunnel Plan Act of 1949'.''

Section 205 of title II of act Oct. 27, 1949, provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Air Engineering Development Center Act of 1949'.''

§ 512. Limitation on cost of construction and equipment; vesting of title to facilities

The Administrator is authorized, in implementation of the unitary plan, to construct and equip transsonic or supersonic wind tunnels of a size, design and character adequate for the efficient conduct of experimental work in support of long-range fundamental research at educational institutions within the continental United States, to be selected by the Administrator, or to enter into contracts with such institutions to provide for such construction and equipment, at a total cost not to exceed $10,000,000: *Provided*, That the Administrator may, in his discretion, after consultation with the Committees on Armed Services of both Houses of the Congress, vest title to the facilities completed pursuant to this section in such educational institutions under such terms and conditions as may be deemed in the best interests of the United States.

(Oct. 27, 1949, ch. 766, title I, § 102, 63 Stat. 936; July 29, 1958, Pub. L. 85–568, title III, § 301(d)(2), (3), 72 Stat. 433.)

AMENDMENTS

1958—Pub. L. 85–568 substituted ''Administrator'' for ''Committee'' in three places, and ''his'' for ''its''.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–568 effective 90 days after July 29, 1958, or on any earlier date on which the Administrator of the National Aeronautics and Space Administration determines, and announces by proclamation, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it, see section 301(e) of Pub. L. 85–568, set out as a note under section 2302 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515 of this title.

§ 513. Expansion of existing facilities; appropriations; testing of models

(a) The Administrator is authorized to expand the facilities at his existing laboratories by the construction of additional supersonic wind tunnels, including buildings, equipment, and accessory construction, and by the acquisition of land and installation of utilities.

(b) There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not to exceed $136,000,000.

(c) The facilities authorized by this section shall be operated and staffed by the Administrator but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements and allocation of laboratory time shall be made in accordance with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs.

(Oct. 27, 1949, ch. 766, title I, § 103, 63 Stat. 937; July 29, 1958, Pub. L. 85–568, title III, § 301(d)(2), (3), 72 Stat. 433.)

AMENDMENTS

1958—Subsecs. (a), (c). Pub. L. 85–568 substituted ''Administrator'' for ''Committee'' in subsecs. (a) and (c), and ''his'' for ''its'' in subsec. (a).

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–568 effective 90 days after July 29, 1958, or on any earlier date on which the Administrator of the National Aeronautics and Space Administration determines, and announces by proclamation, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it, see section 301(e) of Pub. L. 85–568, set out as a note under section 2302 of Title 10, Armed Forces.

ADDITIONAL APPROPRIATIONS

Act June 29, 1950, ch. 405, § 801, 64 Stat. 286, provided in part for an additional appropriation of $75,000,000, to remain available until expended; for the construction and completion and equipment of facilities at the Langley Aeronautical Laboratory, Langley Air Force Base, Virginia.

§ 514. Expansion of facilities at Carderock, Maryland

The Secretary of the Navy is authorized, in implementation of the unitary plan, to expand the naval facilities at the David W. Taylor Model Basin, Carderock, Maryland, by the construction of a wind tunnel, including buildings, equipment, utilities, and accessory construction, at a cost not to exceed $6,600,000.

(Oct. 27, 1949, ch. 766, title I, § 104, 63 Stat. 937.)

§ 515. Reports to Congress

The Administrator shall submit semi-annual written reports to the Congress covering the selection of institutions and contracts entered into pursuant to section 512 of this title together with other pertinent information relative to the Administrator's activities and accomplishments thereunder.

(Oct. 27, 1949, ch. 766, title I, § 105, 63 Stat. 937; July 29, 1958, Pub. L. 85–568, title III, § 301(d)(2), 72 Stat. 433.)

AMENDMENTS

1958—Pub. L. 85–568 substituted ''Administrator'' for ''Committee'' and ''Administrator's'' for ''Committee's''.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–568 effective 90 days after July 29, 1958, or on any earlier date on which the Administrator of the National Aeronautics and Space Administration determines, and announces by proclamation, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it, see section 301(e) of Pub. L. 85–568, set out as a note under section 2302 of Title 10, Armed Forces.

SUBCHAPTER II—AIR ENGINEERING DEVELOPMENT CENTER

§ 521. Establishment; construction, maintenance, and operation of public works and wind tunnels

The Secretary of the Air Force is authorized to establish an Air Engineering Development Center, and to construct, install, and equip (1) temporary and permanent public works, including housing accommodations and community facilities for military and civilian personnel, buildings, facilities, appurtenances, and utilities; and (2) wind tunnels in implementation of the unitary plan referred to in subchapter I of this chapter; and to maintain and operate the public works and wind tunnels authorized by this subchapter.

(Oct. 27, 1949, ch. 766, title II, § 201, 63 Stat. 937.)

§ 522. Acquisition of lands; advance payments for construction

To accomplish the purposes of this subchapter, the Secretary of the Air Force is authorized to acquire lands and rights pertaining thereto, or other interest therein, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise, and construction under this subchapter may be prosecuted without regard to section 3324(a) and (b) of title 31.

(Oct. 27, 1949, ch. 766, title II, § 202, 63 Stat. 937.)

CODIFICATION

''Section 3324(a) and (b) of title 31'' substituted in text for ''section 3648, Revised Statutes, as amended [31 U.S.C. 529]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 523. Employment of civilian personnel

The Secretary of the Air Force is authorized to employ such civilian personnel as may be necessary to carry out the purposes of this subchapter without regard to the limitation on maximum number of employees imposed by section 14(a)[1] of the Federal Employees Pay Act of 1946 (5 U.S.C. 947(g)).

(Oct. 27, 1949, ch. 766, title II, § 203, 63 Stat. 937.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 14(a) of the Federal Employees Pay Act of 1946 (5 U.S.C. 947(g)), referred to in text, was repealed by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843.

§ 524. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available until expended when so specified in the appropriation act concerned, (a) not to exceed $157,500,000 for the establishment and for initial construction, installation, and equipment of the Air Engineering Development Center authorized in this subchapter, including expenses for necessary surveys and acquisition of land, and (b) such sums as may be necessary to carry out the other purposes of this subchapter.

(Oct. 27, 1949, ch. 766, title II, § 204, 63 Stat. 937; Sept. 21, 1950, ch. 969, 64 Stat. 895.)

AMENDMENTS

1950—Act Sept. 21, 1950, substituted ''$157,500,000'' for ''$100,000,000''.

CHAPTER 21—ABACÁ PRODUCTION

§§ 541 to 546. Omitted

CODIFICATION

Sections 541 to 546, act Aug. 10, 1950, ch. 673, §§ 2–7, 64 Stat. 435–437, terminated not later than ten years after Apr. 1, 1950. See Effective and Termination Date note below.

Section 541 related to Congressional declaration of policy.

Section 542 related to production program of abacá.

Section 543 related to administration.

Section 544 related to financing.

Section 545 related to disposal of property.

Section 546 related to reports to Congress.

EFFECTIVE AND TERMINATION DATE

Act Aug. 10, 1950, ch. 673, § 8, 64 Stat. 437, provided that this chapter become effective Apr. 1, 1950, and remain effective for ten years thereafter, unless Congress or President direct earlier termination of operations, and for such further period as necessary to earliest practicable liquidation of operations under this chapter.

CHAPTER 22—UNIFORM CODE OF MILITARY JUSTICE

SUBCHAPTER I—GENERAL PROVISIONS

§§ 551 to 556. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 551, act May 5, 1950, ch. 169, § 1, 64 Stat. 108, defined terms used in this chapter. See sections 101 and 801 of Title 10, Armed Forces.

Section 552, acts May 5, 1950, ch. 169, § 1, 64 Stat. 109; Aug. 1, 1956, ch. 852, § 23, 70 Stat. 911, related to persons subject to Articles of War. See section 802 of Title 10. Act Aug. 1, 1956, ch. 852, § 23, 70 Stat. 911 was repealed by Pub. L. 87–651, title III, § 307A, Sept. 7, 1962, 76 Stat. 526.

Section 553, act May 5, 1950, ch. 169, § 1, 64 Stat. 109, related to jurisdiction to try certain personnel. See section 803 of Title 10.

Section 554, act May 5, 1950, ch. 169, § 1, 64 Stat. 110, provided for dismissed officer's right to trial by court-martial. See section 804 of Title 10.

Section 555, act May 5, 1950, ch. 169, § 1, 64 Stat. 110, provided that this chapter should be applicable in all places. See section 805 of Title 10.

Section 556, act May 5, 1950, ch. 169, § 1, 64 Stat. 110, related to judge advocates and legal officers. See section 806 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER II—APPREHENSION AND RESTRAINT

§§ 561 to 568. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 561, act May 5, 1950, ch. 169, § 1, 64 Stat. 111, related to apprehension. See section 807 of Title 10, Armed Forces.

Section 562, act May 5, 1950, ch. 169, § 1, 64 Stat. 111, provided for apprehension of deserters. See section 808 of Title 10.

Section 563, act May 5, 1950, ch. 169, § 1, 64 Stat. 111, related to imposition of restraint. See section 809 of Title 10.

Section 564, act May 5, 1950, ch. 169, § 1, 64 Stat. 111, related to restraint of persons charged with offenses. See section 810 of Title 10.

Section 565, act May 5, 1950, ch. 169, § 1, 64 Stat. 112, provided for reports and receiving of prisoners. See section 811 of Title 10.

Section 566, act May 5, 1950, ch. 169, § 1, 64 Stat. 112, prohibited confinement of members of armed forces with enemy prisoners. See section 812 of Title 10.

Section 567, act May 5, 1950, ch. 169, § 1, 64 Stat. 112, prohibited punishment before trial. See section 813 of Title 10.

Section 568, act May 5, 1950, ch. 169, § 1, 64 Stat. 112, related to delivery of offenders to civil authorities. See section 814 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER III—NON-JUDICIAL PUNISHMENT

§ 571. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 5, 1950, ch. 169, § 1, 64 Stat. 112, related to commanding officer's non-judicial punishment. See section 815 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER IV—COURTS-MARTIAL JURISDICTION

§§ 576 to 581. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 576, act May 5, 1950, ch. 169, § 1, 64 Stat. 113, classified types of courts-martial. See section 816 of Title 10, Armed Forces.

Section 577, act May 5, 1950, ch. 169, § 1, 64 Stat. 114, related to jurisdiction of courts-martial in general. See section 817 of Title 10.

Section 578, act May 5, 1950, ch. 169, § 1, 64 Stat. 114, related to jurisdiction of general courts-martial. See section 818 of Title 10.

Section 579, act May 5, 1950, ch. 169, § 1, 64 Stat. 114, related to jurisdiction of special courts-martial. See section 819 of Title 10.

Section 580, act May 5, 1950, ch. 169, § 1, 64 Stat. 114, related to jurisdiction of summary courts-martial. See section 820 of Title 10.

Section 581, act May 5, 1950, ch. 169, § 1, 64 Stat. 115, provided that jurisdiction of courts-martial was not exclusive. See section 821 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER V—APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

§§ 586 to 593. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 586, act May 5, 1950, ch. 169, § 1, 64 Stat. 115, prescribed persons who may convene general courts-martial. See section 822 of Title 10, Armed Forces.

Section 587, act May 5, 1950, ch. 169, § 1, 64 Stat. 115, prescribed persons who may convene special courts-martial. See section 823 of Title 10.

Section 588, act May 5, 1950, ch. 169, § 1, 64 Stat. 116, prescribed persons who may convene summary courts-martial. See section 824 of Title 10.

Section 589, act May 5, 1950, ch. 169, § 1, 64 Stat. 116, related to persons who may serve on courts-martial. See section 825 of Title 10.

Section 590, act May 5, 1950, ch. 169, § 1, 64 Stat. 117, provided for law officer of a general court-martial. See section 826 of Title 10.

Section 591, act May 5, 1950, ch. 169, § 1, 64 Stat. 117, related to appointment of trial counsel and defense counsel. See section 827 of Title 10.

Section 592, act May 5, 1950, ch. 169, § 1, 64 Stat. 117, provided for appointment of reporters and interpreters. See section 828 of Title 10.

Section 593, act May 5, 1950, ch. 169, § 1, 64 Stat. 117, related to absent and additional members of courts-martial. See section 829 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER VI—PRETRIAL PROCEDURE

§§ 601 to 606. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 601, act May 5, 1950, ch. 169, § 1, 64 Stat. 118, related to charges and specifications. See section 830 of Title 10, Armed Forces.

Section 602, act May 5, 1950, ch. 169, § 1, 64 Stat. 118, prohibited compulsory self-incrimination. See section 831 of Title 10.

Section 603, act May 5, 1950, ch. 169, § 1, 64 Stat. 118, related to investigations. See section 832 of Title 10.

Section 604, act May 5, 1950, ch. 169, § 1, 64 Stat. 119, provided for forwarding of charges. See section 833 of Title 10.

Section 605, act May 5, 1950, ch. 169, § 1, 64 Stat. 119, related to advice of staff judge advocate and reference for trial. See section 834 of Title 10.

Section 606, act May 5, 1950, ch. 169, § 1, 64 Stat. 119, provided for service of charges. See section 835 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER VII—TRIAL PROCEDURE

§§ 611 to 629. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 611, act May 5, 1950, ch. 169, § 1, 64 Stat. 120, authorized President to prescribe rules. See section 836 of Title 10, Armed Forces.

Section 612, act May 5, 1950, ch. 169, § 1, 64 Stat. 120, related to unlawfully influencing action of court. See section 837 of Title 10.

Section 613, act May 5, 1950, ch. 169, § 1, 64 Stat. 120, provided for duties of trial counsel and defense counsel. See section 838 of Title 10.

Section 614, act May 5, 1950, ch. 169, § 1, 64 Stat. 121, related to sessions of the courts-martial. See section 839 of Title 10.

Section 615, act May 5, 1950, ch. 169, § 1, 64 Stat. 121, provided for continuances. See section 840 of Title 10.

Section 616, act May 5, 1950, ch. 169, § 1, 64 Stat. 121, provided for challenges. See section 841 of Title 10.

Section 617, act May 5, 1950, ch. 169, § 1, 64 Stat. 121, related to oaths. See section 842 of Title 10.

Section 618, act May 5, 1950, ch. 169, § 1, 64 Stat. 121, related to statutes of limitation. See section 843 of Title 10.

Section 619, act May 5, 1950, ch. 169, § 1, 64 Stat. 122, related to former jeopardy. See section 844 of Title 10.

Section 620, act May 5, 1950, ch. 169, § 1, 64 Stat. 122, related to pleas of the accused. See section 845 of Title 10.

Section 621, act May 5, 1950, ch. 169, § 1, 64 Stat. 122, related to opportunity to obtain witnesses and other evidence. See section 846 of Title 10.

Section 622, act May 5, 1950, ch. 169, § 1, 64 Stat. 123, provided for refusal to appear or testify. See section 847 of Title 10.

Section 623, act May 5, 1950, ch. 169, § 1, 64 Stat. 123, related to contempts. See section 848 of Title 10.

Section 624, act May 5, 1950, ch. 169, § 1, 64 Stat. 123, related to depositions. See section 849 of Title 10.

Section 625, act May 5, 1950, ch. 169, § 1, 64 Stat. 124, provided for admissibility of records of courts of inquiry. See section 850 of Title 10.

Section 626, act May 5, 1950, ch. 169, § 1, 64 Stat. 124, provided for methods of voting and rulings. See section 851 of Title 10.

Section 627, act May 5, 1950, ch. 169, § 1, 64 Stat. 125, prescribed number of votes required. See section 852 of Title 10.

Section 628, act May 5, 1950, ch. 169, 64 Stat. 125, required every court-martial to announce its findings and sentence. See section 853 of Title 10.

Section 629, act May 5, 1950, ch. 169, § 1, 64 Stat. 125, related to record of trial. See section 858 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER VIII—SENTENCES

§§ 636 to 639. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 636, act May 5, 1950, ch. 169, § 1, 64 Stat. 126, prohibited cruel and unusual punishments. See section 855 of Title 10, Armed Forces.

Section 637, act May 5, 1950, ch. 169, § 1, 64 Stat. 126, related to maximum limits of punishment. See section 856 of Title 10.

Section 638, act May 5, 1950, ch. 169, § 1, 64 Stat. 126, provided for effective date of sentences. See section 857 of Title 10.

Section 639, act May 5, 1950, ch. 169, § 1, 64 Stat. 126, related to execution of confinement. See section 854 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, § 53 footnote, 70A Stat. 680.

SUBCHAPTER IX—REVIEW OF COURTS-MARTIAL

§§ 646 to 663. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 646, act May 5, 1950, ch. 169, § 1, 64 Stat. 127, related to errors of law and to lesser included offense. See section 859 of Title 10, Armed Forces.

Section 647, act May 5, 1950, ch. 169, § 1, 64 Stat. 127, provided for initial action on record. See section 860 of Title 10.

Section 648, act May 5, 1950, ch. 169, §1, 64 Stat. 127, provided for initial action on general court-martial records. See section 861 of Title 10.

Section 649, act May 5, 1950, ch. 169, §1, 64 Stat. 127, provided for reconsideration and revision. See section 862 of Title 10.

Section 650, act May 5, 1950, ch. 169, §1, 64 Stat. 127, related to rehearings. See section 863 of Title 10.

Section 651, act May 5, 1950, ch. 169, §1, 64 Stat. 128, related to approval by convening authority. See section 864 of Title 10.

Section 652, act May 5, 1950, ch. 169, §1, 64 Stat. 128, provided for disposition of records after review by convening authority. See section 865 of Title 10.

Section 653, act May 5, 1950, ch. 169, §1, 64 Stat. 128, provided for review by board of review. See section 866 of Title 10.

Section 654, acts May 5, 1950, ch. 169, §1, 64 Stat. 130; Mar. 2, 1955, ch. 9, §1(i), 69 Stat. 10, provided for review by the Court of Military Appeals. See section 867 of Title 10.

Section 655, act May 5, 1950, ch. 169, §1, 64 Stat. 130, authorized establishment of branch offices of The Judge Advocate General. See section 868 of Title 10.

Section 656, act May 30, 1950, ch. 169, §1, 64 Stat. 130, provided for review in office of The Judge Advocate General. See section 869 of Title 10.

Section 657, act May 5, 1950, ch. 169, §1, 64 Stat. 130, provided for appellate counsel. See section 870 of Title 10.

Section 658, act May 5, 1950, ch. 169, §1, 64 Stat. 131, provided for execution of sentence and suspension of sentence. See section 871 of Title 10.

Section 659, act May 5, 1950, ch. 169, §1, 64 Stat. 131, related to vacation of suspension of a court-martial sentence. See section 872 of Title 10.

Section 660, act May 5, 1950, ch. 169, §1, 64 Stat. 132, provided for a petition for a new trial. See section 873 of Title 10.

Section 661, act May 5, 1950, ch. 169, §1, 64 Stat. 132, authorized remission and suspension of sentences. See section 874 of Title 10.

Section 662, act May 5, 1950, ch. 169, §1, 64 Stat. 132, related to restoration of rights, privileges, and property. See section 875 of Title 10.

Section 663, act May 5, 1950, ch. 169, §1, 64 Stat. 132, related to finality of court-martial judgments. See section 876 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, §53 footnote, 70A Stat. 680.

SUBCHAPTER X—PUNITIVE ARTICLES

§§ 671 to 728. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 671, act May 5, 1950, ch. 169, §1, 64 Stat. 134, defined ''principal''. See section 877 of Title 10, Armed Forces.

Section 672, act May 5, 1950, ch. 169, §1, 64 Stat. 134, related to accessories after the fact. See section 878 of Title 10.

Section 673, act May 5, 1950, ch. 169, §1, 64 Stat. 134, authorized conviction of lesser included offense. See section 879 of Title 10.

Section 674, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to attempts. See section 880 of Title 10.

Section 675, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to conspiracy. See section 881 of Title 10.

Section 676, act May 5, 1950, ch. 169, §1, 64 Stat. 134, related to solicitation. See section 882 of Title 10.

Section 677, act May 5, 1950, ch. 169, §1, 64 Stat. 134, related to fraudulent enlistment, appointment, or separation. See section 883 of Title 10.

Section 678, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to unlawful enlistment, appointment, or separation. See section 884 of Title 10.

Section 679, act May 5, 1950, ch. 169, §1, 64 Stat. 135, provided for desertion. See section 885 of Title 10.

Section 680, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to absence without leave. See section 886 of Title 10.

Section 681, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to missing movement of a ship, aircraft, or unit. See section 887 of Title 10.

Section 682, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to contempt towards officials. See section 888 of Title 10.

Section 683, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to disrespect towards superior officer. See section 889 of Title 10.

Section 684, act May 5, 1950, ch. 169, §1, 64 Stat. 135, related to assaulting or willfully disobeying officer. See section 890 of Title 10.

Section 685, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to insubordinate conduct towards noncommissioned officer. See section 891 of Title 10.

Section 686, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to failure to obey order or regulation. See section 892 of Title 10.

Section 687, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to cruelty and maltreatment. See section 893 of Title 10.

Section 688, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to mutiny or sedition. See section 894 of Title 10.

Section 689, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to arrest and confinement. See section 895 of Title 10.

Section 690, act May 5, 1950, ch. 169, §1, 64 Stat. 136, related to releasing prisoner without proper authority. See section 896 of Title 10.

Section 691, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to unlawful detention of another. See section 897 of Title 10.

Section 692, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to noncompliance with procedural rules. See section 898 of Title 10.

Section 693, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to misbehavior before the enemy. See section 899 of Title 10.

Section 694, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to subordinate compelling surrender. See section 900 of Title 10.

Section 695, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to improper use of countersign. See section 901 of Title 10.

Section 696, act May 5, 1950, ch. 169, §1, 64 Stat. 137, related to forcing a safeguard. See section 902 of Title 10.

Section 697, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to captured or abandoned property. See section 903 of Title 10.

Section 698, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to aiding the enemy. See section 904 of Title 10.

Section 699, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to misconduct as a prisoner. See section 905 of Title 10.

Section 700, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to spies. See section 906 of Title 10.

Section 701, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to false official statements. See section 907 of Title 10.

Section 702, act May 5, 1950, ch. 169, §1, 64 Stat. 138, related to loss, damage, destruction, or wrongful disposition of military property. See section 908 of Title 10.

Section 703, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to waste, spoil or destruction of property other than military property. See section 909 of Title 10.

Section 704, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to improper hazarding of vessel. See section 910 of Title 10.

Section 705, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to drunken or reckless driving. See section 911 of Title 10.

Section 706, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to drunk on duty. See section 912 of Title 10.

Section 707, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to misbehavior of sentinel. See section 913 of Title 10.

Section 708, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to dueling. See section 914 of Title 10.

Section 709, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to malingering. See section 915 of Title 10.

Section 710, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to riot or breach of peace. See section 916 of Title 10.

Section 711, act May 5, 1950, ch. 169, §1, 64 Stat. 139, related to provoking speeches or gestures. See section 917 of Title 10.

Section 712, act May 5, 1950, ch. 169, §1, 64 Stat. 140, related to murder. See section 918 of Title 10.

Section 713, act May 5, 1950, ch. 169, §1, 64 Stat. 140, related to manslaughter. See section 919 of Title 10.

Section 714, act May 5, 1950, ch. 169, §1, 64 Stat. 140, related to rape and carnal knowledge. See section 920 of Title 10.

Section 715, act May 5, 1950, ch. 169, §1, 64 Stat. 140, related to larceny and wrongful appropriation. See section 921 of Title 10.

Section 716, act May 5, 1950, ch. 169, §1, 64 Stat. 140, related to robbery. See section 922 of Title 10.

Section 717, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to forgery. See section 923 of Title 10.

Section 718, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to maiming. See section 924 of Title 10.

Section 719, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to sodomy. See section 925 of Title 10.

Section 720, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to arson. See section 926 of Title 10.

Section 721, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to extortion. See section 927 of Title 10.

Section 722, act May 5, 1950, ch. 169, §1, 64 Stat. 141, related to assault. See section 928 of Title 10.

Section 723, act May 5, 1950, ch. 169, §1, 64 Stat. 142, related to burglary. See section 929 of Title 10.

Section 724, act May 5, 1950, ch. 169, §1, 64 Stat. 142, related to housebreaking. See section 930 of Title 10.

Section 725, act May 5, 1950, ch. 169, §1, 64 Stat. 142, related to perjury. See section 931 of Title 10.

Section 726, act May 5, 1950, ch. 169, §1, 64 Stat. 142, related to frauds against Government. See section 932 of Title 10.

Section 727, act May 5, 1950, ch. 169, §1, 64 Stat. 142, related to conduct unbecoming an officer and gentleman. See section 933 of Title 10.

Section 728, act May 5, 1950, ch. 169, §1, 64 Stat. 142, was a general article covering offenses not specifically defined. See section 934 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, §53 footnote, 70A Stat. 680.

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS

§§ 731 to 739. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 731, act May 5, 1950, ch. 169, §1, 64 Stat. 143, related to courts of inquiry. See section 935 of Title 10, Armed Forces.

Section 732, act May 5, 1950, ch. 169, §1, 64 Stat. 143, related to authority to administer oaths and to act as notary. See section 936 of Title 10.

Section 733, act May 5, 1950, ch. 169, §1, 64 Stat. 144, required reading and explanation of certain sections of this chapter. See section 937 of Title 10.

Section 734, act May 5, 1950, ch. 169, §1, 64 Stat. 144, related to complaints of wrongs. See section 938 of Title 10.

Section 735, act May 5, 1950, ch. 169, §1, 64 Stat. 144, related to redress of injuries to property. See section 939 of Title 10.

Section 736, act May 5, 1950, ch. 169, §1, 64 Stat. 145, authorized President to delegate his authority. See section 940 of Title 10.

Section 737, act May 5, 1950, ch. 169, §8, 64 Stat. 146, provided for oath of enlistment. See section 502 of Title 10.

Section 738, act May 5, 1950, ch. 169, §9, 64 Stat. 146, provided for removal of suits. See section 1442a of Title 28, Judiciary and Judicial Procedure.

Section 739, act May 5, 1950, ch. 169, §10, 64 Stat. 146, related to dismissal of officers. See sections 1161 and 6408 of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, §53 footnote, 70A Stat. 680.

§ 740. Omitted

CODIFICATION

Section, act May 5, 1950, ch. 169, §12, 64 Stat. 147, which authorized the Judge Advocate General of any of the armed forces to grant a new trial, vacate a sentence, restore rights and property, and substitute an administrative discharge for a dismissal or for a dishonorable or bad-conduct discharge in any court-martial case for offenses committed during World War II upon application made within one year after termination of the war or after final disposition upon initial appellate review, whichever was the later, limited new trial applications to one as to any one case, and provided that World War II was deemed to have ended as of May 31, 1951.

EXECUTIVE ORDER NO. 10190

Ex. Ord. No. 10190, Dec. 6, 1950, 15 F.R. 8711, provided for the petition to the Judge Advocate General of the Navy or to the General Counsel of the Treasury Department, in respect to violations of Navy or Coast Guard disciplinary laws committed between Dec. 7, 1941 and May 30, 1951, for a new trial, the vacatur of sentence and restoration of rights and property, or the substitution of an administrative discharge for a dismissal, dishonorable discharge, or bad-conduct discharge; limited such petition to within one year after final disposition of the case upon initial appellate review or to any time before May 31, 1952 (whichever was the later date); prohibited submission of more than one such petition in any one case and submission after death of an accused; specified the ground for relief and the form and contents of the petition; permitted oral agreement; prescribed the rules for a hearing; authorized additional investigation; required the action granting or denying a remedy to be in writing and published; provided the procedure for a new trial; and specified the effect of a new trial upon the prior trial and sentence.

§ 741. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, eff. Jan. 1, 1957

Section, act May 5, 1950, ch. 169, §13, 64 Stat. 147, prescribed qualifications of Judge Advocate Generals of armed forces. See sections 3037, 5148, and 8072 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see act Aug. 10, 1956, ch. 1041, §53 footnote, 70A Stat. 680.

CHAPTER 22A—REPRESENTATION OF ARMED FORCES PERSONNEL BEFORE FOREIGN JUDICIAL TRIBUNALS

§§ 751 to 755. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1570

Section 751, act July 24, 1956, ch. 689, §1, 70 Stat. 630, related to representation of members of the Armed Forces before foreign judicial tribunals and employment of counsel.

Section 752, act July 24, 1956, ch. 689, §2, 70 Stat. 630, provided for enactment of regulations.

Section 753, act July 24, 1956, ch. 689, §3, 70 Stat. 630, provided that sections 189 and 365 of the Revised Statutes not apply to action taken under this act.

Section 754, act July 24, 1956, ch. 689, § 4, 70 Stat. 630, related to claims for reimbursement.

Section 755, act July 24, 1956, ch. 689, § 5, 70 Stat. 630, related to appropriations.

CHAPTER 23—INTERNAL SECURITY

SUBCHAPTER I—CONTROL OF SUBVERSIVE ACTIVITIES

Sec.
781, 782. Repealed.
783. Offenses.
(a) Communication of classified information by Government officer or employee.
(b) Receipt of, or attempt to receive, by foreign agent or member of Communist organization, classified information.
(c) Penalties for violation.
(d) Limitation period.
(e) Forfeiture of property.
784 to 795. Repealed.
796. Effect of subchapter on other criminal laws.
797. Security regulations and orders; penalty for violation.
798. Repealed.

SUBCHAPTER II—EMERGENCY DETENTION OF SUSPECTED SECURITY RISKS

811 to 826. Repealed.

SUBCHAPTER III—PERSONNEL SECURITY PROCEDURES IN NATIONAL SECURITY AGENCY

831. Regulations for employment security.
832. Full field investigation and appraisal.
(a) Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis.
(b) Boards of appraisal; establishment; membership; appointment; appraisal in doubtful cases; report and recommendation; qualifications of members; Secretary's clearance contrary to board's recommendation.
833. Termination of employment.
(a) Generally; finality.
(b) Employment in other departments or agencies.
(c) Delegation of authority; limitation.
834. "Classified information" defined.
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SUBCHAPTER IV—COMMUNIST CONTROL

841. Findings and declarations of fact.
842. Proscription of Communist Party, its successors, and subsidiary organizations.
843. Application of Internal Security Act of 1950 to members of Communist Party and other subversive organizations; "Communist Party" defined.
844. Determination by jury of membership in Communist Party, participation, or knowledge of purpose.

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851. Registration of certain persons; filing statement; regulations.
852. Exemption from registration.
853. Retention of registration statements; public examination; withdrawal.
854. Rules, regulations, and forms.
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856. Continuing offense.
857. Compliance with other registration statutes.
Sec.
858. Applicability to Canal Zone.

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of subchapters I and II of this chapter and other provisions of the Internal Security Act of 1950, as amended, to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note set out under that section.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 842, 843 of this title; title 26 section 3121; title 42 section 410.

SUBCHAPTER I—CONTROL OF SUBVERSIVE ACTIVITIES

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this subchapter to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note set out under that section.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 2000e–2.

§ 781. Repealed. Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329

Section, acts Sept. 23, 1950, ch. 1024, title I, § 2, 64 Stat. 987; Jan. 2, 1968, Pub. L. 90–237, § 1, 81 Stat. 765, related to Congressional finding of necessity to control subversive activities.

SHORT TITLE OF 1954 AMENDMENT

Act Aug. 24, 1954, ch. 886, § 1, 68 Stat. 775, provided: "That this Act [enacting sections 792a and 841 to 844 of this title, amending sections 782, 784, 785, 789 to 792, and 793 of this title, and enacting a provision set out as a note under section 841 of this title] may be cited as the 'Communist Control Act of 1954'."

SHORT TITLE

Act Sept. 23, 1950, provided that: "This Act [enacting subchapters I to III of this chapter and section 1507 of Title 18, Crimes and Criminal Procedure, amending sections 137 to 137–8, 156, 456, 457, 704, 705, 725, 729, 733, 734, and 735 of Title 8, Aliens and Nationality, section 793 of Title 18, and sections 611 and 618 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under sections 781 and 811 of this title and section 792 of Title 18, and amending a provision set out as a note under section 402 of this title] may be cited as the 'Internal Security Act of 1950'."

Section 1(a) of act Sept. 23, 1950, which provided that title I of act Sept. 23, 1950, which enacted this subchapter and section 1507 of Title 18, Crimes and Criminal Procedure, amended sections 137 to 137–8, 156, 456, 457, 704, 705, 725, 729, 733, 734, and 735 of Title 8, Aliens and Nationality, section 793 of Title 18, and sections 611 and 618 of Title 22, Foreign Relations and Intercourse, and enacted provisions set out as notes under section 781 of this title and section 792 of Title 18, be cited as the "Subversive Activities Control Act of 1950", was repealed by Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329.

SEPARABILITY

Section 32 of title I of act Sept. 23, 1950, provided: "If any provision of this title [see Short Title note above] or the application thereof to any person or circumstances, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby."

§ 782. Repealed. Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329

Section, acts Sept. 23, 1950, ch. 1024, title I, § 3, 64 Stat. 989; Aug. 24, 1954, ch. 886, § 7(a), (b), 68 Stat. 777; May 31, 1962, Pub. L. 87–474, § 1(a), 76 Stat. 91; Jan. 2, 1968, Pub. L. 90–237, § 2, 81 Stat. 765, defined terms for purposes of this subchapter.

§ 783. Offenses

(a) Communication of classified information by Government officer or employee

It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employee shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

(b) Receipt of, or attempt to receive, by foreign agent or member of Communist organization, classified information

It shall be unlawful for any agent or representative of any foreign government knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

(c) Penalties for violation

Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

(d) Limitation period

Any person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after the commission of such offense, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

(e) Forfeiture of property

(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 853 of title 21 shall apply to—

(A) property subject to forfeiture under this subsection;

(B) any seizure or disposition of such property; and

(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 10601 of title 42 all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

(5) As used in this subsection, the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(Sept. 23, 1950, ch. 1024, title I, § 4, 64 Stat. 991; Jan. 2, 1968, Pub. L. 90–237, § 3, 81 Stat. 765; Dec. 17, 1993, Pub. L. 103–199, title VIII, § 803(2), 107 Stat. 2329; Oct. 14, 1994, Pub. L. 103–359, title VIII, § 804(c), 108 Stat. 3440.)

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–359 added subsec. (e).

1993—Subsec. (a). Pub. L. 103–199, § 803(2)(A)–(C), redesignated subsec. (b) as (a), struck out ''or an officer or member of any Communist organization as defined in paragraph (5) of section 782 of this title'' after ''foreign government'', and struck out former subsec. (a) which read as follows: ''It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the

United States of a totalitarian dictatorship, as defined in paragraph (15) of section 782 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however*, That this subsection shall not apply to the proposal of a constitutional amendment.''

Subsec. (b). Pub. L. 103–199, § 803(2)(B), (D), redesignated subsec. (c) as (b) and struck out '', or any officer or member of any Communist organization as defined in paragraph (5) of section 782 of this title,'' after ''foreign government''. Former subsec. (b) redesignated (a).

Subsecs. (c) to (e). Pub. L. 103–199, § 803(2)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (f). Pub. L. 103–199, § 803(2)(A), struck out subsec. (f) which read as follows: ''Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute.''

1968—Subsec. (f). Pub. L. 90–237 struck out prohibition against receiving the fact of the registration of any person under section 787 or 788 of this title as an officer or member of any Communist organization in evidence against such person in any prosecution for any alleged violation of subsection (a) or (c) of this section or for any alleged violation of any other criminal statute.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Classified information, penalty for disclosure, see section 798A of Title 18, Crimes and Criminal Procedure.

Diplomatic codes and correspondence, disclosure of matters relating thereto, penalty for, see section 952 of Title 18.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 6105 of Title 38, Veterans' Benefits.

Limitation periods generally, see section 3281 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2410 of Appendix to this title; title 5 section 8312; title 18 sections 3077, 3239; title 22 section 2778; title 38 section 6105; title 42 sections 402, 2000aa.

§§ 784, 785. Repealed. Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329

Section 784, acts Sept. 23, 1950, ch. 1024, title I, § 5, 64 Stat. 992; Aug. 24, 1954, ch. 886, §§ 6, 7(c), 68 Stat. 777, 778; May 31, 1962, Pub. L. 87–474, § 1(b), 76 Stat. 91; Jan. 2, 1968, Pub. L. 90–237, § 4, 81 Stat. 765, related to employment of members of Communist organizations.

Section 785, acts Sept. 23, 1950, ch. 1024, title I, § 6, 64 Stat. 993; Aug. 24, 1954, ch. 886, § 7(c), 68 Stat. 778, related to denial of United States passports to members of Communist organizations.

§§ 786, 787. Repealed. Pub. L. 90–237, § 5, Jan. 2, 1968, 81 Stat. 766

Section 786, acts Sept. 23, 1950, ch. 1024, title I, § 7, 64 Stat. 993; July 29, 1954, ch. 646, 68 Stat. 586, related to registration of Communist-action and Communist-front organizations with the Attorney General, the preparation and filing of a registration statement and subsequent annual reports by such organizations, duty of such organizations to keep certain specified records and accounts, duty of Attorney General to notify individuals listed in any registration statement as an officer or member of such organization that such individual is so listed, investigation and determination of denials of membership and petition for relief in cases where Attorney General declines or fails to strike name of any individual from an annual report or registration statement.

Section 787, act Sept. 23, 1950, ch. 1024, title I, § 8, 64 Stat. 995, related to registration of members of Communist-action organizations with Attorney General and preparation and filing of a registration statement by such individuals.

§§ 788 to 795. Repealed. Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329

Section 788, acts Sept. 23, 1950, ch. 1024, title I, § 9, 64 Stat. 995; Jan. 2, 1968, Pub. L. 90–237, § 6, 81 Stat. 766, related to records of final orders of Subversive Activities Control Board and to public inspection of those records.

Section 789, acts Sept. 23, 1950, ch. 1024, title I, § 10, 64 Stat. 996; Aug. 24, 1954, ch. 886, § 8(a), 68 Stat. 778; Jan. 2, 1968, Pub. L. 90–237, § 7, 81 Stat. 766, related to use of mails and instrumentalities of interstate or foreign commerce by Communist organizations.

Section 790, acts Sept. 23, 1950, ch. 1024, title I, § 11, 64 Stat. 996; Aug. 24, 1954, ch. 886, § 8(b), 68 Stat. 778; Jan. 2, 1968, Pub. L. 90–237, § 8, 81 Stat. 767; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, related to denial of tax deductions and exemptions for contributions to Communist organizations.

Section 791, acts Sept. 23, 1950, ch. 1024, title I, § 12, 64 Stat. 977; July 12, 1952, ch. 697, 66 Stat. 590; Aug. 24, 1954, ch. 886, § 9(a), 68 Stat. 778; Aug. 5, 1955, ch. 580, § 1, 69 Stat. 539; Jan. 2, 1968, Pub. L. 90–237, § 9, 81 Stat. 767, established the Subversive Activities Control Board and provided for its Chairman, membership, filling of vacancies, duties, appointment and compensation of personnel, reports to Congress and President, appropriations, and termination of the Board on June 30, 1969, unless in the period beginning Jan. 2, 1968 and ending Dec. 31, 1968, a proceeding was instituted.

Section 792, acts Sept. 23, 1950, ch. 1024, title I, § 13, 64 Stat. 998; Aug. 24, 1954, ch. 886, § 9(b), 68 Stat. 778; Jan. 2, 1968, Pub. L. 90–237, § 10, 81 Stat. 768; Oct. 15, 1970, Pub. L. 91–452, title II, § 247, 84 Stat. 931, related to Board proceedings with respect to Communist action and Communist front organizations and provided for petition by Attorney General to Board for determination of Communist action or Communist front organizations, petition for review, not more than once every calendar year, for redetermination by Board, public hearings, criteria to be considered in making determinations, written report of findings to be served on Attorney General, and publication of final orders in the Federal Register.

Section 792a, acts Sept. 23, 1950, ch. 1024, title I, § 13A, as added Aug. 24, 1954, ch. 886, § 10, 68 Stat. 778; amended July 26, 1955, ch. 381, 69 Stat. 375; Jan. 2, 1968, Pub. L. 90–237, § 11, 81 Stat. 771; Nov. 8, 1984, Pub. L. 98–620, title IV, § 402(53), 98 Stat. 3361, related to labor organizations determined by Board to be Communist.

Section 793, acts Sept. 23, 1950, ch. 1024, title I, § 14, 64 Stat. 1001; Aug. 24, 1954, ch. 886, § 11, 68 Stat. 780; Aug. 28, 1958, Pub. L. 85–791, § 29, 72 Stat. 950; Jan. 2, 1968, Pub. L. 90–237, § 12, 81 Stat. 771, provided for judicial review of orders of Board to United States Court of Appeals for the District of Columbia if petition was filed within sixty days from date of service of such order and specified time of finality of the Board's orders.

Section 794, acts Sept. 23, 1950, ch. 1024, title I, § 15, 64 Stat. 1002; Jan. 2, 1968, Pub. L. 90–237, § 13, 81 Stat. 771, provided for penalties for violation of former sections 784 and 789 of this title.

Section 795, act Sept. 23, 1950, ch. 1024, title I, § 16, 64 Stat. 1003, related to applicability of administrative procedure provisions to Board.

§ 796. Effect of subchapter on other criminal laws

The foregoing provisions of this subchapter shall be construed as being in addition to and not in modification of existing criminal statutes.

(Sept. 23, 1950, ch. 1024, title I, § 17, 64 Stat. 1003.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title I of act Sept. 23, 1950, ch. 1024, 64 Stat. 987, as amended, known as the Subversive Activities Control Act of 1950, which is classified principally to this subchapter. For complete classification of title I of such act to the Code, see Short Title note set out under section 781 of this title and Tables.

§ 797. Security regulations and orders; penalty for violation

(a) Whoever willfully shall violate any such regulation or order as, pursuant to lawful authority, shall be or has been promulgated or approved by the Secretary of Defense, or by any military commander designated by the Secretary of Defense, or by the Director of the National Advisory Committee for Aeronautics, for the protection or security of military or naval aircraft, airports, airport facilities, vessels, harbors, ports, piers, water-front facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which said Department consists, or any officer or employee of said Department or agency, or of the National Advisory Committee for Aeronautics or any officer or employee thereof, relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse or other unsatisfactory conditions thereon, or the ingress thereto or egress or removal of persons therefrom, or otherwise providing for safeguarding the same against destruction, loss, or injury by accident or by enemy action, sabotage or other subversive actions, shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both.

(b) Every such regulation or order shall be posted in conspicuous and appropriate places.

(Sept. 23, 1950, ch. 1024, title I, § 21, 64 Stat. 1005.)

TERMINATION OF NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

The National Advisory Committee for Aeronautics, as established by act Mar. 3, 1915, ch. 83, 38 Stat. 930, was terminated pursuant to section 301(a) of Pub. L. 85–568, title III, July 29, 1958, 72 Stat. 432, set out as a note under section 2472 of Title 42, The Public Health and Welfare, which transferred all its functions, powers, duties, and obligations to the National Aeronautics and Space Administration. See section 2451 et seq. of Title 42.

CROSS REFERENCES

Espionage and censorship, penalties for violation of laws relating to, see section 792 et seq. of Title 18, Crimes and Criminal Procedure.

Sabotage, penalties for, see section 2151 et seq. of Title 18.

§ 798. Repealed. Pub. L. 103–199, title VIII, § 803(1), Dec. 17, 1993, 107 Stat. 2329

Section, act Sept. 23, 1950, ch. 1024, title I, § 1(b), 64 Stat. 987, provided that the Internal Security Act of 1950 not be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of press or of speech as guaranteed by Constitution.

SUBCHAPTER II—EMERGENCY DETENTION OF SUSPECTED SECURITY RISKS

§§ 811 to 826. Repealed. Pub. L. 92–128, § 2(a), Sept. 25, 1971, 85 Stat. 348

Section 811, act Sept. 23, 1950, ch. 1024, title II, § 101, 64 Stat. 1019, related to Congressional finding of necessity.

Section 812, act Sept. 23, 1950, ch. 1024, title II, § 102, 64 Stat. 1021, related to declaration of ''internal security emergency'' by the President, events warranting the declaration, and period of existence.

Section 813, act Sept. 23, 1950, ch. 1024, title II, § 103, 64 Stat. 1021, related to detention during emergency and to release.

Section 814, act Sept. 23, 1950, ch. 1024, title II, § 104, 64 Stat. 1022, related to procedure for apprehension and detention, providing in subsecs. (a) to (h), respectively, for warrants and applications; service of warrants and apprehension, and copies for persons apprehended; places of confinement, provision for transportation, food, shelter, etc., and supervision; preliminary hearing, rights of detainee, evidence, orders and reports of hearing officer, and appointment of preliminary hearing officers; receipt of additional information upon request of detainee, and revocation or modification of detention order; presentation of evidence in case of Board or court review and right to withhold certain information; regulations by Attorney General and exclusion of forced labor and confinement with criminals; and bimonthly reports to President and Congress during emergency.

Section 815, act Sept. 23, 1950, ch. 1024, title II, § 105, 64 Stat. 1023, related to the Detention Review Board, providing in subsecs. (a) to (d), respectively, for creation of Board, membership, terms, designation of Chairman, and removal; Board divisions, vacancies, powers of remaining members, quorums, official seal, and judicial notice thereof; reports to Congress and its contents; and dissolution upon termination of emergency, release of detainees, conclusion of proceedings, and subsequent establishment.

Section 816, act Sept. 23, 1950, ch. 1024, title II, § 106, 64 Stat. 1024, related to salaries of Board members, other personnel, use of agencies and services, expenses, and appropriations.

Section 817, act Sept. 23, 1950, ch. 1024, title II, § 107, 64 Stat. 1024, specified the District of Columbia as Board headquarters and related to meetings and hearings outside the District.

Section 818, act Sept. 23, 1950, ch. 1024, title II, § 108, 64 Stat. 1024, related to rules and regulations by the Board and applicability of the Administrative Procedure Act.

Section 819, act Sept. 23, 1950, ch. 1024, title II, § 109, 64 Stat. 1025, related to powers and duties of Board, providing in subsecs. (a) to (j), respectively, for review of, and action on, orders and claims, and determination of security risks; time for hearing on petition for review, the notice and place; information which may be given to detainee in review cases; subpenas, oaths, affirmations, witnesses, evidence, aid of courts, and contempt; service of papers, fees and mileage, and information from other Government agencies; rights of detainee at hearing; consideration of confidential evidence, reduction of evidence to writing, and additional testimony, and argument; evidentiary matters considered in deciding questions as to security risks; necessity for reasonable ground for belief, and claims for indemnity and receipt of evidence having probative value.

Section 820, acts Sept. 23, 1950, ch. 1024, title II, § 110, 64 Stat. 1027; Aug. 28, 1958, Pub. L. 85–791, § 30(a), 72 Stat. 950, related to orders of Board, providing in subsecs. (a) to (e), respectively, for revocation of detention order; orders sustaining or denying indemnity claims; dismissal of petition and confirmation of detention order; report and recommended order of hearing examiner, and effectiveness after expiration of time period; and modification or setting aside by Board of its own findings or orders prior to court review.

Section 821, acts Sept. 23, 1950, ch. 1024, title II, § 111, 64 Stat. 1028; Aug. 28, 1958, Pub. L. 85–791, § 30(b), (c), 72 Stat. 950, 951, related to judicial review, providing in subsecs. (a) to (g), respectively, for rights of petitioner; orders granting indemnity and right of Attorney General; courts of appeals, place, petition, time, service, record, statement, powers of court, and conclusiveness of Board's finding; additional evidence, modification of, or new, findings by Board, recommendations, exclusiveness of court jurisdiction, finality of judgment, and review by Supreme Court; commencement of review proceeding as stay of Board's order; time of finality of Board's order; and applicability of Administrative Procedure Act.

Section 822, act Sept. 23, 1950, ch. 1024, title II, § 112, 64 Stat. 1029, related to resisting, disregarding, or evading apprehension, escape or attempts at escape, conspiracy, and to penalties.

Section 823, act Sept. 23, 1950, ch. 1024, title II, § 113, 64 Stat. 1030, related to aiding evasion of apprehension or escape, concealment, conspiracy, and to penalties.

Section 824, act Sept. 23, 1950, ch. 1024, title II, § 114, 64 Stat. 1030, related to resistance of, or interference with, Board members or agents and to penalties.

Section 825, act Sept. 23, 1950, ch. 1024, title II, § 115, 64 Stat. 1030, related to definitions.

Section 826, act Sept. 23, 1950, ch. 1024, title II, § 116, 64 Stat. 1030, related to preservation of privilege of habeas corpus.

SUBCHAPTER III—PERSONNEL SECURITY PROCEDURES IN NATIONAL SECURITY AGENCY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 section 2305.

§ 831. Regulations for employment security

Subject to the provisions of this subchapter, the Secretary of Defense (hereafter in this subchapter referred to as the ''Secretary'') shall prescribe such regulations relating to continuing security procedures as he considers necessary to assure—

(1) that no person shall be employed in, or detailed or assigned to, the National Security Agency (hereafter in this subchapter referred to as the ''Agency''), or continue to be so employed, detailed, or assigned; and

(2) that no person so employed, detailed, or assigned shall have access to any classified information;

unless such employment, detail, assignment, or access to classified information is clearly consistent with the national security.

(Sept. 23, 1950, ch. 1024, title III, § 301, as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 168.)

§ 832. Full field investigation and appraisal

(a) Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis

No person shall be employed in, or detailed or assigned to, the Agency unless he has been the subject of a full field investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this subchapter; excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secretary may prescribe, pending the completion of such full field investigation: *And provided further*, That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.

(b) Boards of appraisal; establishment; membership; appointment; appraisal in doubtful cases; report and recommendation; qualifications of members; Secretary's clearance contrary to board's recommendation

To assist the Secretary and the Director of the Agency in carrying out their personnel security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established in the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such a case. However, appraisal by such a board is not required before action may be taken under sections 7512 and 7532 of title 5, or any other similar provision of law. Each member of such a board shall be specially qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest.

(Sept. 23, 1950, ch. 1024, title III, § 302, as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 168.)

CODIFICATION

In subsec. (b), ''sections 7512 and 7532 of title 5'' substituted for ''section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22–1)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Sections 7511 and 7512 (which related to adverse actions against preference eligible employees and comprised subchapter II of chapter 75) were repealed by Pub. L. 95–454 and replaced by a new subchapter II (§§ 7511–7514) of chapter 75 (relating to removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less).

§ 833. Termination of employment

(a) Generally; finality

Notwithstanding sections 7512 and 7532 of title 5, or any other provision of law, the Secretary may terminate the employment of any officer or employee of the Agency whenever he considers that action to be in the interest of the United States, and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of that officer or employee cannot be invoked consistently with the national security. Such a determination is final.

(b) Employment in other departments or agencies

Termination of employment under this section shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

(c) Delegation of authority; limitation

Notwithstanding section 113(d) of title 10, only the Deputy Secretary of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a) of this section.

(Sept. 23, 1950, ch. 1024, title III, § 303, as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 169; amended Oct. 27, 1972, Pub. L. 92–596, § 7, 86 Stat. 1318; Oct. 21, 1977, Pub. L. 95–140, § 3(c), 91 Stat. 1173; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Oct. 1, 1986, Pub. L. 99–433, title I, § 110(h)(3), 100 Stat. 1004.)

CODIFICATION

In subsec. (a), ''sections 7512 and 7532 of title 5'' substituted for ''section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22–1)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Sections 7511 and 7512 (which related to adverse actions against preference eligible employees and comprised subchapter II of chapter 75) were repealed by Pub. L. 95–454 and replaced by a new subchapter II (§§ 7511–7514) of chapter 75 (relating to removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less).

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–433 substituted ''section 113(d)'' for ''section 133(d)''.

1977—Subsec. (c). Pub. L. 95–140 substituted ''Deputy Secretary'' for ''Deputy Secretaries''.

1972—Subsec. (c). Pub. L. 92–596 provided for delegation of authority consequent to the creation of a second Deputy Secretary of Defense.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (b), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 834. "Classified information" defined

For the purposes of this section, the term ''classified information'' means information which, for reasons of national security, is specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

(Sept. 23, 1950, ch. 1024, title III, § 304, as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 170.)

§ 835. Nonapplicability of administrative procedure provisions

Subchapter II of chapter 5, and chapter 7, of title 5, shall not apply to the use or exercise of any authority granted by this subchapter.

(Sept. 23, 1950, ch. 1024, title III, § 305, as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 170.)

CODIFICATION

''Subchapter II of chapter 5, and chapter 7, of title 5'' substituted in text for ''the Administrative Procedure Act, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

SUBCHAPTER IV—COMMUNIST CONTROL

§ 841. Findings and declarations of fact

The Congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political

parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

(Aug. 24, 1954, ch. 886, § 2, 68 Stat. 775.)

CODIFICATION

Section was enacted as part of the Communist Control Act of 1954, and not as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

SHORT TITLE

Section 1 of act Aug. 24, 1954, provided: ''That this Act [enacting this subchapter and section 792a of this title, amending sections 782, 784, 785, 789 to 792, and 793 of this title, and enacting provisions set out below] may be cited as the 'Communist Control Act of 1954'.''

SEPARABILITY

Section 12 of act Aug. 24, 1954, provided: ''If any provision of this title [see Short Title note above] or the application thereof to any person or circumstances is held invalid, the remainder of the title and the application of such provisions to other persons or circumstances, shall not be affected thereby.''

The use of the word ''Act'', in place of the word ''title'' as used in section 12 of act of Aug. 24, 1954, quoted above, was probably intended, since that act is not divided into titles.

§ 842. Proscription of Communist Party, its successors, and subsidiary organizations

The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are terminated: *Provided, however*, That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended [50 U.S.C. 781 et seq.]

(Aug. 24, 1954, ch. 886, § 3, 68 Stat. 776.)

REFERENCES IN TEXT

The Internal Security Act of 1950, as amended, referred to in text, is act Sept. 23, 1950, ch. 1024, 64 Stat. 987, as amended, which is classified principally to subchapters I to III of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 781 of this title and Tables.

CODIFICATION

Section was enacted as part of the Communist Control Act of 1954, and not as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 843. Application of Internal Security Act of 1950 to members of Communist Party and other subversive organizations; "Communist Party" defined

(a) Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control, conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended [50 U.S.C. 781 et seq.], as a member of a ''Communist-action'' organization.

(b) For the purposes of this section, the term ''Communist Party'' means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

(Aug. 24, 1954, ch. 886, § 4, 68 Stat. 776.)

REFERENCES IN TEXT

The Internal Security Act of 1950, as amended, referred to in subsec. (a), is act Sept. 23, 1950, ch. 1024, 64 Stat. 987, as amended, which is classified principally to subchapters I to III of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 781 of this title and Tables.

CODIFICATION

Section was enacted as part of the Communist Control Act of 1954, and not as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 844. Determination by jury of membership in Communist Party, participation, or knowledge of purpose

In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

(Aug. 24, 1954, ch. 886, § 5, 68 Stat. 776.)

REFERENCES IN TEXT

This Act, referred to in the provision preceding par. (1), is act Aug. 24, 1954, ch. 886, 68 Stat. 775, known as the Communist Control Act of 1954, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 841 of this title and Tables.

CODIFICATION

Section was enacted as part of the Communist Control Act of 1954, and not as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

SUBCHAPTER V—REGISTRATION OF CERTAIN PERSONS TRAINED IN FOREIGN ESPIONAGE SYSTEMS

§ 851. Registration of certain persons; filing statement; regulations

Except as provided in section 852 of this title, every person who has knowledge of, or has received instruction or assignment in, the espionage, counter-espionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General by filing with the Attorney General a registration statement in duplicate, under oath, prepared and filed in such manner and form, and containing such statements, information, or documents pertinent to the purposes and objectives of this subchapter as the Attorney General, having due regard for the national security and the public interest, by regulations prescribes.

(Aug. 1, 1956, ch. 849, § 2, 70 Stat. 899.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

SEPARABILITY

Section 9 of act Aug. 1, 1956, provided: ''If any provision of this Act [enacting this subchapter] or the application thereof to any person or circumstances is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, is not affected thereby.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 852 of this title.

§ 852. Exemption from registration

The registration requirements of section 851 of this title do not apply to any person—

(a) who has obtained knowledge of or received instruction or assignment in the espionage, counter-espionage, or sabotage service or tactics of a foreign government or foreign political party by reason of civilian, military, or police service or employment with the United States Government, the governments of the several States, their political subdivisions, the District of Columbia, the Territories, or the Canal Zone;

(b) who has obtained such knowledge solely by reason of academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party;

(c) who has made full disclosure of such knowledge, instruction, or assignment to officials within an agency of the United States Government having responsibilities in the field of intelligence, which disclosure has been made a matter of record in the files of such agency, and concerning whom a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

(d) whose knowledge of, or receipt of instruction or assignment in, the espionage, counter-espionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, is a matter of record in the files of an agency of the United States Government having responsibilities in the field of intelligence and concerning whom a written determination is made by the Attorney General or the Director of Central Intelligence, based on all information available, that registration would not be in the interest of national security;

(e) who is a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State, while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer, and any member of his immediate family who resides with him;

(f) who is an official of a foreign government recognized by the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, and while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official, and any member of his immediate family who resides with him;

(g) who is a member of the staff of or employed by a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, and whose name and status and the character of whose duties as such member or employee are a matter of record in the Department of State, while he is engaged exclusively in the performance of activities recognized by the Department of State as being within the scope of the functions of such member or employee;

(h) Who[1] is an officially acknowledged and sponsored representative of a foreign government and is in the United States on an official mission for the purpose of conferring or otherwise cooperating with United States intelligence or security personnel;

(i) who is a civilian or one of the military personnel of a foreign armed service coming to the United States pursuant to arrangements made under a mutual defense treaty or agreement, or who has been invited to the United States at the request of an agency of the United States Government; or

(j) who is a person designated by a foreign government to serve as its representative in or to an international organization in which the United States participates or is an officer or employee of such an organization or who is a member of the immediate family of, and resides with, such a representative, officer, or employee.

(Aug. 1, 1956, ch. 849, § 3, 70 Stat. 899.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 851 of this title.

§ 853. Retention of registration statements; public examination; withdrawal

The Attorney General shall retain in permanent form one copy of all registration statements filed under this subchapter. They shall be public records and open to public examination at such reasonable hours and under such regulations as the Attorney General prescribes, except that the Attorney General, having due regard for the national security and public interest, may withdraw any registration statement from public examination.

(Aug. 1, 1956, ch. 849, § 4, 70 Stat. 900.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 854. Rules, regulations, and forms

The Attorney General may at any time, make, prescribe, amend, and rescind such rules, regulations and forms as he deems necessary to carry out the provisions of this subchapter.

(Aug. 1, 1956, ch. 849, § 5, 70 Stat. 900.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 855. Violations; penalties; deportation

(a) Whoever willfully violates any provision of this subchapter or any regulation thereunder, or in any registration statement willfully make[1] a false statement of a material fact or willfully omits any material fact, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) Any alien convicted of a violation of this subchapter or any regulation thereunder is subject to deportation in the manner provided by part V of subchapter II of chapter 12 of title 8.

(Aug. 1, 1956, ch. 849, § 6, 70 Stat. 900.)

REFERENCES IN TEXT

Part V (§ 1251 et seq.) of subchapter II of chapter 12 of title 8, referred to in text, was in the original a reference to chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163).

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 856. Continuing offense

Failure to file a registration statement as required by this subchapter is a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(Aug. 1, 1956, ch. 849, § 7, 70 Stat. 900.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

CROSS REFERENCES

Period of limitations upon non-capital offenses, see section 3282 of Title 18, Crimes and Criminal Procedure.

§ 857. Compliance with other registration statutes

Compliance with the registration provisions of this subchapter does not relieve any person from

[1] So in original. Probably should not be capitalized.

[1] So in original. Probably should be "makes".

compliance with any other applicable registration statute.

(Aug. 1, 1956, ch. 849, § 8, 70 Stat. 900.)

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

§ 858. Applicability to Canal Zone

This subchapter applies to and within the Canal Zone.

(Aug. 1, 1956, ch. 849, § 10, as added Oct. 18, 1962, Pub. L. 87–845, § 13, 76A Stat. 700.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was not enacted as part of the Internal Security Act of 1950 which comprises subchapters I to III of this chapter.

EFFECTIVE DATE

Section effective Jan. 2, 1963, see section 25 of Pub. L. 87–845, set out as an Effective Date of 1962 Amendment note under section 14 of Title 18, Crimes and Criminal Procedure.

CHAPTER 24—NATIONAL DEFENSE FACILITIES

§§ 881 to 887. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 881, act Sept. 11, 1950, ch. 945, § 2, 64 Stat. 829, stated purpose of this chapter, which provided for national defense facilities. See section 18231 of Title 10, Armed Forces.

Section 882, acts Sept. 11, 1950, ch. 945, § 3, 64 Stat. 830; Aug. 9, 1955, ch. 662, § 1(a), (b), 69 Stat. 593; Aug. 3, 1956, ch. 939, title IV, § 414, 70 Stat. 1018; Aug. 29, 1957, Pub. L. 85–215, § 2, 71 Stat. 490; Pub. L. 85–685, title VI, § 602, Aug. 20, 1958, 72 Stat. 665, related to acquisition and construction of defense facilities. See section 18233 of Title 10 and Codification note thereunder. Acts Aug. 9, 1955, ch. 662, § 1(a), (b), 69 Stat. 593; Aug. 3, 1956, ch. 939, title IV, § 414, 70 Stat. 1018; Aug. 29, 1957, Pub. L. 85–215, § 2, 71 Stat. 490, were repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569, 1570.

Section 883, acts Sept. 11, 1950, ch. 945, § 4, 64 Stat. 830; Aug. 9, 1955, ch. 662, § 1(c)–(e), 69 Stat. 593, related to location of facilities, change of location of units, title and maintenance of facilities, and to use of Federal and State facilities. See sections 18233, 18236, and 18238 of Title 10. Act Aug. 9, 1955, ch. 662, § 1(c)–(e), 69 Stat. 593, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 884, act Sept. 11, 1950, ch. 945, § 5, 64 Stat. 831, authorized Secretary of Defense to delegate his authority under this chapter. See section 18233 of Title 10.

Section 885, acts Sept. 11, 1950, ch. 945, § 6, 64 Stat. 831; Aug. 9, 1955, ch. 662, § 1(f), 69 Stat. 594, related to supervision of construction, expansion, rehabilitation or conversion of facilities. See section 18237 of Title 10. Act Aug. 9, 1955, ch. 662, § 1(f), 69 Stat. 594, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 886, acts Sept. 11, 1950, ch. 945, § 7, 64 Stat. 831; Aug. 9, 1955, ch. 662, § 1(g), (h), 69 Stat. 594, defined terms used in sections 881 to 887 of this title. See section 18232 of Title 10. Act Aug. 9, 1955, ch. 662, § 1(g), (h), 69 Stat. 594, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 887, act Sept. 11, 1950, ch. 945, § 8, 64 Stat. 832, authorized appropriations to carry out purposes of this chapter.

CHAPTER 25—ARMED FORCES RESERVE

§§ 901 to 905. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 901, act July 9, 1952, ch. 608, pt. I, § 101, 66 Stat. 481, defined terms used in this chapter. See sections 101 and 10207 of Title 10, Armed Forces.

Section 902, act July 9, 1952, ch. 608, pt. VIII, § 809, 66 Stat. 509, related to savings provisions for laws relating to appointment in reserve components.

Section 903, act July 9, 1952, ch. 608, pt. VIII, § 810, 66 Stat. 509, related to accrued rights.

Section 904, act July 9, 1952, ch. 608, pt. VIII, § 811, 66 Stat. 509, related to authority to order reservists to active duty and the responsibilities and functions of Chief of National Guard Bureau.

Section 905, act July 9, 1952, ch. 608, pt. VIII, § 812, 66 Stat. 509, related to retroactive pay.

§§ 921 to 935. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 921, act July 9, 1952, ch. 608, pt. II, § 201, 66 Stat. 482, stated purpose of reserve components, and provided for maintenance of National Guard and Air National Guard. See sections 10102 and 10103 of Title 10, Armed Forces, and section 102 of Title 32, National Guard.

Section 922, act July 9, 1952, ch. 608, pt. II, § 202, 66 Stat. 482, enumerated reserve components. See section 10101 of Title 10, Armed Forces.

Section 923, act July 9, 1952, ch. 608, pt. II, § 203, 66 Stat. 483, provided for maximum numerical strength of reserve components. See section 12001 of Title 10, Armed Forces, and section 702 of Title 14, Coast Guard.

Section 924, act July 9, 1952, ch. 608, pt. II, § 204, 66 Stat. 483, provided for composition of reserve components. See section 10141 of Title 10, Armed Forces.

Section 925, acts July 9, 1952, ch. 608, pt. II, § 205, 66 Stat. 483; Aug. 9, 1955, ch. 665, § 2(a), 69 Stat. 598, prescribed composition and maximum strength of Ready Reserve. See section 10142 of Title 10. Act Aug. 9, 1955, ch. 665, § 2(a), 69 Stat. 598 was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 926, act July 9, 1952, ch. 608, pt. II, § 206, 66 Stat. 483, related to Standby Reserve, its composition, and for ordering units to active duty. See sections 10151 and 12306 of Title 10.

Section 927, act July 9, 1952, ch. 608, pt. II, § 207, 66 Stat. 483, related to Retired Reserve, its composition, establishment of reserve retired lists, ordering members into active duty. See sections 1376, 10154, and 12307 of Title 10.

Section 928, acts July 9, 1952, ch. 608, pt. II, § 208, 66 Stat. 484; Aug. 9, 1955, ch. 665, § 2(b) to (d), 69 Stat. 598, 599, related to term of service in Ready Reserve, placement, requests for assignment, training duty, extension of membership, transfer to Standby Reserve, applications for transfer and screening of units and members. See sections 10145 to 10150 of Title 10. Act Aug. 9, 1955, ch. 665, § 2(b)–(d), 69 Stat. 598, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 929, act July 9, 1952, ch. 608, pt. II, § 209, 66 Stat. 484, related to transferees, enlistment or appointment in Armed Forces. See sections 12104 and 12208 of Title 10.

Section 930, act July 9, 1952, ch. 608, pt. II, § 210, 66 Stat. 485, related to composition of Standby Reserve. See section 10141 of Title 10.

Section 931, act July 9, 1952, ch. 608, pt. II, § 211, 66 Stat. 485, provided for inactive status list in Standby Reserve, regulations governing transfer, limitation on benefits. See sections 10152, 10153, and 12734 of Title 10.

Section 932, act July 9, 1952, ch. 608, pt. II, § 212, 66 Stat. 485, prescribed status of members of reserve components. See section 10141 of Title 10.

Section 933, act July 9, 1952, ch. 608, pt. II, § 213, 66 Stat. 485, related to retention of status of members of reserve components, and to honorary status.

Section 934, act July 9, 1952, ch. 608, pt. II, § 214, 66 Stat. 485, related to training categories for each reserve component. See section 10141(c) of Title 10.

Section 935, act July 9, 1952, ch. 608, pt. II, § 215, 66 Stat. 486, provided for officer candidates and for distribution of personnel in various ranks and grades. See sections 12001 and 12209 of Title 10, Armed Forces, and section 702 of Title 14, Coast Guard.

§ 936. Repealed. Sept. 3, 1954, ch. 1257, title VII, § 702(d), 68 Stat. 1189

Section, act July 9, 1952, ch. 608, pt. II, § 216, 66 Stat. 486, related to promotion and precedence.

ADDITIONAL REPEAL

Section was also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§§ 941 to 956. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 941, acts July 9, 1952, ch. 608, pt. II, § 217, 66 Stat. 486; July 30, 1956, ch. 789, § 4(a), 70 Stat. 729, related to qualifications for appointments and enlistments in the Reserves. See sections 12102, 12201, and 12204 of Title 10, Armed Forces. Act July 30, 1956, ch. 789, § 4(a), 70 Stat. 729, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1570.

Section 942, act July 9, 1952, ch. 608, pt. II, § 218, 66 Stat. 487, authorized the President, by and with the advice and consent of the Senate, to make appointments to general or flag officer grade. See section 12203 of Title 10.

Section 943, act July 9, 1952, ch. 608, pt. II, § 219, 66 Stat. 487, authorized the President to make appointments in commissioned grades below general or flag officer grades. See section 12203 of Title 10.

Section 944, act July 9, 1952, ch. 608, pt. II, § 220, 66 Stat. 487, related to appointments in warrant officer grades. See section 12241 of Title 10.

Section 945, act July 9, 1952, ch. 608, pt. II, § 221, 66 Stat. 487, related to tenure of appointments of commissioned officers. See section 12203 of Title 10.

Section 946, act July 9, 1952, ch. 608, pt. II, § 222, 66 Stat. 487, provided for a common Federal appointment for officers. See section 12201(a) of Title 10.

Section 947, act July 9, 1952, ch. 608, pt. II, § 223, 66 Stat. 487, prescribed tenure of appointments of warrant officers. See section 12241 of Title 10.

Section 948, act July 9, 1952, ch. 608, pt. II, § 224, 66 Stat. 487, provided for indefinite term of appointment, conversion of appointments and enlistments. See sections 12203 and 12241 of Title 10 and note set out under section 12203 of Title 10.

Section 949, act July 9, 1952, ch. 608, pt. II, § 225, 66 Stat. 488, provided for physical examinations. See section 12644 of Title 10.

Section 950, act July 9, 1952, ch. 608, pt. II, § 226, 66 Stat. 488, provided for discharge or transfer of physically disqualified personnel. See section 12644 of Title 10.

Section 951, act July 9, 1952, ch. 608, pt. II, § 227, 66 Stat. 488, related to term of enlistment. See section 12103 of Title 10.

Section 952, act July 9, 1952, ch. 608, pt. II, § 228, 66 Stat. 488, related to common Federal enlistments. See sections 12102 and 12107 of Title 10.

Section 953, act July 9, 1952, ch. 608, pt. II, § 229, 66 Stat. 488, prohibited dual membership in reserve components. See section 10213 of Title 10.

Section 954, act July 9, 1952, ch. 608, pt. II, § 230, 66 Stat. 489, related to enlisted personnel as officer candidates. See section 12209 of Title 10.

Section 955, act July 9, 1952, ch. 608, pt. II, § 231, 66 Stat. 489, related to age limitation for officers.

Section 956, act July 9, 1952, ch. 608, pt. II, § 232, 66 Stat. 489, authorized appointment or enlistment of limited-service personnel. See sections 12102 and 12201 of Title 10.

§§ 961 to 967. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 961, acts July 9, 1952, ch. 608, pt. II, § 233, 66 Stat. 489; Aug. 9, 1955, ch. 665, § 2(e)–(g), 69 Stat. 599, related to liability of members for active duty, limitation on recall, annual training, voluntary active duty, notification prior to active-duty orders, utilization of officers, protection of members of organized units, and to ministers of religion. See sections 12102, 12201, 12204, 12301, 12302, 12317, and 12682 of Title 10, Armed Forces. Act Aug. 9, 1955, ch. 665, § 2(e)–(g), 69 Stat. 599, was repealed by Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section 962, act July 9, 1952, ch. 608, pt. II, § 234, 66 Stat. 490, related to active duty in connection with Reserve training and administration. See sections 12301 and 12310 of Title 10.

Section 963, act July 9, 1952, ch. 608, pt. II, § 235, 66 Stat. 491, provided for active duty agreements, involuntary release, obligation to serve full term, prior obligated or involuntary service, uniformity of agreements. See sections 12311 and 12312 of Title 10.

Section 964, act July 9, 1952, ch. 608, pt. II, § 236, 66 Stat. 491, provided for continuation of active duty. See section 12311 of Title 10.

Section 965, act July 9, 1952, ch. 608, pt. II, § 237, 66 Stat. 492, authorized detail or assignment to duties authorized for regulars. See section 12314 of Title 10.

Section 966, act July 9, 1952, ch. 608, pt. II, § 238, 66 Stat. 492, related to maintenance of Reserve forces in time of partial mobilization. See section 10207 of Title 10.

Section 967, act July 9, 1952, ch. 608, pt. II, § 239, 66 Stat. 492, provided for release from active duty. See section 12313 of Title 10.

§§ 971 to 975. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 971, act July 9, 1952, ch. 608, pt. II, § 240, 66 Stat. 492, provided for active duty with or without pay. See section 12315 of Title 10, Armed Forces.

Section 972, act July 9, 1952, ch. 608, pt. II, § 241, 66 Stat. 492, related to pay and allowances of persons retained beyond the term of service. See section 12315 of Title 10.

Section 973, act July 9, 1952, ch. 608, pt. II, § 242, 66 Stat. 492, related to pay for officer candidates. See section 12209 of Title 10.

Section 974, act July 9, 1952, ch. 608, pt. II, § 243, 66 Stat. 492, related to uniform allowances. See sections 415 to 419 of Title 37, Pay and Allowances of the Uniformed Services.

Section 975, act July 9, 1952, ch. 608, pt. II, § 245, 66 Stat. 494, provided for continuation of existing benefits.

§§ 981, 982. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 981, act July 9, 1952, ch. 608, pt. II, § 246, 66 Stat. 495, related to civil status of reservists. See section 502 of Title 5, Government Organization and Employees.

Section 982, act July 9, 1952, ch. 608, pt. II, § 247, 66 Stat. 495, authorized members of reserve components to accept employment with and compensation from any foreign government or any concern which is controlled in whole or in part by a foreign government. See section 1032 of Title 10, Armed Forces.

§§ 991, 992. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 991, act July 9, 1952, ch. 608, pt. II, § 248, 66 Stat. 495, provided for discharge of commissioned officers and other members of reserve components. See sections 12681 and 12682 of Title 10, Armed Forces.

Section 992, act July 9, 1952, ch. 608, pt. II, § 249, 66 Stat. 495, related to limitation on discharges, dropping

from rolls, and character of discharge. See sections 12683 to 12686 of Title 10.

§§ 1001 to 1010. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1001, act July 9, 1952, ch. 608, pt. II, § 250, 66 Stat. 495, prohibited discrimination between Regulars and reserve components. See section 10209 of Title 10, Armed Forces.

Section 1002, act July 9, 1952, ch. 608, pt. II, § 251, 66 Stat. 495, authorized Secretaries of the Army, Navy, Air Force, and the Treasury, to make and publish regulations. See section 10202 of Title 10 and section 417(a) of Title 37, Pay and Allowances of the Uniformed Services.

Section 1003, act July 9, 1952, ch. 608, pt. II, § 252, 66 Stat. 496, provided for reserve participation in administration of policy and regulations. See section 10211 of Title 10, Armed Forces.

Section 1004, act July 9, 1952, ch. 608, pt. II, § 253, 66 Stat. 496, related to support of reserve components. See section 12501 of Title 10.

Section 1005, act July 9, 1952, ch. 608, pt. II, § 254, 66 Stat. 496, related to boards, membership of boards, seniority. See section 12643 of Title 10.

Section 1006, act July 9, 1952, ch. 608, pt. II, § 255, 66 Stat. 496, related to availability of supplies, equipment, and facilities. See section 2511 of Title 10.

Section 1007, act July 9, 1952, ch. 608, pt. II, § 256, 66 Stat. 496, provided for responsibility for Reserve affairs. See sections 10203 and 18501 of Title 10.

Section 1008, act July 9, 1952, ch. 608, pt. II, § 257(a)–(d), 66 Stat. 497, related to creation, composition and representation on the Reserve Forces Policy Board, provided that the Board should be the principal policy adviser to the Secretary of Defense. See section 10301 of Title 10. Subsec. (e) of section 257 of act July 9, 1952, as amended Sept. 3, 1954, ch. 1257, title VII, § 702(c), 68 Stat. 1189, was restated in section 133 [now 113] of Title 10.

Section 1009, act July 9, 1952, ch. 608, pt. II, § 258, 66 Stat. 498, related to personnel records. See section 10204 of Title 10.

Section 1010, act July 9, 1952, ch. 608, pt. II, § 259, 66 Stat. 498, related to dissemination of information. See section 10210 of Title 10.

§§ 1011, 1012. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1011, act July 9, 1952, ch. 608, pt. II, § 260, as added Aug. 9, 1955, ch. 665, § 2(h), 69 Stat. 599, related to records of persons participating in active and inactive duty training. See section 10204 of Title 10, Armed Forces.

Section 1012, act July 9, 1952, ch. 608, pt. II, § 261, as added Aug. 9, 1955, ch. 665, § 2(i), 69 Stat. 600, related to period of enlistment in Reserve components. See section 12103 of Title 10.

§ 1013. Repealed. Pub. L. 88–110, § 1, Sept. 3, 1963, 77 Stat. 134

Section, act July 9, 1952, ch. 608, pt. II, § 262, as added Aug. 9, 1955, ch. 665, § 2(i), 69 Stat. 600; amended Apr. 23, 1956, ch. 209, § 1, 70 Stat. 115; July 17, 1959, Pub. L. 86–96, 73 Stat. 221; July 12, 1960, Pub. L. 86–632, § 2, 74 Stat. 468, authorized President to accept enlistments in the Ready Reserve, to maintain them at a level necessary for national defense, of persons not having attained age 18, and six months and who had not been ordered to report for induction, or who possessed critical skills and were engaged in defense industry, fixed period of enlistment at eight years with active duty therein for three to six months, deferred such persons from universal military training, and required National Security Training Commission to advise President and Secretary of Defense and to report annually to Congress regarding welfare of trainees.

§ 1014. Omitted

CODIFICATION

Section, act July 9, 1952, ch. 608, pt. II, § 263, as added Aug. 9, 1955, ch. 665, § 2(i), 69 Stat. 602, which provided for release from active duty in Armed Forces prior to serving periods for which inducted or enlisted, expired by its own terms on July 1, 1957.

§ 1015. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section, act July 9, 1952, ch. 608, pt. II, § 264, as added Apr. 23, 1956, ch. 209, § 2, 70 Stat. 115, related to training period and to eligibility for benefits. See sections 3687, 3721, 6148, 8687, and 8721 of Title 10, Armed Forces.

§ 1016. Repealed. Pub. L. 87–651, title III, § 307A, Sept. 7, 1962, 76 Stat. 526

Section, act July 9, 1952, ch. 608, pt. II, § 265, as added July 9, 1956, ch. 534, 70 Stat. 517; amended Sept. 2, 1958, Pub. L. 85–857, § 13(r), 72 Stat. 1266; Sept. 21, 1959, Pub. L. 86–324, § 1, 73 Stat. 596; June 28, 1962, Pub. L. 87–509, § 1, 76 Stat. 120, provided for a lump-sum readjustment payment for involuntary release from active duty. See section 12686 of Title 10, Armed Forces.

Pub. L. 87–509, § 1, June 28, 1962, 76 Stat. 120, was repealed by Pub. L. 89–718, § 75(4), Nov. 2, 1966, 80 Stat. 1124.

§§ 1021 to 1024. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1021, act July 9, 1952, ch. 608, pt. III, § 301, 66 Stat. 498, established National Guard and Army Reserve as reserve components of the Army. See section 3062 of Title 10, Armed Forces.

Section 1022, act July 9, 1952, ch. 608, pt. III, § 302, 66 Stat. 498, redesignated Organized Reserve Corps as Army Reserve.

Section 1023, act July 9, 1952, ch. 608, pt. III, § 303, 66 Stat. 498, related to composition of Army Reserve. See section 10104 of Title 10.

Section 1024, act July 9, 1952, ch. 608, pt. III, § 304, 66 Stat. 498, related to women in Army Reserve.

§§ 1041 to 1053. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1041, act July 9, 1952, ch. 608, pt. IV, § 401, 66 Stat. 498, established Naval Reserve as Reserve component of Navy. See section 10108 of Title 10, Armed Forces.

Section 1042, act July 9, 1952, ch. 608, pt. IV, § 402, 66 Stat. 498, established Marine Corps Reserve as reserve component of Marine Corps. See section 10109 of Title 10.

Section 1043, act July 9, 1952, ch. 608, pt. IV, § 403, 66 Stat. 498, provided that Coast Guard Reserve is reserve component of Coast Guard. See section 701 of Title 14, Coast Guard.

Section 1044, act July 9, 1952, ch. 608, pt. IV, § 404, 66 Stat. 498, provided for integration of Naval Reserve. See section 10108 of Title 10, Armed Forces.

Section 1045, act July 9, 1952, ch. 608, pt. IV, § 405, 66 Stat. 498, provided for integration of Marine Corps Reserve. See section 10109 of Title 10.

Section 1046, act July 9, 1952, ch. 608, pt. IV, § 406, 66 Stat. 499, provided for integration of Coast Guard Reserve. See section 701 of Title 14, Coast Guard.

Section 1047, act July 9, 1952, ch. 608, pt. IV, § 407, 66 Stat. 499, provided for a Naval Reserve Policy Board, a Marine Corps Reserve Policy Board, a Coast Guard Policy Board, and for membership on such boards. See sections 10303 and 10304 of Title 10, Armed Forces, and section 703 of Title 14, Coast Guard.

Section 1048, act July 9, 1952, ch. 608, pt. IV, § 409, 66 Stat. 499, authorized Secretary of Navy to prescribe a suitable flag to be known as Naval Reserve flag, and

provided class of vessels which may fly such flag. See section 7225 of Title 10, Armed Forces.

Section 1049, act July 9, 1952, ch. 608, pt. IV, § 410, 66 Stat. 499, authorized Secretary of Navy to prescribe a Naval Reserve yacht pennant and enumerated class of vessels which may fly such pennant. See section 7226 of Title 10.

Section 1050, act July 9, 1952, ch. 608, pt. IV, § 411, 66 Stat. 499, related to appointment and duty of temporary officers in Naval Reserve and Marine Corps Reserve. See section 603 of Title 10.

Section 1051, act July 9, 1952, ch. 608, pt. IV, § 412, 66 Stat. 499, related to temporary members of Coast Guard Reserve.

Section 1052, act July 9, 1952, ch. 608, pt. IV, § 413, 66 Stat. 499, provided for a Retired Reserve, membership, pay, recall to active duty. See sections 6327 and 6483 of Title 10.

Section 1053, act July 9, 1952, ch. 608, pt. IV, § 414, 66 Stat. 500, related to applicability of laws to women in Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve. See section 762 of Title 14, Coast Guard.

§§ 1071 to 1074. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1071, act July 9, 1952, ch. 608, pt. V, § 501, 66 Stat. 500, prescribed composition of Naval Militia. See section 7851 of Title 10, Armed Forces.

Section 1072, act July 9, 1952, ch. 608, pt. V, § 502, 66 Stat. 500, provided for appointment and enlistment of militia members in Naval Reserve or Marine Corps Reserve. See section 7852 of Title 10.

Section 1073, act July 9, 1952, ch. 608, pt. V, § 503, 66 Stat. 500, provided for release from militia duty upon order to active duty in service of United States. See section 7853 of Title 10.

Section 1074, act July 9, 1952, ch. 608, pt. V, § 504, 66 Stat. 500, related to availability of supplies and equipment. See section 7854 of Title 10.

§§ 1091 to 1093. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1091, act July 9, 1952, ch. 608, pt. VI, § 601, 66 Stat. 501, provided that Air National Guard and Air Force Reserve are reserve components of Air Force. See section 8062 of Title 10, Armed Forces.

Section 1092, act July 9, 1952, ch. 608, pt. VI, § 602, 66 Stat. 501, provided for composition of Air Force Reserve. See section 10110 of Title 10.

Section 1093, act July 9, 1952, ch. 608, pt. VI, § 603, 66 Stat. 501, related to women in Air Force Reserve.

§§ 1111 to 1124. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1111, act July 9, 1952, ch. 608, pt. VII, § 701, 66 Stat. 501, provided that National Guard and Air National Guard are reserve components of Army and Air Force. See sections 10105 and 10111 of Title 10, Armed Forces.

Section 1112, act July 9, 1952, ch. 608, pt. VII, § 702, 66 Stat. 501, related to composition of National Guard and Air National Guard. See sections 101, 10105, and 10111 of Title 10, Armed Forces, and section 101 of Title 32, National Guard.

Section 1113, act July 9, 1952, ch. 608, pt. VII, § 703, 66 Stat. 502, related to Federal recognition and appointments. See sections 12211 and 12212 of Title 10, Armed Forces, and sections 301, 307 of Title 32, National Guard.

Section 1114, act July 9, 1952, ch. 608, pt. VII, § 704, 66 Stat. 502, related to temporary extension of Federal recognition to any officer of National Guard or Air National Guard. See sections 12211 and 12212 of Title 10, Armed Forces, and section 308 of Title 32, National Guard.

Section 1115, act July 9, 1952, ch. 608, pt. VII, § 705, 66 Stat. 502, related to transfers from Army Reserve or Air Force Reserve to National Guard or Air National Guard. See sections 12107, 12211, and 12212 of Title 10, Armed Forces, and section 307 of Title 32, National Guard.

Section 1116, act July 9, 1952, ch. 608, pt. VII, § 706, 66 Stat. 503, related to transfers from National Guard or Air National Guard to Army Reserve or Air Force Reserve. See sections 12105, 12213, and 12214 of Title 10, Armed Forces, and section 323 of Title 32, National Guard.

Section 1117, act July 9, 1952, ch. 608, pt. VII, § 707, 66 Stat. 503, provided for automatic transfers. See sections 12106, 12213, and 12214 of Title 10, Armed Forces.

Section 1118, acts July 9, 1952, ch. 608, pt. VII, § 708, 66 Stat. 503; Sept. 3, 1954, ch. 1257, title VII, § 702(e), 68 Stat. 1189, permitted warrant officers and enlisted members of National Guard and of Air National Guard of United States to hold appointments as Reserve commissioned officers of Army or of Air Force, provided for determination of their status.

Section 1119, act July 9, 1952, ch. 608, pt. VII, § 709, 66 Stat. 503, provided for training in State status. See sections 10107, 10113, and 12401 of Title 10.

Section 1120, act July 9, 1952, ch. 608, pt. VII, § 710, 66 Stat. 503, provided for relief from National Guard duty when ordered to active duty. See section 325 of Title 32, National Guard.

Section 1121, act July 9, 1952, ch. 608, pt. VII, § 711, 66 Stat. 504, related to relief from liability for issued United States property. See section 704 of Title 32.

Section 1122, act July 9, 1952, ch. 608, pt. VII, § 712, 66 Stat. 504, related to maintenance of integrity of units, and to return to State status. See section 12404 of Title 10, Armed Forces, and sections 325 and 706 of Title 32, National Guard.

Section 1123, act July 9, 1952, ch. 608, pt. VII, § 713, 66 Stat. 504, related to Federal status of personnel ordered to active duty. See sections 12211, 12212, and 12403 of Title 10, Armed Forces.

Section 1124, act July 9, 1952, ch. 608, pt. VII, § 714, 66 Stat. 504, related to benefits for members of National Guard of United States. See section 12602 of Title 10, Armed Forces, and section 501(c) of Title 37, Pay and Allowances of the Uniformed Services.

§ 1125. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section, act July 9, 1952, ch. 608, pt. VII, § 715, as added July 30, 1956, ch. 789, § 4(b), 70 Stat. 729, related to applicability of laws to female officers, their dependents and beneficiaries and to determination of dependency.

CHAPTER 26—GIFTS FOR DEFENSE PURPOSES

§§ 1151 to 1156. Repealed. Pub. L. 101–403, title II, § 202(b), Oct. 1, 1990, 104 Stat. 874

Section 1151, act July 27, 1954, ch. 582, § 1, 68 Stat. 566, authorized Secretary of the Treasury and Administrator of General Services to accept gifts of money or property on behalf of the United States made on condition that such gifts be used for particular defense purposes. See section 2608 of Title 10, Armed Forces.

Section 1152, act July 27, 1954, ch. 582, § 2, 68 Stat. 566, authorized Secretary of the Treasury and Administrator of General Services to convert into money any gifts of property.

Section 1153, act July 27, 1954, ch. 582, § 3, 68 Stat. 566, established a special account in the Treasury for depositing gifts.

Section 1154, act July 27, 1954, ch. 582, § 4, 68 Stat. 566, directed Secretary of the Treasury to pay to various appropriation accounts any moneys in the special account which in his judgment would best effectuate the purpose of the gifts.

Section 1155, act July 27, 1954, ch. 582, § 5, 68 Stat. 566, directed Secretary of the Treasury and Administrator of General Services to consult with interested Federal agencies in carrying out this chapter.

Section 1156, act July 27, 1954, ch. 582, § 6, 68 Stat. 566, provided that nothing in this chapter was to be construed to modify or repeal the authority to accept conditional gifts under any other provision of law.

TRANSFER OF FUNDS

Section 202(c) of Pub. L. 101–403 provided that: ''Any money in the special account provided for in section 3 of the Act [former 50 U.S.C. 1153] referred to in subsection (b) [repealing this chapter] on the date of the enactment of this Act [Oct. 1, 1990] shall be credited to the Defense Cooperation Account provided for in section 2608(b) of title 10, United States Code, as added by subsection (a).''

CHAPTER 27—RESERVE OFFICER PERSONNEL PROGRAM

§§ 1181, 1182. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1181, act Sept. 3, 1954, ch. 1257, title I, § 102, 68 Stat. 1149, defined terms used in the Reserve Officer Personnel Act of 1954. See sections 101(d)(4), 12003 to 12005, 12202, 12642, 12646, 12647, and 12772 of Title 10, Armed Forces, and section 720 of Title 14, Coast Guard.

Section 1182, act Sept. 3, 1954, ch. 1257, title VII, § 703, 68 Stat. 1189, contained savings provisions. See section 723 of Title 14.

§§ 1191 to 1202. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1191, acts Sept. 3, 1954, ch. 1257, title II, § 201, 68 Stat. 1150; June 30, 1955, ch. 247, § 1(a), 69 Stat. 218, related to constructive service credit on initial appointment. See sections 3353, 5600 and 8353 of Title 10, Armed Forces, and section 727 of Title 14, Coast Guard.

Section 1192, act Sept. 3, 1954, ch. 1257, title II, § 202, 68 Stat. 1150, related to eligibility for promotion and to standards and qualifications for active status. See sections 3360, 5891, 8360, and 12642 of Title 10, Armed Forces, and section 732 of Title 14, Coast Guard.

Section 1193, act Sept. 3, 1954, ch. 1257, title II, § 203, 68 Stat. 1150, related to appointment, composition, duration of service, quorum, and oath of service of selection boards, and to communications by officers eligible for promotion. See sections 3362, 5893, 5894, 5900 and 8362 of Title 10, Armed Forces, and section 730 of Title 14, Coast Guard.

Section 1194, act Sept. 3, 1954, ch. 1257, title II, § 204, 68 Stat. 1151, authorized retention of officers with incomplete reserve service. See section 12645 of Title 10, Armed Forces.

Section 1195, acts Sept. 3, 1954, ch. 1257, title II, § 205, 68 Stat. 1151; June 30, 1955, ch. 247, § 1(b), 69 Stat. 218, related to retention of officers with eighteen or more years of service. See section 12646 of Title 10.

Section 1196, act Sept. 3, 1954, ch. 1257, title II, § 206, 68 Stat. 1152, provided for advancement in grade on retirement or transfer to Retired Reserve. See sections 12771 to 12773 of Title 10.

Section 1197, act Sept. 3, 1954, ch. 1257, title II, § 207, 68 Stat. 1152, related to grade on entry upon active duty. See section 12320 of Title 10, Armed Forces, and section 745 of Title 14, Coast Guard.

Section 1198, act Sept. 3, 1954, ch. 1257, title II, § 208, 68 Stat. 1152, provided for recommendation for promotion of officer previously removed from active status. See sections 3378, 5906 and 8378 of Title 10, Armed Forces, and section 733 of Title 14, Coast Guard.

Section 1199, act Sept. 3, 1954, ch. 1257, title II, § 209, 68 Stat. 1152, authorized the President to suspend provisions of Reserve Officer Personnel Act of 1954 in time of war or national emergency. See section 123 of Title 10, Armed Forces, section 722 of Title 14, Coast Guard, and section 111 of Title 32, National Guard.

Section 1200, act Sept. 3, 1954, ch. 1257, title II, § 210, 68 Stat. 1152, provided that there shall be no requirement for sea or foreign service for promotion of Reserve officers. See sections 3393, 5909 and 8393 of Title 10, Armed Forces, and section 779 of Title 14, Coast Guard.

Section 1201, act Sept. 3, 1954, ch. 1257, title II, § 211, 68 Stat. 1153, related to grades of Reserve officers. See section 12202 of Title 10, Armed Forces.

Section 1202, act Sept. 3, 1954, ch. 1257, title II, § 212, 68 Stat. 1153, related to active status of officers assigned to Selective Service System. See section 12647 of Title 10, Armed Forces, and section 740 of Title 14, Coast Guard. See, also, note set out under section 3843 of Title 10.

§§ 1221 to 1227. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1221, act Sept. 3, 1954, ch. 1257, title III, § 301, 68 Stat. 1153, provided that sections 1221 to 1281 should apply only to Reserve officers of the Army.

Section 1222, acts Sept. 3, 1954, ch. 1257, title III, § 302, 68 Stat. 1153; June 30, 1955, ch. 247, § 6, 69 Stat. 221, defined terms used in sections 1221 to 1281 of this title. See sections 3360, 3363, 3364, 3853, and 12007 of Title 10, Armed Forces.

Section 1223, acts Sept. 3, 1954, ch. 1257, title III, § 303, 68 Stat. 1154; June 30, 1955, ch. 247, § 7, 69 Stat. 221, provided for promotion procedures. See sections 3362, 3363 and 3854 of Title 10.

Section 1224, act Sept. 3, 1954, ch. 1257, title III, § 304, 68 Stat. 1154, related to maximum grades for female officers.

Section 1225, act Sept. 3, 1954, ch. 1257, title III, § 305, 68 Stat. 1154, related to constructive service credit. See sections 3359 and 3360 of Title 10, Armed Forces. See, also, note set out under section 3353 of Title 10.

Section 1226, act Sept. 3, 1954, ch. 1257, title III, § 306, 68 Stat. 1155, related to minimum service in grade. See section 3363 of Title 10.

Section 1227, act Sept. 3, 1954, ch. 1257, title III, § 307, 68 Stat. 1155, prescribed the authorized number of officers and for distribution in grade. See sections 12003 to 12005, 12007, and 12646 of Title 10.

§§ 1231 to 1238. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1231, act Sept. 3, 1954, ch. 1257, title III, § 308, 68 Stat. 1155, provided for promotion to first lieutenant. See section 3365 of Title 10, Armed Forces.

Section 1232, act Sept. 3, 1954, ch. 1257, title III, § 309, 68 Stat. 1156, provided for promotion to captain, major, and lieutenant colonel to fill vacancies. See section 3367 of Title 10.

Section 1233, act Sept. 3, 1954, ch. 1257, title III, § 310, 68 Stat. 1156, related to promotion to captain, major, and lieutenant colonel regardless of vacancies. See sections 3366 and 12009 of Title 10.

Section 1234, act Sept. 3, 1954, ch. 1257, title III, § 311, 68 Stat. 1157, related to second consideration for promotion. See section 3368 of Title 10.

Section 1235, act Sept. 3, 1954, ch. 1257, title III, § 312, 68 Stat. 1157, related to promotion to colonel and female field grades to fill vacancies. See section 3370 of Title 10.

Section 1236, act Sept. 3, 1954, ch. 1257, title III, § 313, 68 Stat. 1157, provided for promotion to brigadier general and major general to fill vacancies. See section 3371 of Title 10.

Section 1237, acts Sept. 3, 1954, ch. 1257, title III, § 314, 68 Stat. 1158; June 30, 1955, ch. 247, § 8, 69 Stat. 222, related to method of selection and order of promotion. See sections 3364, 3366 and 3367 of Title 10.

Section 1238, act Sept. 3, 1954, ch. 1257, title III, § 315, 68 Stat. 1158, related to total years of service for first nonunit promotion. See section 3369 of Title 10. See, also, note set out under section 3366 of Title 10.

§§ 1241 to 1243. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1241, act Sept. 3, 1954, ch. 1257, title III, § 316, 68 Stat. 1159, provided for promotion to first lieutenant. See section 3382 of Title 10, Armed Forces.

Section 1242, act Sept. 3, 1954, ch. 1257, title III, § 317, 68 Stat. 1159, provided for promotion to captain, major, lieutenant colonel, and colonel to fill unit vacancies. See section 3383 of Title 10.

Section 1243, act Sept. 3, 1954, ch. 1257, title III, § 318, 68 Stat. 1159, provided for promotion to brigadier general and major general to fill vacancies. See section 3384 of Title 10.

§§ 1251 to 1255. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1251, act Sept. 3, 1954, ch. 1257, title III, § 319, 68 Stat. 1160, related to examination for Federal recognition upon unit vacancy promotion. See section 309 of Title 32, National Guard.

Section 1252, act Sept. 3, 1954, ch. 1257, title III, § 320, 68 Stat. 1160, related to extension of automatic Federal recognition to higher grade. See section 310 of Title 32.

Section 1253, act Sept. 3, 1954, ch. 1257, title III, § 321, 68 Stat. 1160, provided for promotion to higher grade upon recognition. See section 3385 of Title 10, Armed Forces.

Section 1254, act Sept. 3, 1954, ch. 1257, title III, § 322, 68 Stat. 1161, provided for promotion upon transfer to Army Reserve. See section 12213 of Title 10.

Section 1255, act Sept. 3, 1954, ch. 1257, title III, § 323, 68 Stat. 1161, provided for appointment of adjutants general and assistant adjutants general as Reserve officers. See section 3392 of Title 10.

§§ 1261 to 1264. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1261, act Sept. 3, 1954, ch. 1257, title III, § 324, 68 Stat. 1161, related to discharge of second lieutenants. See sections 3819 and 3820 of Title 10, Armed Forces, and section 323 of Title 32, National Guard.

Section 1262, acts Sept. 3, 1954, ch. 1257, title III, § 325, 68 Stat. 1161; June 30, 1955, ch. 247, § 9, 69 Stat. 222, provided for discharge or transfer to Retired Reserve of first lieutenants, captains, and majors. See section 3846 of Title 10, Armed Forces.

Section 1263, act Sept. 3, 1954, ch. 1257, title III, § 326, 68 Stat. 1161, prescribed maximum age for discharge or transfer to Retired Reserve. See sections 3843 to 3845 and 3851 of Title 10. See, also, note set out under section 3843 of Title 10.

Section 1264, act Sept. 3, 1954, ch. 1257, title III, § 327, 68 Stat. 1162, provided for discharge or transfer to Retired Reserve for length of service. See sections 3848, 3851, and 3852 of Title 10.

§ 1265. Omitted

CODIFICATION

Section, act Sept. 3, 1954, ch. 1257, title III, § 328, 68 Stat. 1163, which provided for retention of officers to complete 20 years of service.

§§ 1266, 1267. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1266, act Sept. 3, 1954, ch. 1257, title III, § 329, 68 Stat. 1163, related to disposition of general officers ceasing to occupy position. See section 3375 of Title 10, Armed Forces.

Section 1267, act Sept. 3, 1954, ch. 1257, title III, § 330, 68 Stat. 1163, related to excess numbers in grade. See section 3850 of Title 10.

§§ 1271 to 1279. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1271, act Sept. 3, 1954, ch. 1257, title III, § 331, 68 Stat. 1164, related to applicability of sections 1221 to 1227, 1231 to 1238, and 1261 to 1267 of this title. See sections 3365, 3366, 3367, and 3369 to 3371 of Title 10, Armed Forces.

Section 1272, act Sept. 3, 1954, ch. 1257, title III, § 332, 68 Stat. 1164, related to officers eligible for vacancy promotion entering on active duty. See section 3388 of Title 10.

Section 1273, acts Sept. 3, 1954, ch. 1257, title III, § 333, 68 Stat. 1164; June 30, 1955, ch. 247, §§ 2, 10, 69 Stat. 218, 222, provided for promotion to higher grade while on active duty. See section 3380 of Title 10.

Section 1274, act Sept. 3, 1954, ch. 1257, title III, § 334, 68 Stat. 1164, provided for promotion under mandatory consideration of officers with higher temporary grade. See section 3366 of Title 10.

Section 1275, act Sept. 3, 1954, ch. 1257, title III, § 335, 68 Stat. 1165, related to appointment in appropriate higher grade after temporary appointment. See section 3389 of Title 10.

Section 1276, act Sept. 3, 1954, ch. 1257, title III, § 336, 68 Stat. 1165, related to officers of the National Guard of the United States. See section 3390 of Title 10.

Section 1277, act Sept. 3, 1954, ch. 1257, title III, § 337, 68 Stat. 1165, which related to withholding promotion on release from active duty, was also repealed by act June 30, 1955, ch. 247, § 11, 69 Stat. 222.

Section 1278, act Sept. 3, 1954, ch. 1257, title III, § 338, 68 Stat. 1165, related to promotion upon release from active duty. See section 3386 of Title 10.

Section 1279, acts Sept. 3, 1954, ch. 1257, title III, § 339, 68 Stat. 1165; June 30, 1955, ch. 247, § 1(c), 69 Stat. 218, related to retention for additional service. See note set out under section 3843 of Title 10.

§ 1281. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section, act Sept. 3, 1954, ch. 1257, title III, § 340, 68 Stat. 1166, related to assimilation of regulations relating to promotion.

§§ 1301 to 1314. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1301, act Sept. 3, 1954, ch. 1257, title IV, § 401, 68 Stat. 1166, related to applicability of sections 1301 to 1314 of this title, and defined terms. See sections 5891, 5892, and 5893 of Title 10, Armed Forces.

Section 1302, acts Sept. 3, 1954, ch. 1257, title IV, § 402, 68 Stat. 1166; June 30, 1955, ch. 247, § 3(a), 69 Stat. 218, provided for authorized numbers and distribution of officers in the Naval Reserve. See sections 5892 and 12003 to 12005 of Title 10.

Section 1303, acts Sept. 3, 1954, ch. 1257, title IV, § 403, 68 Stat. 1167; June 30, 1955, ch. 247, § 3(b), 69 Stat. 218, related to applicability of laws relating to selection for promotion of Regular officers. See sections 5892, 5893, 5895 to 5899, 5901, and 5903 of Title 10.

Section 1304, act Sept. 3, 1954, ch. 1257, title IV, § 404, 68 Stat. 1167, provided for running mates. See section 5665 of Title 10.

Section 1305, acts Sept. 3, 1954, ch. 1257, title IV, § 405, 68 Stat. 1168; June 30, 1955, ch. 247, § 3(c), (d), 69 Stat. 218, related to eligibility for promotion. See sections 5899, 5903, 5904, and 5908 of Title 10.

Section 1306, act Sept. 3, 1954, ch. 1257, title IV, § 406, 68 Stat. 1168, related to applicability of laws relating to eligibility for promotion of Regular officers. See sections 5902 and 5908 of Title 10, Armed Forces and section 209 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1307, act Sept. 3, 1954, ch. 1257, title IV, § 407, 68 Stat. 1169, related to restriction on applicability of subchapter to officers on active status. See sections 5665, 5891, and 5899 of Title 10, Armed Forces.

Section 1308, act Sept. 3, 1954, ch. 1257, title IV, § 408, 68 Stat. 1169, provided for qualifications for promotion.

Section 1309, act Sept. 3, 1954, ch. 1257, title IV, § 409, 68 Stat. 1169, provided for removal from promotion list by the President. See section 5905 of Title 10.

Section 1310, act Sept. 3, 1954, ch. 1257, title IV, § 410, 68 Stat. 1169, provided for precedence.

Section 1311, act Sept. 3, 1954, ch. 1257, title IV, § 411, 68 Stat. 1169, provided for elimination from active status. See sections 6389, 6391, 6397, 6403, and 6410 of Title 10.

Section 1312, act Sept. 3, 1954, ch. 1257, title IV, § 412, 68 Stat. 1171, provided for transfer to Retired Reserve for age, and exempted certain flag and general officers. See section 6391 of Title 10.

Section 1313, act Sept. 3, 1954, ch. 1257, title IV, § 413, 68 Stat. 1171, provided for promotions under Secretary's regulations. See sections 5910 and 5911 of Title 10.

Section 1314, act Sept. 3, 1954, ch. 1257, title IV, § 414, as added June 30, 1955, ch. 247, § 3(e), 69 Stat. 219, related to promotion of Naval and Marine officers selected for promotion prior to July 1, 1955. See note set out under section 5891 of Title 10.

§§ 1331 to 1357. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1331, acts Sept. 3, 1954, ch. 1257, title V, § 501, 68 Stat. 1171; June 30, 1955, ch. 247, § 4(a), 69 Stat. 219, related to applicability of sections 1331 to 1357 of this title, and defined terms. See sections 8360, 8363, 8366, 8368 and 8853 of Title 10, Armed Forces.

Section 1332, acts Sept. 3, 1954, ch. 1257, title V, § 502, 68 Stat. 1172; June 30, 1955, ch. 247, § 4(b), 69 Stat. 219, related to promotion and promotion service. See sections 8360 and 8363 of Title 10.

Section 1333, act Sept. 3, 1954, ch. 1257, title V, § 503, 68 Stat. 1172, related to authorized numbers and distribution of Reserve officers of the Air Force. See sections 12003 to 12005, 12009, and 12646 of Title 10.

Section 1334, acts Sept. 3, 1954, ch. 1257, title V, § 504, 68 Stat. 1173; June 30, 1955, ch. 247, § 4(c), 69 Stat. 219, related to seniority for promotion purposes. See section 8361 of Title 10.

Section 1335, act Sept. 3, 1954, ch. 1257, title V, § 505, 68 Stat. 1173, provided for constructive service credit on appointment. See sections 8358 and 8359 of Title 10.

Section 1336, acts Sept. 3, 1954, ch. 1257, title V, § 506, 68 Stat. 1173; June 30, 1955, ch. 247, § 4(d), 69 Stat. 219, related to minimum service in grade. See section 8363 of Title 10.

Section 1337, act Sept. 3, 1954, ch. 1257, title V, § 507, 68 Stat. 1174, related to time limit for consideration. See section 8363 of Title 10.

Section 1338, acts Sept. 3, 1954, ch. 1257, title V, § 508, 68 Stat. 1174; June 30, 1955, ch. 247, § 4(e), 69 Stat. 219, related to selection boards. See sections 8362 and 8363 of Title 10.

Section 1339, acts Sept. 3, 1954, ch. 1257, title V, § 509, 68 Stat. 1174; June 30, 1955, ch. 247, § 4(f), 69 Stat. 219, provided for promotion to first lieutenant, and to discharge for failure to qualify for permanent grade. See sections 8365 and 8819 of Title 10.

Section 1340, acts Sept. 3, 1954, ch. 1257, title V, § 510, 68 Stat. 1174; June 30, 1955, ch. 247, § 4(g), 69 Stat. 220, related to consideration for promotion to captain, major, and lieutenant colonel. See section 8366 of Title 10.

Section 1341, acts Sept. 3, 1954, ch. 1257, title V, § 511, 68 Stat. 1175; June 30, 1955, ch. 247, § 4(h), 69 Stat. 220, provided for promotion to captain, major or lieutenant colonel. See sections 8366 and 8380 of Title 10.

Section 1342, act Sept. 3, 1954, ch. 1257, title V, § 512, 68 Stat. 1175, related to method of selection for promotion to captain, major, or lieutenant colonel. See section 8367 of Title 10.

Section 1343, act Sept. 3, 1954, ch. 1257, title V, § 513, 68 Stat. 1176, authorized special promotions. See section 8372 of Title 10.

Section 1344, act Sept. 3, 1954, ch. 1257, title V, § 514, 68 Stat. 1176, related to promotion of officers serving in temporary grade higher than permanent grade. See section 8376 of Title 10.

Section 1345, act Sept. 3, 1954, ch. 1257, title V, § 515, 68 Stat. 1177, related to female Reserve officers.

Section 1346, act Sept. 3, 1954, ch. 1257, title V, § 516, 68 Stat. 1177, related to promotion to colonel. See section 8371 of Title 10.

Section 1347, act Sept. 3, 1954, ch. 1257, title V, § 517, 68 Stat. 1177, provided for promotion to brigadier general and major general. See sections 8373 and 8375 of Title 10.

Section 1348, act Sept. 3, 1954, ch. 1257, title V, § 518, 68 Stat. 1178, provided for removal from the promotion list by the President. See section 8377 of Title 10.

Section 1349, act Sept. 3, 1954, ch. 1257, title V, § 519, 68 Stat. 1179, related to Air National Guard. See sections 8374, 8377 and 8379 of Title 10, Armed Forces, and section 307 of Title 32, National Guard.

Section 1350, act Sept. 3, 1954, ch. 1257, title V, § 520, 68 Stat. 1179, provided for promotion to first lieutenant in Air National Guard of the United States. See sections 8365 and 8819 of Title 10, Armed Forces.

Section 1351, act Sept. 3, 1954, ch. 1257, title V, § 521, 68 Stat. 1179, provided for promotion to captain, major, and lieutenant colonel in the Air National Guard. See section 8366 of Title 10.

Section 1352, act Sept. 3, 1954, ch. 1257, title V, § 522, 68 Stat. 1180, related to deferred officers. See sections 8368 and 8846 of Title 10, Armed Forces, and section 323 of Title 32, National Guard.

Section 1353, acts Sept. 3, 1954, ch. 1257, title V, § 523, 68 Stat. 1181; June 30, 1955, ch. 247, § 4(i), 69 Stat. 220, related to maximum ages for retention in active status. See sections 8843 to 8845 of Title 10, Armed Forces.

Section 1354, acts Sept. 3, 1954, ch. 1257, title V, § 524, 68 Stat. 1182; June 30, 1955, ch. 247, § 4(j), 69 Stat. 220, related to elimination of officers for length of service. See sections 8848, 8849, 8851 and 8852 of Title 10.

Section 1355, act Sept. 3, 1954, ch. 1257, title V, § 525, 68 Stat. 1183, provided for elimination of excess officers. See section 8850 of Title 10.

Section 1356, act Sept. 3, 1954, ch. 1257, title V, § 526, 68 Stat. 1183, provided for elimination or transfer of adjutants general or assistant adjutants general. See section 8381 of Title 10.

Section 1357, act Sept. 3, 1954, ch. 1257, title V, § 527, as added June 30, 1955, ch. 247, § 4(k), 69 Stat. 220, related to civilian employees of the Air National Guard. See note set out under section 8846 of Title 10.

§§ 1381 to 1398. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569

Section 1381, act Sept. 3, 1954, ch. 1257, title VI, § 601, 68 Stat. 1183, defined terms used in sections 1381 to 1399 of this title. See section 720 of Title 14, Coast Guard.

Section 1382, act Sept. 3, 1954, ch. 1257, title VI, § 602, 68 Stat. 1183, related to applicability of sections 1381 to 1399 of this title. See section 721 of Title 14.

Section 1383, act Sept. 3, 1954, ch. 1257, title VI, § 603, 68 Stat. 1184, related to authorized numbers and distribution of officers in the Coast Guard Reserve. See section 724 of Title 14.

Section 1384, act Sept. 3, 1954, ch. 1257, title VI, § 604, 68 Stat. 1184, related to promotions and selection boards. See section 729 of Title 14.

Section 1385, act Sept. 3, 1954, ch. 1257, title VI, § 605, 68 Stat. 1185, provided for precedence. See section 725 of Title 14.

Section 1386, acts Sept. 3, 1954, ch. 1257, title VI, § 606, 68 Stat. 1185; June 30, 1955, ch. 247, § 5(a), 69 Stat. 221, related to running mates. See section 726 of Title 14.

Section 1387, act Sept. 3, 1954, ch. 1257, title VI, § 607, 68 Stat. 1186, related to promotion zones. See section 731 of Title 14.

Section 1388, acts Sept. 3, 1954, ch. 1257, title VI, § 608, 68 Stat. 1186; June 30, 1955, ch. 247, § 5(b), 69 Stat. 221, related to date of rank upon promotion. See section 736 of Title 14.

Section 1389, act Sept. 3, 1954, ch. 1257, title VI, § 609, 68 Stat. 1186, related to minimum points for consideration for promotion. See section 785 of Title 14.

Section 1390, act Sept. 3, 1954, ch. 1257, title VI, § 610, 68 Stat. 1186, related to qualifications for promotion. See section 734 of Title 14.

Section 1391, act Sept. 3, 1954, ch. 1257, title VI, § 611, 68 Stat. 1186, related to failure of selection and elimination. See section 740 of Title 14.

Section 1392, act Sept. 3, 1954, ch. 1257, title VI, § 612, 68 Stat. 1187, provided for removal from promotion list by the President. See section 738 of Title 14.

Section 1393, act Sept. 3, 1954, ch. 1257, title VI, § 613, 68 Stat. 1187, related to maximum ages for active status. See section 742 of Title 14.

Section 1394, act Sept. 3, 1954, ch. 1257, title VI, § 614, 68 Stat. 1187, related to type of promotion. See section 737 of Title 14.

Section 1395, act Sept. 3, 1954, ch. 1257, title VI, § 615, 68 Stat. 1188, related to promotion of officers serving on active duty. See section 728 of Title 14.

Section 1396, act Sept. 3, 1954, ch. 1257, title VI, § 616, 68 Stat. 1188, provided for appointment of former Navy and Coast Guard officers. See section 744 of Title 14.

Section 1397, act Sept. 3, 1954, ch. 1257, title VI, § 617, 68 Stat. 1188, provided for recall of retired officers. See section 746 of Title 14.

Section 1398, act Sept. 3, 1954, ch. 1257, title VI, § 618, 68 Stat. 1188, authorized the Secretary to promulgate regulations. See section 794 of Title 14.

§ 1399. Omitted

CODIFICATION

Section, act Sept. 3, 1954, ch. 1257, title VI, § 619, as added June 30, 1955, ch. 247, § 5(c), 69 Stat. 221, which authorized promotion of officers who were selected for promotion prior to July 1, 1955.

CHAPTER 28—STATUS OF ARMED FORCES PERSONNEL APPOINTED TO SERVICE ACADEMIES

§§ 1411 to 1414. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1570

Section 1411, act June 25, 1956, ch. 439, § 1, 70 Stat. 333, related to continuance of enlisted contract or period of obligated service and to pay allowance and benefits. See section 516 of Title 10, Armed Forces.

Section 1412, act June 25, 1956, ch. 439, § 2, 70 Stat. 333, related to reversion to enlisted status upon separation from the service academies. See section 516 of Title 10.

Section 1413, act June 25, 1956, ch. 439, § 3, 70 Stat. 333, related to charge against allowed number of personnel in Armed Forces.

Section 1414, act June 25, 1956, ch. 439, § 4, 70 Stat. 333, related to restriction on counting Academy service towards length of service as an officer.

CHAPTER 29—NATIONAL DEFENSE CONTRACTS

Sec.
1431. Authorization; official approval; Congressional action: notification of committees of certain proposed obligations, resolution of disapproval, continuity of session, computation of period.
1432. Restrictions.
1433. Public record; examination of records by Comptroller General; exemptions: exceptional conditions; reports to Congress.
1434. Reports to Congress; publication.
1435. Effective period.
1436. Repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1651 of this title; title 10 section 2410; title 42 section 2210.

§ 1431. Authorization; official approval; Congressional action: notification of committees of certain proposed obligations, resolution of disapproval, continuity of session, computation of period

The President may authorize any department or agency of the Government which exercises functions in connection with the national defense, acting in accordance with regulations prescribed by the President for the protection of the Government, to enter into contracts or into amendments or modifications of contracts heretofore or hereafter made and to make advance payments thereon, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense. The authority conferred by this section shall not be utilized to obligate the United States in an amount in excess of $50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or an assistant head or his deputy, of such department or agency, or by a Contract Adjustment Board established therein. The authority conferred by this section may not be utilized to obligate the United States in any amount in excess of $25,000,000 unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees. For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die at the end of a Congress, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or because of an adjournment sine die other than at the end of a Congress, are excluded in the computation of such 60-day period.

(Pub. L. 85–804, § 1, Aug. 28, 1958, 72 Stat. 972; Pub. L. 93–155, title VIII, § 807(a), Nov. 16, 1973, 87 Stat. 615; Pub. L. 101–510, div. A, title XIII, § 1313, Nov. 5, 1990, 104 Stat. 1670; Pub. L. 102–25, title VII, § 705(f), Apr. 6, 1991, 105 Stat. 120.)

AMENDMENTS

1991—Pub. L. 102–25, § 705(f)(1), inserted before period at end of third sentence "and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees".

Pub. L. 102–25, § 705(f)(2), in fourth sentence, inserted "at the end of a Congress" after "sine die" and ", or because of an adjournment sine die other than at the end of a Congress," after "to a day certain".

1990—Pub. L. 101–510 struck out before period at end of third sentence "and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation".

1973—Pub. L. 93–155 provided for notification of Congressional Committees with respect to certain proposed obligations, Congressional resolution of disapproval, continuity of Congressional session, and computation of period.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 705(f)(1) of Pub. L. 102–25 provided that the amendment made by that section is effective as of Nov. 6, 1990.

NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of this title]

shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(6) of this title.

OBLIGATIONS ENTERED INTO BEFORE NOVEMBER 16, 1973

Amendment by Pub. L. 93–155 not affecting the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to Nov. 16, 1973, see section 807(e) of Pub. L. 93–155, set out as a note under section 2307 of Title 10, Armed Forces.

EX. ORD. NO. 10789. CONTRACTING AUTHORITY OF GOVERNMENT AGENCIES IN CONNECTION WITH NATIONAL DEFENSE FUNCTIONS

Ex. Ord. No. 10789, Nov. 14, 1958, 23 F.R. 8897, as amended by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 11610, July 22, 1971, 36 F.R. 13755; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12919, § 904(b), June 3, 1994, 59 F.R. 29534, provided:

By virtue of the authority vested in me by the act of August 28, 1958, 72 Stat. 972, hereinafter called the act [this chapter], and as President of the United States, and deeming that such action will facilitate the national defense, it is hereby ordered as follows:

PART I—DEPARTMENT OF DEFENSE

Under such regulations, which shall be uniform to the extent practicable, as may be prescribed or approved by the Secretary of Defense:

1. The Department of Defense is authorized, within the limits of the amounts appropriated and the contract authorization provided therefor, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made, and to make advance payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts, whenever, in the judgment of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, the national defense will be facilitated thereby.

1A. (a) The limitation in paragraph 1 to amounts appropriated and the contract authorization provided therefor shall not apply to contractual provisions which provide that the United States will hold harmless and indemnify the contractor against any of the claims or losses set forth in subparagraph (b), whether resulting from the negligence or wrongful act or omission of the contractor or otherwise (except as provided in subparagraph (b)(2)). This exception from the limitations of paragraph 1 shall apply only to claims or losses arising out of or resulting from risks that the contract defines as unusually hazardous or nuclear in nature. Such a contractual provision shall be approved in advance by an official at a level not below that of the Secretary of a military department and may require each contractor so indemnified to provide and maintain financial protection of such type and in such amounts as is determined by the approving official to be appropriate under the circumstances. In deciding whether to approve the use of an indemnification provision and in determining the amount of financial protection to be provided and maintained by the indemnified contractor, the appropriate official shall take into account such factors as the availability, cost and terms of private insurance, self-insurance, other proof of financial responsibility and workmen's compensation insurance. Such approval and determination, as required by the preceding two sentences, shall be final.

(b)(1) Subparagraph (a) shall apply to claims (including reasonable expenses of litigation and settlement) or losses, not compensated by insurance or otherwise, of the following types:

(A) Claims by third persons, including employees of the contractor, for death, personal injury, or loss of, damage to, or loss of use of property;

(B) Loss of, damage to, or loss of use of property of the contractor;

(C) Loss of, damage to, or loss of use of property of the Government;

(D) Claims arising (i) from indemnification agreements between the contractor and a subcontractor or subcontractors, or (ii) from such arrangements and further indemnification arrangements between subcontractors at any tier; provided that all such arrangements were entered into pursuant to regulations prescribed or approved by the Secretaries of Defense, the Army, the Navy, or the Air Force.

(2) Indemnification and hold harmless agreements entered into pursuant to this subsection, whether between the United States and a contractor, or between a contractor and a subcontractor, or between two subcontractors, shall not cover claims or losses caused by the willful misconduct or lack of good faith on the part of any of the contractor's or subcontractor's directors or officers or principal officials which are (i) claims by the United States (other than those arising through subrogation) against the contractor or subcontractor, or (ii) losses affecting the property of such contractor or subcontractor. Regulations to be prescribed or approved by the Secretaries of Defense, the Army, the Navy or the Air Force shall define the scope of the term principal officials.

(3) The United States may discharge its obligation under a provision authorized by subparagraph (a) by making payments directly to subcontractors or to third persons to whom a contractor or subcontractor may be liable.

(c) A contractual provision made under subparagraph (a) that provides for indemnification must also provide for—

(1) notice to the United States of any claim or action against, or of any loss by, the contractor or subcontractor which is covered by such contractual provision; and

(2) control or assistance by the United States, at its election, in the settlement or defense of any such claim or action.

2. The Secretaries of Defense, the Army, the Navy, and the Air Force, respectively, may exercise the authority herein conferred and, in their discretion and by their direction, may delegate such authority to any other military or civilian officers or officials of their respective departments, and may confer upon any such military or civilian officers or officials the power to make further delegations of such authority within their respective commands or organizations: *Provided*, That the authority herein conferred shall not be utilized to obligate the United States in an amount in excess of $50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or by a departmental Contract Adjustment Board.

3. The contracts hereby authorized to be made shall include agreements of all kinds (whether in the form of letters of intent, purchase orders, or otherwise) for all types and kinds of property or services necessary, appropriate, or convenient for the national defense, or for the invention, development, or production of, or research concerning, any such property or services, including, but not limited to, aircraft, missiles, buildings, vessels, arms, armament, equipment or supplies of any kind, or any portion thereof, including plans, spare parts and equipment therefor, materials, supplies, facilities, utilities, machinery, machine tools, and any other equipment without any restriction of any kind as to type, character, location, or form.

4. The Department of Defense may by agreement modify or amend or settle claims under contracts heretofore or hereafter made, may make advance payments upon such contracts of any portion of the contract price, and may enter into agreements with contractors or obligors modifying or releasing accrued obligations of any sort, including accrued liquidated damages or liability under surety or other bonds. Amendments or modifications of contracts may be with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished hereunder, irrespective of the time or circumstances of the making, or the form, of the contract

amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

5. Proper records of all actions taken under the authority of the act shall be maintained within the Department of Defense. The Secretaries of Defense, the Army, the Navy, and the Air Force shall make such records available for public inspection except to the extent that they, or their duly authorized representatives, may respectively deem the disclosure of information therein to be detrimental to the national security.

6. The Department of Defense shall, by March 15 of each year, report to the Congress all actions taken within that department under the authority of the act during the preceding calendar year. With respect to actions which involve actual or potential cost to the United States in excess of $50,000, the report shall (except as the disclosure of such information may be deemed to be detrimental to the national security)—

(a) name the contractor;

(b) state the actual cost or estimated potential cost involved;

(c) describe the property or services involved; and

(d) state further the circumstances justifying the action taken.

7. There shall be no discrimination in any act performed hereunder against any person on the ground of race, religion, color, or national origin, and all contracts entered into, amended, or modified hereunder shall contain such nondiscrimination provision as otherwise may be required by statute or Executive order.

8. No claim against the United States arising under any purchase or contract made under the authority of the act and this order shall be assigned except in accordance with the Assignment of Claims Act of 1940 (54 Stat. 1029), as amended [section 3727 of Title 31, Money and Finance, and section 15 of Title 41, Public Contracts].

9. Advance payments shall be made hereunder only upon obtaining adequate security.

10. Every contract entered into, amended, or modified pursuant to this order shall contain a warranty by the contractor in substantially the following terms:

''The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bonafide employees or bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.''

11. Except as provided in the Act of September 27, 1966, 80 Stat. 850 [which amended section 1433 of this title, sections 2310 and 2313 of Title 10, Armed Forces, and section 254 of Title 41, Public Contracts] contracts entered into, amended, or modified pursuant to authority of this order shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to, such contracts or subcontracts. Before exercising the authority provided in the Act of September 27, 1966, 80 Stat. 850 the Secretaries of Defense, the Army, the Navy, or the Air Force, or their designees, shall first determine that all reasonable efforts have been made to include the clause prescribed above and that alternate sources of supply are not reasonably available.

12. Nothing herein contained shall be construed to constitute authorization hereunder for—

(a) the use of the cost-plus-a-percentage-of-cost system of contracting;

(b) any contract in violation of existing law relating to limitation of profits or fees;

(c) the negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;

(d) the waiver of any bid, payment, performance, or other bond required by law;

(e) the amendment of a contract negotiated under section 2304(a)(15) of Title 10 of the United States Code to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(f) the formalization of an informal commitment, unless the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, finds that at the time the commitment was made it was impracticable to use normal procurement procedures.

13. The provisions of the Walsh-Healey Act (49 Stat. 2036), as amended [sections 35 to 45 of Title 41, Public Contracts], the Davis-Bacon Act (49 Stat. 1011), as amended [sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works], the Copeland Act (48 Stat. 948), as amended, and the Eight-Hour Law (37 Stat. 137), as amended [sections 321 to 323 of Title 40], if otherwise applicable, shall apply to contracts made and performed under the authority of this order.

14. Nothing herein contained shall prejudice anything heretofore done under Executive Order No. 9001 of December 27, 1941, or Executive Order No. 10210 of February 2, 1951, or any amendments or extensions thereof, or the continuance in force of an action heretofore taken under those orders or any amendments or extensions thereof.

15. Nothing herein contained shall prejudice any other authority which the Department of Defense may have to enter into, amend, or modify contracts, and to make advance payments.

PART II—EXTENSION OF PROVISIONS OF PARAGRAPHS 1 TO 14

21. Subject to the limitations and regulations contained in paragraphs 1 to 14, inclusive, hereof, and under any regulations prescribed by him in pursuance of the provisions of paragraph 22 hereof, the head of each of the following-named agencies is authorized to perform or exercise as to his agency, independently of any Secretary referred to in the said paragraphs 1 to 14, all the functions and authority vested by those paragraphs in the Secretaries mentioned therein:

Department of the Treasury.
Department of the Interior.
Department of Agriculture.
Department of Commerce.
Department of Transportation.
Atomic Energy Commission.
General Services Administration.
National Aeronautics and Space Administration.
Tennessee Valley Authority.
Government Printing Office.
The Federal Emergency Management Agency.

22. The head of each agency named in paragraph 21 hereof is authorized to prescribe regulations governing the carrying out of the functions and authority vested with respect to his agency by the provisions of paragraph 21 hereof. Such regulations shall, to the extent practicable, be uniform with the regulations prescribed or approved by the Secretary of Defense under the provisions of Part I of this order.

23. Nothing contained herein shall prejudice any other authority which any agency named in paragraph 21 hereof may have to enter into, amend, or modify contracts and to make advance payments.

24. Nothing contained in this Part shall constitute authorization thereunder for the amendment of a contract negotiated under section 322(c)(14) of the Federal Property and Administrative Services Act of 1949 (63

Stat. 394), as amended by section 2(b) of the act of August 28, 1958, 72 Stat. 966 [section 252(c)(14) of Title 41, Public Contracts], to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder.

CROSS REFERENCES

Certification by company officials of requests for relief, see note under section 2304 of Title 10, Armed Forces.

§ 1432. Restrictions

Nothing in this chapter shall be construed to constitute authorization hereunder for—

(a) the use of the cost-plus-a-percentage-of-cost system of contracting;

(b) any contract in violation of existing law relating to limitation of profits;

(c) the negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;

(d) the waiver of any bid, payment, performance, or other bond required by law;

(e) the amendment of a contract negotiated under section 2304(a)(15)[1] of title 10 or under section 252(c)(13)[1] of title 41, to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(f) the formalization of an informal commitment, unless it is found that at the time the commitment was made it was impracticable to use normal procurement procedures.

(Pub. L. 85–804, § 2, Aug. 28, 1958, 72 Stat. 972.)

REFERENCES IN TEXT

Section 2304 of title 10, referred to in subd. (e), was amended generally by Pub. L. 98–369 and, as so amended, does not contain a subsec. (a)(15).

Section 252(c)(13) of title 41, referred to in subd. (e), was renumbered section 252(c)(14) of Title 41, Public Contracts, by Pub. L. 85–800, § 2(b), Aug. 28, 1958, 72 Stat. 966. Subsequently, Pub. L. 98–369 amended section 252 of Title 41 by striking out subsec. (c), redesignating subsec. (e) as (c)(1), and adding subsec. (c)(2).

NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(6) of this title.

§ 1433. Public record; examination of records by Comptroller General; exemptions: exceptional conditions; reports to Congress

(a) All actions under the authority of this chapter shall be made a matter of public record under regulations prescribed by the President and when deemed by him not to be detrimental to the national security.

(b) All contracts entered into, amended, or modified pursuant to authority contained in this chapter shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. Under regulations to be prescribed by the President, however, such clause may be omitted from contracts with foreign contractors or foreign subcontractors if the agency head determines, with the concurrence of the Comptroller General of the United States or his designee, that the omission will serve the best interests of the United States. However, the concurrence of the Comptroller General of the United States or his designee is not required for the omission of such clause—

(1) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination; and

(2) where the agency head determines, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served by the omission of the clause.

If the clause is omitted based on a determination under clause (2), a written report shall be furnished to the Congress.

(Pub. L. 85–804, § 3, Aug. 28, 1958, 72 Stat. 972; Pub. L. 89–607, § 3, Sept. 27, 1966, 80 Stat. 851.)

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–607 provided for exemption of certain contracts with foreign contractors from the requirement for an examination-of-records clause, such determination to be reported to Congress.

EXEMPTION OF FUNCTIONS

Functions with respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended [see Short Title note set out under section 2151 of Title 22, Foreign Relations and Intercourse], as exempt, see Ex. Ord. No. 11223, eff. May 12, 1965, 30 F.R. 6635, set out under section 2393 of Title 22.

FOREIGN CONTRACTORS

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising the authority provided in the amendment by Pub. L. 89–607 to exempt certain contracts with foreign contractors from the requirement of an examination-of-records clause, that all reasonable efforts have been made to include such examination-of-records clause, as required by par. 11 of Part I of Ex. Ord. No. 10789, and that alternate sources of supply are not reasonably available, see par. 11 of Part I of Ex. Ord. No. 10789, eff. Nov. 14, 1958, 23 F.R. 8897, as amended, set out under section 1431 of this title.

NONAPPLICABILITY OF THE NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(6) of this title.

§ 1434. Reports to Congress; publication

(a) Every department and agency acting under authority of this chapter shall, by March 15 of each year, report to Congress all such actions taken by that department or agency during the preceding calendar year. With respect to actions which involve actual or potential cost to the

[1] See References in Text note below.

United States in excess of $50,000, the report shall—

(1) name the contractor;

(2) state the actual cost or estimated potential cost involved;

(3) describe the property or services involved; and

(4) state further the circumstances justifying the action taken.

With respect to (1), (2), (3), and (4), above, and under regulations prescribed by the President, there may be omitted any information the disclosure of which would be detrimental to the national security.

(b) The Clerk of the House and the Secretary of the Senate shall cause to be published in the Congressional Record all reports submitted pursuant to this section.

(Pub. L. 85–804, § 4, Aug. 28, 1958, 72 Stat. 972.)

NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(6) of this title.

§ 1435. Effective period

This chapter shall be effective only during a national emergency declared by Congress or the President and for six months after the termination thereof or until such earlier time as Congress, by concurrent resolution, may designate.

(Pub. L. 85–804, § 5, Aug. 28, 1958, 72 Stat. 973.)

NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(6) of this title.

§ 1436. Repealed. Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314

Section, Pub. L. 91–121, title IV, § 410, Nov. 19, 1969, 83 Stat. 210; Pub. L. 94–273, §§ 4(4), 5(6), 14, Apr. 21, 1976, 90 Stat. 377, 378, related to reporting requirements for former military and civilian officials employed by defense contractors and by Department of Defense employees previously employed by defense contractors. See section 2397 of Title 10, Armed Forces.

CHAPTER 30—FEDERAL ABSENTEE VOTING ASSISTANCE

§§ 1451 to 1454. Transferred

CODIFICATION

Section 1451, acts Aug. 9, 1955, ch. 656, title I, § 101, 69 Stat. 584; June 18, 1968, Pub. L. 90–343, § 1, 82 Stat. 180, which related to State enactment of absentee voting legislation, was transferred to section 1973cc of Title 42, The Public Health and Welfare.

Section 1452, acts Aug. 9, 1955, ch. 656, title I, § 102, 69 Stat. 584; June 18, 1968, Pub. L. 90–344, § 1(1), 82 Stat. 181, which related to balloting procedures, was transferred to section 1973cc–1 of Title 42.

Section 1453, act Aug. 9, 1955, ch. 656, title I, § 103, 69 Stat. 584, which related to statistical data, was transferred to section 1973cc–2 of Title 42.

Section 1454, act Aug. 9, 1955, ch. 656, title I, § 104, as added June 18, 1968, Pub. L. 90–344, § 1(2), 82 Stat. 181, which related to personnel residing on military installations and acquisition of legal residence for voting purposes, was transferred to section 1973cc–3 of Title 42.

Sections 1451 to 1453 were formerly classified to sections 2171 to 2173 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§§ 1461 to 1465. Transferred

CODIFICATION

Section 1461, act Aug. 9, 1955, ch. 656, title II, § 201, 69 Stat. 585, which provided for a Presidential designee to coordinate and facilitate actions to discharge Federal responsibilities and to reports submitted by the designee, was transferred to section 1973cc–11 of Title 42, The Public Health and Welfare.

Section 1462, act Aug. 9, 1955, ch. 656, title II, § 202, 69 Stat. 586, which related to current absentee voting information, was transferred to section 1973cc–12 of Title 42.

Section 1463, acts Aug. 9, 1955, ch. 656, title II, § 203, 69 Stat. 586; June 18, 1968, Pub. L. 90–344, § 1(3), 82 Stat. 181, which related to cooperation of Government officials, drafts of state legislation, and printing and transmitting post cards, was transferred to section 1973cc–13 of Title 42.

Section 1464, acts Aug. 9, 1955, ch. 656, title II, § 204, 69 Stat. 586; June 18, 1968, Pub. L. 90–343, § 2, 82 Stat. 181; June 18, 1968, Pub. L. 90–344, § 1(4), (5), (6), 82 Stat. 182, which related to form and content of post card application, was transferred to section 1973cc–14 of Title 42.

Section 1465, act Aug. 9, 1955, ch. 656, title II, § 205, 69 Stat. 588, which provided for use of post card for election of Members of Congress, was transferred to section 1973cc–15 of Title 42.

Sections 1461 to 1465 were formerly classified to sections 2181 to 2185 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§§ 1471 to 1476. Transferred

CODIFICATION

Section 1471, act Aug. 9, 1955, ch. 656, title III, § 301, 69 Stat. 588, which related to definitions, was transferred to section 1973cc–21 of Title 42, The Public Health and Welfare.

Section 1472, act Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588, which related to free postage, was transferred to section 1973cc–22 of Title 42.

Section 1473, act Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588, which related to prevention of fraud and coercion, was transferred to section 1973cc–23 of Title 42.

Section 1474, act Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589, which related to acts done in good faith, was transferred to section 1973cc–24 of Title 42.

Section 1475, act Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589, which related to undue influence and free discussion, was transferred to section 1973cc–25 of Title 42.

Section 1476, act Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589, which authorized appropriations, was transferred to section 1973cc–26 of Title 42.

Sections 1471 to 1476 were formerly classified to sections 2191 to 2196 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

CHAPTER 31—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

§§ 1501 to 1509. Transferred

CODIFICATION

Section 1501, Pub. L. 86–380, § 1, Sept. 24, 1959, 73 Stat. 703, which related to establishment of the Advisory Commission on Intergovernmental Relations, was

transferred to section 4271 of Title 42, The Public Health and Welfare.

Section 1502, Pub. L. 86–380, §2, Sept. 24, 1959, 73 Stat. 703, which related to declaration of purpose, was transferred to section 4272 of Title 42.

Section 1503, Pub. L. 86–380, §3, Sept. 24, 1959, 73 Stat. 704; Pub. L. 89–733, §§1, 2, Nov. 2, 1966, 80 Stat. 1162, which related to membership of Commission, was transferred to section 4273 of Title 42.

Section 1504, Pub. L. 86–380, §4, Sept. 24, 1959, 73 Stat. 705, which related to organization of Commission, was transferred to section 4274 of Title 42.

Section 1505, Pub. L. 86–380, §5, Sept. 24, 1959, 73 Stat. 705, which related to duties of Commission, was transferred to section 4275 of Title 42.

Section 1506, Pub. L. 86–380, §6, Sept. 24, 1959, 73 Stat. 705; Pub. L. 88–426, title III, §306(e), Aug. 14, 1964, 78 Stat. 429; Pub. L. 89–733, §§3, 4, Nov. 2, 1966, 80 Stat. 1162, which related to powers of Commission and administrative provisions, was transferred to section 4276 of Title 42.

Section 1507, Pub. L. 86–380, §7, Sept. 24, 1959, 73 Stat. 706; Pub. L. 89–733, §5, Nov. 2, 1966, 80 Stat. 1162, which related to compensation of members of Commission, was transferred to section 4277 of Title 42.

Section 1508, Pub. L. 86–380, §8, Sept. 24, 1959, 73 Stat. 706, which authorized appropriations, was transferred to section 4278 of Title 42.

Section 1509, Pub. L. 86–380, §9, as added Pub. L. 89–733, §6, Nov. 2, 1966, 80 Stat. 1162, which related to receipt of funds and to consideration of these funds by Congress in making appropriations for Commission, was transferred to section 4279 of Title 42.

CHAPTER 32—CHEMICAL AND BIOLOGICAL WARFARE PROGRAM

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§1511. Reports to Congress

The Secretary of Defense shall submit an annual report to Congress on or before January 31 setting forth the amounts spent during the preceding year for research, development, test, and evaluation of all lethal and nonlethal chemical and biological agents. The Secretary shall include in each report a full explanation of each expenditure, including the purpose and the necessity therefor. The report shall include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.

(Pub. L. 91–121, title IV, §409(a), Nov. 19, 1969, 83 Stat. 209; Pub. L. 93–608, §2(4), Jan. 2, 1975, 88 Stat. 1971; Pub. L. 97–375, title II, §203(a)(2), Dec. 21, 1982, 96 Stat. 1822.)

AMENDMENTS

1982—Pub. L. 97–375 inserted provision that the report include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.

1975—Pub. L. 93–608 substituted provisions relating to annual reports for provisions relating to semiannual reports.

CHEMICAL WEAPONS STOCKPILE SAFETY CONTINGENCY PLAN

Pub. L. 101–510, div. A, title I, §173, Nov. 5, 1990, 104 Stat. 1507, provided that:

''(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan setting forth the steps the Department of Defense would take if the chemical weapons stockpile of the United States began an accelerated rate of deterioration (or experienced any other event which called into question its continued safe storage) before a comprehensive full-scale chemical weapons disposal capability is developed. The plan shall address—

''(1) the schedule that would have to be followed to put the plan into effect;

''(2) the level of funding that would be required to put the plan into effect;

''(3) the equipment and other resources that would be required to put the plan into effect; and

''(4) an assessment of how quickly the plan could be placed into effect in the event of an emergency.

''(b) UPDATES.—The Secretary shall periodically update the plan developed pursuant to subsection (a) as needed.

''(c) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the plan developed pursuant to subsection (a). The submission shall be made not later than 180 days after the date of the enactment of this Act [Nov. 5, 1990].''

EX ORD. NO. 11850. RENUNCIATION OF CERTAIN USES IN WAR OF CHEMICAL HERBICIDES AND RIOT CONTROL AGENTS

Ex. Ord. No. 11850, Apr. 8, 1975, 40 F.R. 16187, provided:

The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

(a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.

(d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

I have determined that the provisions and procedures prescribed by this Order are necessary to ensure proper implementation and observance of such national policy.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States and as Commander-in-Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

SEC. 2. The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States.

GERALD R. FORD.

§ 1512. Transportation, open air testing, and disposal; Presidential determination; report to Congress; notice to Congress and State Governors

None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, or the open air testing of any such agent within the United States, or the disposal of any such agent within the United States until the following procedures have been implemented:

(1) the Secretary of Defense (hereafter referred to in this chapter as the ''Secretary'') has determined that the transportation or testing proposed to be made is necessary in the interests of national security;

(2) the Secretary has brought the particulars of the proposed transportation, testing, or disposal to the attention of the Secretary of Health and Human Services, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation, testing, or disposal may pose and to recommend what precautionary measures are necessary to protect the public health and safety;

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including, where practicable, the detoxification of any such agent, if such agent is to be transported to or from a military installation for disposal): *Provided, however*, That in the event the Secretary finds the recommendation submitted by the Surgeon General would have the effect of preventing the proposed transportation, testing, or disposal, the President may determine that overriding considerations of national security require such transportation, testing, or disposal be conducted. Any transportation, testing, or disposal conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable; and

(4) the Secretary has provided notification that the transportation, testing, or disposal will take place, except where a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing or disposal will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

(Pub. L. 91–121, title IV, § 409(b), Nov. 19, 1969, 83 Stat. 209; Pub. L. 91–441, title V, § 506(b)(1), Oct. 7, 1970, 84 Stat. 912; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), means Pub. L. 91–121, Nov. 19, 1969, 83 Stat. 204, as amended. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1970—Pub. L. 91–441 inserted reference to the disposal of lethal chemical or biological warfare agents in the United States.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (2), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

CHEMICAL MUNITIONS TRANSPORTATION FROM OKINAWA TO THE UNITED STATES

Pub. L. 91–672, § 13, Jan. 12, 1971, 84 Stat. 2055, provided that: ''No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the

detoxification or destruction of chemical munitions only outside the United States. For purposes of this section, the term 'United States' means the several States and the District of Columbia.''

§ 1512a. Transportation of chemical munitions

(a) Prohibition of transportation across State lines

The Secretary of Defense may not transport any chemical munition that constitutes part of the chemical weapons stockpile out of the State in which that munition is located on October 5, 1994, and, in the case of any such chemical munition not located in a State on October 5, 1994, may not transport any such munition into a State.

(b) Transportation of chemical munitions not in chemical weapons stockpile

In the case of any chemical munitions that are discovered or otherwise come within the control of the Department of Defense and that do not constitute part of the chemical weapons stockpile, the Secretary of Defense may transport such munitions to the nearest chemical munitions stockpile storage facility that has necessary permits for receiving and storing such items if the transportation of such munitions to that facility—

(1) is considered by the Secretary of Defense to be necessary; and

(2) can be accomplished while protecting public health and safety.

(Pub. L. 103–337, div. A, title I, § 143, Oct. 5, 1994, 108 Stat. 2689.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

§ 1513. Deployment, storage, and disposal; notification to host country and Congress; international law violations; reports to Congress and international organizations

(1) None of the funds authorized to be appropriated by this Act or any other Act may be used for the future deployment, storage, or disposal, at any place outside the United States of—

(A) any lethal chemical or any biological warfare agent, or

(B) any delivery system specifically designed to disseminate any such agent,

unless prior notice of such deployment, storage, or disposal has been given to the country exercising jurisdiction over such place. In the case of any place outside the United States which is under the jurisdiction or control of the United States Government, no such action may be taken unless the Secretary gives prior notice of such action to the President of the Senate and the Speaker of the House of Representatives. As used in this paragraph, the term ''United States'' means the several States and the District of Columbia.

(2) None of the funds authorized by this Act or any other Act shall be used for the future testing, development, transportation, storage, or disposal of any lethal chemical or any biological warfare agent outside the United States, or for the disposal of any munitions in international waters, if the Secretary of State, after appropriate notice by the Secretary whenever any such action is contemplated, determines that such testing, development, transportation, storage, or disposal will violate international law. The Secretary of State shall report all determinations made by him under this paragraph to the President of the Senate and the Speaker of the House of Representatives, and to all appropriate international organizations, or organs thereof, in the event such report is required by treaty or other international agreement.

(Pub. L. 91–121, title IV, § 409(c), Nov. 19, 1969, 83 Stat. 210; Pub. L. 91–441, title V, § 506(b)(2), (3), Oct. 7, 1970, 84 Stat. 912.)

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (2), means Pub. L. 91–121, Nov. 19, 1969, 83 Stat. 204, as amended. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1970—Par. (1). Pub. L. 91–441, § 506(b)(2), inserted reference to disposal of lethal chemical or biological warfare agents or delivery systems for such agents.

Par. (2). Pub. L. 91–441, § 506(b)(3), inserted reference to disposal of munitions in international waters.

WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Pub. L. 100–180, div. A, title I, § 126, Dec. 4, 1987, 101 Stat. 1044, provided that: ''Chemical munitions of the United States stored in Europe on the date of the enactment of this Act [Dec. 4, 1987] should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.''

§ 1514. "United States" defined

Unless otherwise indicated, as used in this chapter the term ''United States'' means the several States the District of Columbia, and the territories and possessions of the United States.

(Pub. L. 91–121, title IV, § 409(d), Nov. 19, 1969, 83 Stat. 210.)

§ 1515. Suspension; Presidential authorization

After November 19, 1969, the operation of this chapter, or any portion thereof, may be suspended by the President during the period of any war declared by Congress and during the period of any national emergency declared by Congress or by the President.

(Pub. L. 91–121, title IV, § 409(e), Nov. 19, 1969, 83 Stat. 210.)

§ 1516. Delivery systems

None of the funds authorized to be appropriated by this Act shall be used for the procurement of delivery systems specifically designed to disseminate lethal chemical or any biological warfare agents, or for the procurement of delivery system parts or components specifically designed for such purpose, unless the President shall certify to the Congress that such procurement is essential to the safety and security of the United States.

(Pub. L. 91–441, title V, § 506(a), Oct. 7, 1970, 84 Stat. 912.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91–441, Oct. 7, 1970, 84 Stat. 912. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

Section is from the Armed Forces-Military Procurement, 1971 act, Pub. L. 91–441. Provisions similar to those in this section were contained in Pub. L. 91–121, title IV, § 409(f), Nov. 19, 1969, 83 Stat. 210.

§ 1517. Immediate disposal when health or safety are endangered

Nothing contained in this chapter shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, in emergency situations either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this chapter would clearly endanger the health or safety of any person.

(Pub. L. 91–121, title IV, § 409(g), as added Pub. L. 91–441, title V, § 506(b)(4), Oct. 7, 1970, 84 Stat. 912.)

§ 1518. Disposal; detoxification; report to Congress; emergencies

On and after October 7, 1970, no chemical or biological warfare agent shall be disposed of within or outside the United States unless such agent has been detoxified or made harmless to man and his environment unless immediate disposal is clearly necessary, in an emergency, to safeguard human life. An immediate report should be made to Congress in the event of such disposal.

(Pub. L. 91–441, title V, § 506(d), Oct. 7, 1970, 84 Stat. 913.)

CODIFICATION

Section was not enacted as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

§ 1519. Lethal binary chemical munitions

(a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this or any other Act shall be used for the purpose of production of lethal binary chemical munitions unless the President certifies to Congress that the production of such munitions is essential to the national interest and submits a full report thereon to the President of the Senate and the Speaker of the House of Representatives as far in advance of the production of such munitions as is practicable.

(b) For purposes of this section the term ''lethal binary chemical munitions'' means (1) any toxic chemical (solid, liquid, or gas) which, through its chemical properties, is intended to be used to produce injury or death to human beings, and (2) any unique device, instrument, apparatus, or contrivance, including any components or accessories thereof, intended to be used to disperse or otherwise disseminate any such toxic chemical.

(Pub. L. 94–106, title VIII, § 818, Oct. 7, 1975, 89 Stat. 544.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–106, Oct. 7, 1975, 89 Stat. 531, as amended, known as the Department of Defense Appropriation Authorization Act, 1976. Provisions authorizing the appropriation of funds are not classified to the Code. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

§ 1519a. Limitation on procurement of binary chemical weapons

(a) Notwithstanding any other provision of law, no funds may be obligated or expended after September 24, 1983, for the production of binary chemical weapons unless the President certifies to the Congress that for each 155-millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

(b)(1) Funds appropriated pursuant to the authorization of appropriations for the Army in section 101 of this Act may be used for the establishment of a production base for binary chemical munitions and for the procurement of components for 155-millimeter binary chemical artillery projectiles, but such funds may not be used for the actual production of binary chemical munitions before October 1, 1985.

(2) Notwithstanding the provisions of paragraph (1), before the production of binary chemical munitions may begin after September 30, 1985, the President must certify to Congress in writing that, in light of circumstances prevailing at the time the certification is made, the production of such munitions is essential to the national interest.

(3) For purposes of this subsection, ''production of binary chemical munitions'' means the final assembly of weapon components and the filling or loading of components with binary chemicals.

(Pub. L. 98–94, title XII, § 1233, Sept. 24, 1983, 97 Stat. 695.)

REFERENCES IN TEXT

Section 101 of this Act, referred to in subsec. (b)(1), is section 101 of Pub. L. 98–94, title I, Sept. 24, 1983, 97 Stat. 618, which was not classified to the Code.

CODIFICATION

Section was enacted as part of the Department of Defense Authorization Act, 1984, and not as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

§ 1520. Use of human subjects for testing of chemical or biological agents by Department of Defense; accounting to Congressional committees with respect to experiments and studies; notification of local civilian officials

(a) Not later than thirty days after final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense, whether directly or under contract, involving the use of human subjects for the testing of chemical or biological agents, the Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives with a full accounting of such plans for such experiment or study, and such experiment or study may then be conducted only after the expiration of the thirty-day period beginning on the date such accounting is received by such committees.

(b)(1) The Secretary of Defense may not conduct any test or experiment involving the use of any chemical or biological agent on civilian populations unless local civilian officials in the area in which the test or experiment is to be conducted are notified in advance of such test or experiment, and such test or experiment may then be conducted only after the expiration of the thirty-day period beginning on the date of such notification.

(2) Paragraph (1) shall apply to tests and experiments conducted by Department of Defense personnel and tests and experiments conducted on behalf of the Department of Defense by contractors.

(Pub. L. 95–79, title VIII, § 808, July 30, 1977, 91 Stat. 334; Pub. L. 97–375, title II, § 203(a)(1), Dec. 21, 1982, 96 Stat. 1822.)

CODIFICATION

Section was not enacted as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–375 struck out par. (1) which directed the Secretary of Defense to supply not later than Oct. 1 of each year the Committees on Armed Services of the Senate and House with a full accounting of all experiments and studies conducted by the Department of Defense in the preceding twelve month period, whether directly or under contract, which involved the use of human subjects for the testing of chemical or biological agents, and designated par. (2) as subsec. (a).

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 1521. Destruction of existing stockpile of lethal chemical agents and munitions

(a) In general

Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the ''Secretary'') shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(b) Date for completion

(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond the stockpile elimination deadline, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1) of this section.

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.

(4) If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.

(5) For purposes of this section, the term ''stockpile elimination deadline'' means December 31, 2004.

(c) Environmental protection and use of facilities

(1) In carrying out the requirement of subsection (a) of this section, the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a) of this section; and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(3) In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a) of this section. Funds available to the Department of Defense for the purpose of carrying out this section

may be used for such grants. Additionally, the Secretary may provide funds through cooperative agreements with State and local governments for the purpose of assisting them in processing, approving, and overseeing permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.

(d) Plan

(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide—

(A) an evaluation of the comparison of on-site destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e) of this section.

(e) Management organization

(1) In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) Identification of funds

Funds for carrying out this section, including funds for military construction projects necessary to carry out this section, shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.

(g) Annual report

(1) Except as provided by paragraph (3), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) Each such report shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation;

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;

(iii) the dismantling or other closure of such facilities;

(iv) research and development; and

(v) program management; and

(C) an assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

(i) an estimate on how much longer that stockpile can continue to be stored safely;

(ii) a site-by-site assessment of the safety of those agents and munitions; and

(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

(3) The Secretary shall transmit the final report under this subsection not later than 120 days following the completion of activities under this section.

(h) Prohibition on acquiring certain lethal chemical agents and munitions

(1) Except as provided in paragraph (2), no agency of the Federal Government may, after November 8, 1985, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

(i) Reaffirmation of United States position on first use of chemical agents and munitions

It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) Definitions

For purposes of this section:

(1) The term ''chemical agent and munition'' means an agent or munition that, through its chemical properties, produces lethal or other

damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term ''lethal chemical agent and munition'' means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term ''destruction'' means, with respect to chemical munitions or agents—

(A) the demolishment of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) Operational verification

(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent[1] and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

(2) Upon the successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report certifying that the prove out is completed.

(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.

(Pub. L. 99–145, title XIV, §1412, Nov. 8, 1985, 99 Stat. 747; Pub. L. 100–456, div. A, title I, §118, Sept. 29, 1988, 102 Stat. 1934; Pub. L. 101–510, div. A, title I, §§171, 172, Nov. 5, 1990, 104 Stat. 1507; Pub. L. 102–190, div. A, title I, §151, Dec. 5, 1991, 105 Stat. 1313; Pub. L. 102–484, div. A, title I, §§171, 179, Oct. 23, 1992, 106 Stat. 2341, 2347; Pub. L. 103–160, div. A, title I, §107(c), Nov. 30, 1993, 107 Stat. 1564; Pub. L. 103–337, div. A, title I, §142, Oct. 5, 1994, 108 Stat. 2689.)

CODIFICATION

Section was enacted as part of the Department of Defense Authorization Act, 1986, and not as part of Pub. L. 91–121, title IV, §409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–337 inserted '', including funds for military construction projects necessary to carry out this section,'' after ''carrying out this section'' and struck out at end ''Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.''

1993—Subsec. (c)(3). Pub. L. 103–160 substituted ''processing, approving, and overseeing'' for ''processing and approving''.

1992—Subsec. (a). Pub. L. 102–484, §179(1), struck out par. (1) designation before ''Notwithstanding'' and struck out par. (2) which read as follows: ''Such destruction shall be carried out in conjunction with the acquisition of binary chemical weapons for use by the Armed Forces.''

Subsec. (b)(5). Pub. L. 102–484, §171, substituted ''December 31, 2004'' for ''July 31, 1999''.

Subsec. (c)(1). Pub. L. 102–484, §179(2), substituted ''subsection (a)'' for ''subsection (a)(1)'' in introductory provisions.

Subsec. (g)(1). Pub. L. 102–484, §179(3)(A), substituted ''paragraph (3)'' for ''paragraph (4)''.

Subsec. (g)(2). Pub. L. 102–484, §179(3)(B), (C), redesignated par. (3) as (2), substituted ''such report'' for ''report other than the first one'' in introductory provisions, and struck out former par. (2) which read as follows: ''The first such report shall be transmitted by December 15, 1985, and shall contain—

''(A) an accounting of the United States' stockpile of lethal chemical agents and munitions on November 8, 1985; and

''(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.''

Subsec. (g)(3), (4). Pub. L. 102–484, §179(3)(D), redesignated par. (4) as (3). Former par. (3) redesignated (2).

1991—Subsec. (b)(5). Pub. L. 102–190, §151(a), substituted ''July 31, 1999'' for ''April 30, 1997''.

Subsec. (c)(3). Pub. L. 102–190, §151(b), inserted at end ''Additionally, the Secretary may provide funds through cooperative agreements with State and local governments for the purpose of assisting them in processing and approving permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.''

1990—Subsec. (a)(1). Pub. L. 101–510, §171(b), substituted ''November 8, 1985'' for ''the date of the enactment of this Act''.

Subsec. (c)(3). Pub. L. 101–510, §172, added par. (3).

Subsec. (g)(3)(C). Pub. L. 101–510, §171(a), added subpar. (C).

Subsec. (h)(1). Pub. L. 101–510, §171(b), substituted ''November 8, 1985'' for ''the date of the enactment of this Act''.

1988—Subsec. (b)(1), (3)(A). Pub. L. 100–456, §118(a)(1), substituted ''the stockpile elimination deadline'' for ''September 30, 1994''.

Subsec. (b)(3)(B). Pub. L. 100–456, §118(a)(2), substituted ''not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline'' for ''within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier''.

Subsec. (b)(4), (5). Pub. L. 100–456, §118(a)(3), added pars. (4) and (5).

Subsec. (k). Pub. L. 100–456, §118(b), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: ''The provisions of this section shall take effect on October 1, 1985.''

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS

Section 172 of Pub. L. 102–484 provided that:

[1] So in original. Probably should be ''agents''.

''(a) ESTABLISHMENT.—(1) The Secretary of the Army shall establish a citizens' commission for each State in which there is a low-volume site (as defined in section 180 [set out below]). Each such commission shall be known as the 'Chemical Demilitarization Citizens' Advisory Commission' for that State.

''(2) The Secretary shall also establish a Chemical Demilitarization Citizens' Advisory Commission for any State in which there is located a chemical weapons storage site other than a low-volume site, if the establishment of such a commission for such State is requested by the Governor of that State.

''(b) FUNCTIONS.—The Secretary of the Army shall provide for a representative from the Office of the Assistant Secretary of the Army (Installations, Logistics, and Environment) to meet with each commission under this section to receive citizen and State concerns regarding the ongoing program of the Army for the disposal of the lethal chemical agents and munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)) at each of the sites with respect to which a commission is established pursuant to subsection (a).

''(c) MEMBERSHIP.—(1) Each commission established for a State pursuant to subsection (a) shall be composed of nine members appointed by the Governor of the State. Seven of such members shall be citizens from the local affected areas in the State; the other two shall be representatives of State government who have direct responsibilities related to the chemical demilitarization program.

''(2) For purposes of paragraph (1), affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

''(d) CONFLICTS OF INTEREST.—For a period of five years after the termination of any commission, no corporation, partnership, or other organization in which a member of that commission, a spouse of a member of that commission, or a natural or adopted child of a member of that commission has an ownership interest may be awarded—

''(1) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)); or

''(2) a subcontract under such a contract.

''(e) CHAIRMAN.—The members of each commission shall designate the chairman of the commission from among the members of the commission.

''(f) MEETINGS.—Each commission shall meet with a representative from the Office of the Assistant Secretary of the Army (Installations, Logistics, and Environment) upon joint agreement between the chairman of the commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

''(g) PAY AND EXPENSES.—Members of each commission shall receive no pay or compensation for their involvement in their activities of the commission.

''(h) TERMINATION OF COMMISSIONS.—Each commission shall be terminated after the stockpile located in that commission's State has been destroyed.''

ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES; REVISED DISPOSAL CONCEPT PLAN

Sections 174 and 175 of Pub. L. 102–484, as amended by Pub. L. 103–160, div. A, title I, §155(b), Nov. 30, 1993, 107 Stat. 1579, provided that:

''SEC. 174. ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES.

''(a) REQUIREMENT FOR ALTERNATIVE PROCESS.—If the date by which chemical weapons destruction and demilitarization operations can be completed at a low-volume site using an alternative technology process evaluated by the Secretary of the Army falls within the deadline established by the amendment made by section 171 [amending this section] and the Secretary determines that the use of that alternative technology process for the destruction of chemical weapons at that site is significantly safer and equally or more cost-effective than the use of the baseline disassembly and incineration process, then the Secretary of the Army, as part of the requirement of section 1412(a) of Public Law 99–145 [subsec. (a) of this section], shall carry out the disposal of chemical weapons at that site using such alternative technology process. In addition, the Secretary may carry out the disposal of chemical weapons at sites other than low-volume sites using an alternative technology process (rather than the baseline process) after notifying Congress of the Secretary's intent to do so.

''(b) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsections (c), (e), (f), and (g) of section 1412 of Public Law 99–145 (50 U.S.C. 1521) shall apply to this section and to activities under this section in the same manner as if this section were part of that section 1412.

''SEC. 175. REVISED CHEMICAL WEAPONS DISPOSAL CONCEPT PLAN.

''(a) REVISED PLAN.—If, pursuant to section 174, the Secretary of the Army is required to implement an alternative technology process for destruction of chemical weapons at any low-volume site, the Secretary shall submit to Congress a revised chemical weapons disposal concept plan incorporating the alternative technology process and reflecting the revised stockpile disposal schedule developed under section 1412(b) of Public Law 99–145 (50 U.S.C. 1521(b)), as amended by section 171. In developing the revised concept plan, the Secretary should consider, to the maximum extent practicable, revisions to the program and program schedule that capitalize on the changes to the chemical demilitarization schedule resulting from the revised stockpile elimination deadline by reducing cost and decreasing program risk.

''(b) MATTERS TO BE INCLUDED.—The revised concept plan should include—

''(1) life-cycle cost estimates and schedules; and

''(2) a description of the facilities and operating procedures to be employed using the alternative technology process.

''(c) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsection (c) of section 1412 of Public Law 99–145 (50 U.S.C. 1521) shall apply to the revised concept plan in the same manner as if this section were part of that section 1412.

''(d) SUBMISSION OF REVISED PLAN.—If the Secretary is required to submit a revised concept plan under this section, the Secretary shall submit the revised concept plan during the 120-day period beginning at the end of the 60-day period following the submission of the report of the Secretary required under section 173 [106 Stat. 2342].

''(e) LIMITATION.—If the Secretary is required to submit a revised concept plan under this section, no funds may be obligated for procurement of equipment or for facilities planning and design activities (other than for those preliminary planning and design activities required to comply with subsection(b)(2)) for a chemical weapons disposal facility at any low-volume site at which the Secretary intends to implement an alternative technology process until the Secretary submits the revised concept plan.''

SENSE OF CONGRESS CONCERNING INTERNATIONAL CONSULTATION AND EXCHANGE PROGRAM

Section 178 of Pub. L. 102–484 provided that: ''It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should establish, with other nations that are anticipated to be signatories to an international agreement or treaty banning chemical weapons, a program under which consultation and exchange concerning chemical weapons disposal technology could be enhanced. Such a program shall be used to facilitate the exchange of technical information and advice concerning the disposal of chemical weapons among signatory nations and to further the development of safer, more cost-effective methods for the disposal of chemical weapons.''

"LOW-VOLUME SITE" DEFINED

Section 180 of Pub. L. 102–484 provided that: "For purposes of this subtitle [subtitle G (§§ 171–180) of title I of div. A of Pub. L. 102–484, amending this section and enacting provisions set out as notes above], the term 'low-volume site' means one of the three chemical weapons storage sites in the United States at which there is stored 5 percent or less of the total United States stockpile of unitary chemical weapons."

REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

Pub. L. 100–180, div. A, title I, § 125, Dec. 4, 1987, 101 Stat. 1043, provided that:

"(a) DEFINITION.—For purposes of this section, the term 'chemical stockpile demilitarization program' means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

"(b) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

"(c) DISPOSAL TECHNOLOGIES.—(1) Funds appropriated pursuant to this Act [see Tables for classification] or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

"(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

"(B) Full-scale operational verification of the technology or technologies selected for such disposal.

"(C) Maximum protection for public health and the environment.

"(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

"(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

"(1) incorporate the requirements of subsections (b) and (c); and

"(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

"(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

"(1) surveillance of the existing United States stockpile of chemical weapons; and

"(2) assessment of the condition of the stockpile."

§ 1522. Conduct of chemical and biological defense program

(a) General

The Secretary of Defense shall carry out the chemical and biological defense program of the United States in accordance with the provisions of this section.

(b) Management and oversight

In carrying out his responsibilities under this section, the Secretary of Defense shall do the following:

(1) Assign responsibility for overall coordination and integration of the chemical and biological warfare defense program and the chemical and biological medical defense program to a single office within the Office of the Secretary of Defense.

(2) Take those actions necessary to ensure close and continuous coordination between (A) the chemical and biological warfare defense program, and (B) the chemical and biological medical defense program.

(3) Exercise oversight over the chemical and biological defense program through the Defense Acquisition Board process.

(c) Coordination of program

The Secretary of Defense shall designate the Army as executive agent for the Department of Defense to coordinate and integrate research, development, test, and evaluation, and acquisition, requirements of the military departments for chemical and biological warfare defense programs of the Department of Defense.

(d) Funding

(1) The budget for the Department of Defense for each fiscal year after fiscal year 1994 shall reflect a coordinated and integrated chemical and biological defense program for the military departments.

(2) Funding requests for the program shall be set forth in the budget of the Department of Defense for each fiscal year as a separate account, with a single program element for each of the categories of research, development, test, and evaluation, acquisition, and military construction. Amounts for military construction projects may be set forth in the annual military construction budget. Funds for military construction for the program in the military construction budget shall be set forth separately from other funds for military construction projects. Funding requests for the program may not be included in the budget accounts of the military departments.

(3) All funding requirements for the chemical and biological defense program shall be reviewed by the Secretary of the Army as executive agent pursuant to subsection (c) of this section.

(e) Management review and report

(1) The Secretary of Defense shall conduct a review of the management structure of the Department of Defense chemical and biological warfare defense program, including—

(A) research, development, test, and evaluation;

(B) procurement;

(C) doctrine development;

(D) policy;

(E) training;

(F) development of requirements;

(G) readiness; and

(H) risk assessment.

(2) Not later than May 1, 1994, the Secretary shall submit to Congress a report that describes the details of measures being taken to improve joint coordination and oversight of the program and ensure a coherent and effective approach to its management.

(Pub. L. 103–160, div. A, title XVII, § 1701, Nov. 30, 1993, 107 Stat. 1853.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

CONSOLIDATION OF CHEMICAL AND BIOLOGICAL DEFENSE TRAINING ACTIVITIES

Section 1702 of Pub. L. 103–160 provided that: ''The Secretary of Defense shall consolidate all chemical and biological warfare defense training activities of the Department of Defense at the United States Army Chemical School.''

SENSE OF CONGRESS CONCERNING FEDERAL EMERGENCY PLANNING FOR RESPONSE TO TERRORIST THREATS

Section 1704 of Pub. L. 103–160 provided that: ''It is the sense of Congress that the President should strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other appropriate Federal, State, and local agencies for development of a capability for early detection and warning of and response to—

''(1) potential terrorist use of chemical or biological agents or weapons; and

''(2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease.''

§ 1523. Annual report on chemical and biological warfare defense

(a) Report required

The Secretary of Defense shall include in the annual report of the Secretary under section 113(c) of title 10 a report on chemical and biological warfare defense. The report shall assess—

(1) the overall readiness of the Armed Forces to fight in a chemical-biological warfare environment and shall describe steps taken and planned to be taken to improve such readiness; and

(2) requirements for the chemical and biological warfare defense program, including requirements for training, detection, and protective equipment, for medical prophylaxis, and for treatment of casualties resulting from use of chemical or biological weapons.

(b) Matters to be included

The report shall include information on the following:

(1) The quantities, characteristics, and capabilities of fielded chemical and biological defense equipment to meet wartime and peacetime requirements for support of the Armed Forces, including individual protective items.

(2) The status of research and development programs, and acquisition programs, for required improvements in chemical and biological defense equipment and medical treatment, including an assessment of the ability of the Department of Defense and the industrial base to meet those requirements.

(3) Measures taken to ensure the integration of requirements for chemical and biological defense equipment and material among the Armed Forces.

(4) The status of nuclear, biological, and chemical (NBC) warfare defense training and readiness among the Armed Forces and measures being taken to include realistic nuclear, biological, and chemical warfare simulations in war games, battle simulations, and training exercises.

(5) Measures taken to improve overall management and coordination of the chemical and biological defense program.

(6) Problems encountered in the chemical and biological warfare defense program during the past year and recommended solutions to those problems for which additional resources or actions by the Congress are required.

(7) A description of the chemical warfare defense preparations that have been and are being undertaken by the Department of Defense to address needs which may arise under article X of the Chemical Weapons Convention.

(8) A summary of other preparations undertaken by the Department of Defense and the On-Site Inspection Agency to prepare for and to assist in the implementation of the convention, including activities such as training for inspectors, preparation of defense installations for inspections under the convention using the Defense Treaty Inspection Readiness Program, provision of chemical weapons detection equipment, and assistance in the safe transportation, storage, and destruction of chemical weapons in other signatory nations to the convention.

(Pub. L. 103–160, div. A, title XVII, § 1703, Nov. 30, 1993, 107 Stat. 1854.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

§ 1524. Agreements to provide support to vaccination programs of Department of Health and Human Services

(a) Agreements authorized

The Secretary of Defense may enter into agreements with the Secretary of Health and Human Services to provide support for vaccination programs of the Secretary of Health and Human Services in the United States through use of the excess peacetime biological weapons defense capability of the Department of Defense.

(b) Report

Not later than February 1, 1994, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility of providing Department of Defense support for vaccination programs under subsection (a) of this section and shall identify resource requirements that are not within the Department's capability.

(Pub. L. 103–160, div. A, title XVII, § 1705, Nov. 30, 1993, 107 Stat. 1856.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of Pub. L. 91–121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives, see section 3 of Pub. L. 103–160, 107 Stat. 1562.

CHAPTER 33—WAR POWERS RESOLUTION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 127a, 12304; title 22 section 3426.

§1541. Purpose and policy

(a) Congressional declaration

It is the purpose of this chapter to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Congressional legislative power under necessary and proper clause

Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer hereof.

(c) Presidential executive power as Commander-in-Chief; limitation

The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

(Pub. L. 93–148, §2, Nov. 7, 1973, 87 Stat. 555.)

EFFECTIVE DATE

Section 10 of Pub. L. 93–148 provided that: ''This joint resolution [enacting this chapter] shall take effect on the date of its enactment [Nov. 7, 1973].''

SHORT TITLE

Section 1 of Pub. L. 93–148 provided that: ''This joint resolution [enacting this chapter] may be cited as the 'War Powers Resolution'.''

INVOLVEMENT OF ARMED FORCES IN HAITI

Pub. L. 103–423, Oct. 25, 1994, 108 Stat. 4358, provided that:

''SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

''It is the sense of Congress that—

''(a) the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

''(b) the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti;

''(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

''(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

''(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

''SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

''The President shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives (hereafter, 'Congress') not later than seven days after enactment of this resolution [Oct. 25, 1994] a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

''SEC. 3. REPORT ON THE SITUATION IN HAITI.

''Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

''(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

''(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(e) of this resolution;

''(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

''(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

''(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

''(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

''(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

''(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

''(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

''(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

''(g) a description of the situation in Haiti, including—

''(1) the security situation;

''(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

''(3) progress toward holding free and fair parliamentary elections;

''(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

''(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

''(2) troop commitments by other nations to UNMIH;

''(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

''(4) proposed or actual participation of United States Armed Forces in UNMIH;

''(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

''(6) the anticipated duration of UNMIH.

''SEC. 4. REPORT ON HUMAN RIGHTS.

''Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990, to December 15, 1994.

''SEC. 5. REPORT ON UNITED STATES AGREEMENTS.

''Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

''SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.

''Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.''

INVOLVEMENT OF ARMED FORCES IN SOMALIA

Pub. L. 103–160, div. A, title XV, § 1512, Nov. 30, 1993, 107 Stat. 1840, provided that:

''(a) SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD SOMALIA.—

''(1) Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

''(2) Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of 'a secure environment for humanitarian relief operations,' as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

''(b) STATEMENT OF CONGRESSIONAL POLICY.—

''(1) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding United States policy with respect to Somalia, including in particular the deployment of United States Armed Forces in that country, whether under United Nations or United States command.

''(2) PLANNING.—The United States shall facilitate the assumption of the functions of United States forces by the United Nations.

''(3) REPORTING REQUIREMENT.—

''(A) The President shall ensure that the goals and objectives supporting deployment of United States forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

''(B) Such report shall include the status of planning to transfer the function contained in paragraph (2).

''(4) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (3) Congress believes the President should by November 15, 1993, seek and receive congressional authorization in order for the deployment of United States forces to Somalia to continue.''

DURATION OF AUTHORIZATION FOR UNITED STATES PARTICIPATION IN MULTINATIONAL FORCE IN SOMALIA

Pub. L. 103–139, title VIII, § 8151, Nov. 11, 1993, 107 Stat. 1475, provided that:

''(a) The Congress finds that—

''(1) the United States entered into Operation Restore Hope in December of 1992 for the purpose of relieving mass starvation in Somalia;

''(2) the original mission in Somalia, to secure the environment for humanitarian relief, had the unani-

mous support of the Senate, expressed in Senate Joint Resolution 45, passed on February 4, 1993, and was endorsed by the House when it amended S.J. Res. 45 on May 25, 1993;

''(3) Operation Restore Hope was being successfully accomplished by United States forces, working with forces of other nations, when it was replaced by the UNOSOM II mission, assumed by the United Nations on May 4, 1993, pursuant to United Nations Resolution 814 of March 26, 1993;

''(4) neither the expanded United Nations mission of national reconciliation, nor the broad mission of disarming the clans, nor any other mission not essential to the performance of the humanitarian mission has been endorsed or approved by the Senate;

''(5) the expanded mission of the United Nations was, subsequent to an attack upon United Nations forces, diverted into a mission aimed primarily at capturing certain persons, pursuant to United Nations Security Council Resolution 837, of June 6, 1993;

''(6) the actions of hostile elements in Mogadishu, and the United Nations mission to subdue those elements, have resulted in open conflict in the city of Mogadishu and the deaths of 29 Americans, at least 159 wounded, and the capture of American personnel; and

''(7) during fiscal years 1992 and 1993, the United States incurred expenses in excess of $1,100,000,000 to support operations in Somalia.

''(b) The Congress approves the use of United States Armed Forces in Somalia for the following purposes:

''(1) The protection of United States personnel and bases; and

''(2) The provision of assistance in securing open lines of communication for the free flow of supplies and relief operations through the provision of—

''(A) United States military logistical support services to United Nations forces; and

''(B) United States combat forces in a security role and as an interim force protection supplement to United Nations units: *Provided*, That funds appropriated, or otherwise made available, in this or any other Act to the Department of Defense may be obligated for expenses incurred only through March 31, 1994, for the operations of United States Armed Forces in Somalia: *Provided further*, That such date may be extended if so requested by the President and authorized by the Congress: *Provided further*, That funds may be obligated beyond March 31, 1994 to support a limited number of United States military personnel sufficient only to protect American diplomatic facilities and American citizens, and noncombat personnel to advise the United Nations commander in Somalia: *Provided further*, That United States combat forces in Somalia shall be under the command and control of United States commanders under the ultimate direction of the President of the United States: *Provided further*, That the President should intensify efforts to have United Nations member countries immediately deploy additional troops to Somalia to fulfill previous force commitments made to the United Nations and to deploy additional forces to assume the security missions of United States Armed Forces: *Provided further*, That—

''(i) captured United States personnel in Somalia should be treated humanely and fairly; and

''(ii) the United States and the United Nations should make all appropriate efforts to ensure the immediate and safe return of any future captured United States personnel: *Provided further*, That the President should ensure that, at all times, United States military personnel in Somalia have the capacity to defend themselves, and American citizens: *Provided further*, That the United States Armed Forces should remain deployed in or around Somalia until such time as all American service personnel missing in action in Somalia are accounted for, and all American service personnel held prisoner in Somalia are released: *Provided further*, That nothing herein shall be deemed to restrict in any way the authority of the President under the Constitution to protect the lives of Americans.''

AUTHORIZATION FOR USE OF MILITARY FORCE AGAINST IRAQ RESOLUTION

Pub. L. 102–1, Jan. 14, 1991, 105 Stat. 3, provided that:

''Whereas the Government of Iraq without provocation invaded and occupied the territory of Kuwait on August 2, 1990;

''Whereas both the House of Representatives (in H.J. Res. 658 of the 101st Congress) and the Senate (in S. Con. Res. 147 of the 101st Congress) have condemned Iraq's invasion of Kuwait and declared their support for international action to reverse Iraq's aggression;

''Whereas, Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs and its demonstrated willingness to use weapons of mass destruction pose a grave threat to world peace;

''Whereas the international community has demanded that Iraq withdraw unconditionally and immediately from Kuwait and that Kuwait's independence and legitimate government be restored;

''Whereas the United Nations Security Council repeatedly affirmed the inherent right of individual or collective self-defense in response to the armed attack by Iraq against Kuwait in accordance with Article 51 of the United Nations Charter;

''Whereas, in the absence of full compliance by Iraq with its resolutions, the United Nations Security Council in Resolution 678 has authorized member states of the United Nations to use all necessary means, after January 15, 1991, to uphold and implement all relevant Security Council resolutions and to restore international peace and security in the area; and

''Whereas Iraq has persisted in its illegal occupation of, and brutal aggression against Kuwait: Now, therefore, be it

''Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

''SECTION 1. SHORT TITLE.

''This joint resolution may be cited as the 'Authorization for Use of Military Force Against Iraq Resolution'.

''SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

''(a) AUTHORIZATION.—The President is authorized, subject to subsection (b), to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.

''(b) REQUIREMENT FOR DETERMINATION THAT USE OF MILITARY FORCE IS NECESSARY.—Before exercising the authority granted in subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

''(1) the United States has used all appropriate diplomatic and other peaceful means to obtain compliance by Iraq with the United Nations Security Council resolutions cited in subsection (a); and

''(2) that those efforts have not been and would not be successful in obtaining such compliance.

''(c) WAR POWERS RESOLUTION REQUIREMENTS.—

''(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution [50 U.S.C. 1547(a)(1)], the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution [50 U.S.C. 1544(b)].

''(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution [50 U.S.C. 1541 et seq.].

''SEC. 3. REPORTS TO CONGRESS.

''At least once every 60 days, the President shall submit to the Congress a summary on the status of efforts

to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council in response to Iraq's aggression.''

INTRODUCTION OF UNITED STATES ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

Pub. L. 98–525, title III, § 310, Oct. 19, 1984, 98 Stat. 2516, provided that:

''(a) The Congress makes the following findings:

''(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

''(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

''(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

''(b) It is the sense of Congress that—

''(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

''(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution [this chapter].''

Pub. L. 98–473, title I, § 101(h) [title VIII, § 8101], Oct. 12, 1984, 98 Stat. 1904, 1942, provided that:

''(a) The Congress makes the following findings:

''(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

''(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

''(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

''(b) It is the sense of Congress that—

''(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

''(2) if circumstances change from those present on the date of the enactment of this Act [Oct. 12, 1984] and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution [this chapter].''

MULTINATIONAL FORCE IN LEBANON RESOLUTION

Pub. L. 98–119, Oct. 12, 1983, 97 Stat. 805, provided that:

''SHORT TITLE

''SECTION 1. This joint resolution may be cited as the 'Multinational Force in Lebanon Resolution'.

''FINDINGS AND PURPOSE

''SEC. 2. (a) The Congress finds that—

''(1) the removal of all foreign forces from Lebanon is an essential United States foreign policy objective in the Middle East;

''(2) in order to restore full control by the Government of Lebanon over its own territory, the United States is currently participating in the multinational peacekeeping force (hereafter in this resolution referred to as the 'Multinational Force in Lebanon') which was established in accordance with the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982;

''(3) the Multinational Force in Lebanon better enables the Government of Lebanon to establish its unity, independence, and territorial integrity;

''(4) progress toward national political reconciliation in Lebanon is necessary; and

''(5) United States Armed Forces participating in the Multinational Force in Lebanon are now in hostilities requiring authorization of their continued presence under the War Powers Resolution [50 U.S.C. 1541 et seq.].

''(b) The Congress determines that the requirements of section 4(a)(1) of the War Powers Resolution [50 U.S.C. 1543(a)(1)] became operative on August 29, 1983. Consistent with section 5(b) of the War Powers Resolution [50 U.S.C. 1544(b)], the purpose of this joint resolution is to authorize the continued participation of United States Armed Forces in the Multinational Force in Lebanon.

''(c) The Congress intends this joint resolution to constitute the necessary specific statutory authorization under the War Powers Resolution for continued participation by United States Armed Forces in the Multinational Force in Lebanon.

''AUTHORIZATION FOR CONTINUED PARTICIPATION OF UNITED STATES ARMED FORCES IN THE MULTINATIONAL FORCE IN LEBANON

''SEC. 3. The President is authorized, for purposes of section 5(b) of the War Powers Resolution [50 U.S.C. 1544(b)], to continue participation by United States Armed Forces in the Multinational Force in Lebanon, subject to the provisions of section 6 of this joint resolution. Such participation shall be limited to performance of the functions, and shall be subject to the limitations, specified in the agreement establishing the Multinational Force in Lebanon as set forth in the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982, except that this shall not preclude such protective measures as may be necessary to ensure the safety of the Multinational Force in Lebanon.

''REPORTS TO THE CONGRESS

''SEC. 4. As required by section 4(c) of the War Powers Resolution [50 U.S.C. 1543(c)], the President shall report periodically to the Congress with respect to the situation in Lebanon, but in no event shall he report less often than once every three months. In addition to providing the information required by that section on the status, scope, and duration of hostilities involving United States Armed Forces, such reports shall describe in detail—

''(1) the activities being performed by the Multinational Force in Lebanon;

''(2) the present composition of the Multinational Force in Lebanon, including a description of the responsibilities and deployment of the armed forces of each participating country;

''(3) the results of efforts to reduce and eventually eliminate the Multinational Force in Lebanon;

''(4) how continued United States participation in the Multinational Force in Lebanon is advancing United States foreign policy interests in the Middle East; and

''(5) what progress has occurred toward national political reconciliation among all Lebanese groups.

''STATEMENTS OF POLICY

''SEC. 5. (a) The Congress declares that the participation of the armed forces of other countries in the Multinational Force in Lebanon is essential to maintain the international character of the peacekeeping function in Lebanon.

''(b) The Congress believes that it should continue to be the policy of the United States to promote continuing discussions with Israel, Syria, and Lebanon with the objective of bringing about the withdrawal of all foreign troops from Lebanon and establishing an environment which will permit the Lebanese Armed Forces to carry out their responsibilities in the Beirut area.

''(c) It is the sense of the Congress that, not later than one year after the date of enactment of this joint resolution [Oct. 12, 1983] and at least once a year thereafter, the United States should discuss with the other members of the Security Council of the United Nations the establishment of a United Nations peacekeeping force to assume the responsibilities of the Multinational Force in Lebanon. An analysis of the implications of the response to such discussions for the continuation of the Multinational Force in Lebanon shall be included in the reports required under paragraph (3) of section 4 of this resolution.

''DURATION OF AUTHORIZATION FOR UNITED STATES PARTICIPATION IN THE MULTINATIONAL FORCE IN LEBANON

''SEC. 6. The participation of United States Armed Forces in the Multinational Force in Lebanon shall be authorized for purposes of the War Powers Resolution [50 U.S.C. 1541 et seq.] until the end of the eighteen-month period beginning on the date of enactment of this resolution [Oct. 12, 1983] unless the Congress extends such authorization, except that such authorization shall terminate sooner upon the occurrence of any one of the following:

''(1) the withdrawal of all foreign forces from Lebanon, unless the President determines and certifies to the Congress that continued United States Armed Forces participation in the Multinational Force in Lebanon is required after such withdrawal in order to accomplish the purposes specified in the September 25, 1982, exchange of letters providing for the establishment of the Multinational Force in Lebanon; or

''(2) the assumption by the United Nations or the Government of Lebanon of the responsibilities of the Multinational Force in Lebanon; or

''(3) the implementation of other effective security arrangements in the area; or

''(4) the withdrawal of all other countries from participation in the Multinational Force in Lebanon.

''INTERPRETATION OF THIS RESOLUTION

''SEC. 7. (a) Nothing in this joint resolution shall preclude the President from withdrawing United States Armed Forces participation in the Multinational Force in Lebanon if circumstances warrant, and nothing in this joint resolution shall preclude the Congress by joint resolution from directing such a withdrawal.

''(b) Nothing in this joint resolution modifies, limits, or supersedes any provision of the War Powers Resolution [50 U.S.C. 1541 et seq.] or the requirement of section 4(a) of the Lebanon Emergency Assistance Act of 1983, relating to congressional authorization for any substantial expansion in the number or role of United States Armed Forces in Lebanon.

''CONGRESSIONAL PRIORITY PROCEDURES FOR AMENDMENTS

''SEC. 8. (a) Any joint resolution or bill introduced to amend or repeal this Act shall be referred to the Committee on Foreign Affairs [now Committee on International Relations] of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be. Such joint resolution or bill shall be considered by such committee within fifteen calendar days and may be reported out, together with its recommendations, unless such House shall otherwise determine pursuant to its rules.

''(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

''(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by the yeas and nays.

''(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.''

ADHERENCE TO WAR POWERS RESOLUTION

Pub. L. 96–342, title X, § 1008, Sept. 8, 1980, 94 Stat. 1122, provided that: ''Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93–148) [this chapter], United States foreign and defense policies could be subject to misinterpretation; it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.''

§ 1542. Consultation; initial and regular consultations

The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

(Pub. L. 93–148, § 3, Nov. 7, 1973, 87 Stat. 555.)

§ 1543. Reporting requirement

(a) Written report; time of submission; circumstances necessitating submission; information reported

In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) Other information reported

The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Periodic reports; semiannual requirement

Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

(Pub. L. 93–148, § 4, Nov. 7, 1973, 87 Stat. 555.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1544 of this title.

§ 1544. Congressional action

(a) Transmittal of report and referral to Congressional committees; joint request for convening Congress

Each report submitted pursuant to section 1543(a)(1) of this title shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Termination of use of United States Armed Forces; exceptions; extension period

Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 1543(a)(1) of this title, whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Concurrent resolution for removal by President of United States Armed Forces

Notwithstanding subsection (b) of this section, at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

(Pub. L. 93–148, § 5, Nov. 7, 1973, 87 Stat. 556.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1545, 1546 of this title.

§ 1545. Congressional priority procedures for joint resolution or bill

(a) Time requirement; referral to Congressional committee; single report

Any joint resolution or bill introduced pursuant to section 1544(b) of this title at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Pending business; vote

Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Referral to other House committee

Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) of this section and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 1544(b) of this title. The joint resolution or bill so re-

ported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) Disagreement between Houses

In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 1544(b) of this title. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

(Pub. L. 93–148, § 6, Nov. 7, 1973, 87 Stat. 557.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 1546. Congressional priority procedures for concurrent resolution

(a) Referral to Congressional committee; single report

Any concurrent resolution introduced pursuant to section 1544(c) of this title shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Pending business; vote

Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Referral to other House committee

Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) of this section and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) Disagreement between Houses

In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

(Pub. L. 93–148, § 7, Nov. 7, 1973, 87 Stat. 557.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 1546a. Expedited procedures for certain joint resolutions and bills

Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.

(Pub. L. 98–164, title X, § 1013, Nov. 22, 1983, 97 Stat. 1062.)

REFERENCES IN TEXT

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in text, is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which was not classified to the Code.

CODIFICATION

Section was enacted as part of the Department of State Authorization Act, Fiscal Years 1984 and 1985, and not as part of the War Powers Resolution which comprises this chapter.

§ 1547. Interpretation of joint resolution

(a) Inferences from any law or treaty

Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before November 7, 1973), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute

specific statutory authorization within the meaning of this chapter; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this chapter.

(b) Joint headquarters operations of high-level military commands

Nothing in this chapter shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to November 7, 1973, and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) Introduction of United States Armed Forces

For purposes of this chapter, the term ''introduction of United States Armed Forces'' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Constitutional authorities or existing treaties unaffected; construction against grant of Presidential authority respecting use of United States Armed Forces

Nothing in this chapter—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this chapter.

(Pub. L. 93–148, § 8, Nov. 7, 1973, 87 Stat. 558.)

§ 1548. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to any other person or circumstance shall not be affected thereby.

(Pub. L. 93–148, § 9, Nov. 7, 1973, 87 Stat. 559.)

CHAPTER 34—NATIONAL EMERGENCIES

SUBCHAPTER I—TERMINATING EXISTING DECLARED EMERGENCIES

Sec.
1601. Termination of existing declared emergencies.

SUBCHAPTER II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

1621. Declaration of national emergency by President; publication in Federal Register; effect on other laws; superseding legislation.
1622. National emergencies.
(a) Termination methods.
(b) Termination review of national emergencies by Congress.
(c) Joint resolution; referral to Congressional committees; conference committee in event of disagreement; filing of report; termination procedure deemed part of rules of House and Senate.
(d) Automatic termination of national emergency; continuation notice from President to Congress; publication in Federal Register.

SUBCHAPTER III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

1631. Declaration of national emergency by Executive order; authority; publication in Federal Register; transmittal to Congress.

SUBCHAPTER IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF PRESIDENT

1641. Accountability and reporting requirements of President.
(a) Maintenance of file and index of Presidential orders, rules and regulations during national emergency.
(b) Presidential orders, rules and regulations; transmittal to Congress.
(c) Expenditures during national emergency; Presidential reports to Congress.

SUBCHAPTER V—APPLICATION TO POWERS AND AUTHORITIES OF OTHER PROVISIONS OF LAW AND ACTIONS TAKEN THEREUNDER

1651. Other laws, powers and authorities conferred thereby, and actions taken thereunder; Congressional studies.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1706 of this title; title 10 section 2808; title 33 section 2293.

SUBCHAPTER I—TERMINATING EXISTING DECLARED EMERGENCIES

§ 1601. Termination of existing declared emergencies

(a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, as a result of the existence of any declaration of national emergency in effect on September 14, 1976, are terminated two years from September 14, 1976. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words ''any national emergency in effect'' means a general declaration of emergency made by the President.

(Pub. L. 94–412, title I, § 101, Sept. 14, 1976, 90 Stat. 1255.)

SHORT TITLE

Section 1 of Pub. L. 94–412 provided: ''That this Act [enacting this chapter, amending section 1481 of Title 8,

Aliens and Nationality, and section 2667 of Title 10, Armed Forces, repealing section 249 of Title 12, Banks and Banking, section 831d of Title 16, Conservation, section 1383 of Title 18, Crimes and Criminal Procedure, section 211b of Title 42, The Public Health and Welfare, and section 1742 of the Appendix to this title, and enacting provisions set out below] may be cited as the 'National Emergencies Act'.''

SAVINGS PROVISION

Section 501(h) of Pub. L. 94–412 provided that: ''This section [amending section 1481 of Title 8, Aliens and Nationality and section 2667 of Title 10, Armed Forces, and repealing section 249 of Title 12, Banks and Banking, section 831d of Title 16, Conservation, section 1383 of Title 18, Crimes and Criminal Procedure, and section 211b of Title 42, The Public Health and Welfare] shall not affect—

''(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

''(2) any action or proceeding based on any act committee prior to repeal; or

''(3) any rights or duties that matured or penalties that were incurred prior to repeal.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1706 of this title.

SUBCHAPTER II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1706 of this title; title 10 sections 123, 527, 644, 12006; title 42 section 8374.

§ 1621. Declaration of national emergency by President; publication in Federal Register; effect on other laws; superseding legislation

(a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this chapter. No law enacted after September 14, 1976, shall supersede this subchapter unless it does so in specific terms, referring to this subchapter, and declaring that the new law supersedes the provisions of this subchapter.

(Pub. L. 94–412, title II, § 201, Sept. 14, 1976, 90 Stat. 1255.)

§ 1622. National emergencies

(a) Termination methods

Any national emergency declared by the President in accordance with this subchapter shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Termination review of national emergencies by Congress

Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c) Joint resolution; referral to Congressional committees; conference committee in event of disagreement; filing of report; termination procedure deemed part of rules of House and Senate

(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of con-

ference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 1651(b) of this title are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Automatic termination of national emergency; continuation notice from President to Congress; publication in Federal Register

Any national emergency declared by the President in accordance with this subchapter, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

(Pub. L. 94–412, title II, § 202, Sept. 14, 1976, 90 Stat. 1255; Pub. L. 99–93, title VIII, § 801, Aug. 16, 1985, 99 Stat. 448.)

AMENDMENTS

1985—Subsecs. (a) to (c). Pub. L. 99–93 substituted ''there is enacted into law a joint resolution terminating the emergency'' for ''Congress terminates the emergency by concurrent resolution'' in par. (1) of subsec. (a), and substituted ''joint resolution'' for ''concurrent resolution'' wherever appearing in second sentence of subsec. (a), subsec. (b), and pars. (1) to (4) of subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1706 of this title.

SUBCHAPTER III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

§ 1631. Declaration of national emergency by Executive order; authority; publication in Federal Register; transmittal to Congress

When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

(Pub. L. 94–412, title III, § 301, Sept. 14, 1976, 90 Stat. 1257.)

RELEASE OF AMERICAN HOSTAGES IN IRAN

For provisions relating to the release of the American hostages in Iran, see Ex. Ord. Nos. 12276 to 12285, Jan. 19, 1981, 46 F.R. 7913 to 7932, set out under section 1701 of this title.

SUBCHAPTER IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF PRESIDENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1703 of this title.

§ 1641. Accountability and reporting requirements of President

(a) Maintenance of file and index of Presidential orders, rules and regulations during national emergency

When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) Presidential orders, rules and regulations; transmittal to Congress

All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) Expenditures during national emergency; Presidential reports to Congress

When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declaration, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

(Pub. L. 94–412, title IV, § 401, Sept. 14, 1976, 90 Stat. 1257.)

SUBCHAPTER V—APPLICATION TO POWERS AND AUTHORITIES OF OTHER PROVISIONS OF LAW AND ACTIONS TAKEN THEREUNDER

§ 1651. Other laws, powers and authorities conferred thereby, and actions taken thereunder; Congressional studies

(a) The provisions of this chapter shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Repealed. Pub. L. 95–223, title I, §101(d), Dec. 28, 1977, 91 Stat. 1625.

(2) Act of April 28, 1942 (40 U.S.C. 278b);[1]

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3727(a)–(e)(1) of title 31;

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85–804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431–1435);

(7) Section 2304(a)(1)[1] of title 10;[2]

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after September 14, 1976.

(Pub. L. 94–412, title V, §502, Sept. 14, 1976, 90 Stat. 1258; Pub. L. 95–223, title I, §101(d), Dec. 28, 1977, 91 Stat. 1625; Pub. L. 96–513, title V, §507(b), Dec. 12, 1980, 94 Stat. 2919.)

REFERENCES IN TEXT

Act of April 28, 1942, referred to in subsec. (a)(2), is act Apr. 28, 1942, ch. 249, 56 Stat. 247, which was classified to section 278b of Title 40, Public Buildings, Property, and Works, and was omitted from the Code.

Act of June 30, 1949 (41 U.S.C. 252), referred to in subsec. (a)(3), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

Section 2304(a)(1) of title 10, referred to in subsec. (a)(7), originally authorized purchases or contracts without formal advertising when necessary in the public interest during a national emergency declared by Congress or the President, and as amended generally by Pub. L. 98–369 now sets forth the competition requirements for procurement of property or services.

CODIFICATION

In subsec. (a)(4), ''Section 3727(a)–(e)(1) of title 31'' substituted for ''Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203)'' on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1980—Subsec. (a)(8). Pub. L. 96–513 struck out par. (8) which made reference to sections 3313, 6386(c), and 8313 of title 10.

1977—Subsec. (a)(1). Pub. L. 95–223 struck out par. (1) which read as follows: ''Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1622 of this title.

CHAPTER 35—INTERNATIONAL EMERGENCY ECONOMIC POWERS

Sec.
1701. Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities.
1702. Presidential authorities.
1703. Consultation and reports.
(a) Consultation with Congress.
(b) Report to Congress upon exercise of Presidential authorities.
(c) Periodic follow-up reports.
(d) Supplemental requirements.
1704. Authority to issue regulations.
1705. Penalties.
1706. Savings provisions.
(a) Termination of national emergencies pursuant to National Emergencies Act.
(b) Congressional termination of national emergencies by concurrent resolution.
(c) Supplemental savings provisions; supersedure of inconsistent provisions.
(d) Periodic reports to Congress.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2170, 2405, 2410 of the Appendix to this title; title 12 sections 3409, 3413, 4407; title 19 section 2581; title 22 section 6004; title 26 section 911.

§1701. Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities

(a) Any authority granted to the President by section 1702 of this title may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

(Pub. L. 95–223, title II, §202, Dec. 28, 1977, 91 Stat. 1626.)

SHORT TITLE

Section 201 of title II of Pub. L. 95–223 provided that: ''This title [enacting this chapter] may be cited as the 'International Emergency Economic Powers Act'.''

SEPARABILITY

Section 208 of Pub. L. 95–223 provided that: ''If any provision of this Act [enacting this chapter] is held invalid, the remainder of the Act shall not be affected thereby.''

SANCTIONS AGAINST SERBIA AND MONTENEGRO

Pub. L. 103–160, div. A, title XV, §1511, Nov. 30, 1993, 107 Stat. 1839, provided that:

''(a) CODIFICATION OF EXECUTIVE BRANCH SANCTIONS.—The sanctions imposed on Serbia and Montenegro, as in effect on the date of the enactment of this Act [Nov. 30, 1993], that were imposed by or pursuant to the following directives of the executive branch shall (except as provided under subsections (d) and (e)) remain in effect until changed by law:

''(1) Executive Order 12808 of May 30, 1992 [set out below], as continued in effect on May 25, 1993.

[1] See References in Text note below.

[2] So in original. The semicolon probably should be a period.

''(2) Executive Order 12810 of June 5, 1992 [set out below].

''(3) Executive Order 12831 of January 15, 1993 [set out below].

''(4) Executive Order 12846 of April 25, 1993 [set out below].

''(5) Department of State Public Notice 1427, effective July 11, 1991.

''(6) Proclamation 6389 of December 5, 1991 (56 Fed. Register 64467).

''(7) Department of Transportation Order 92–5–38 of May 20, 1992.

''(8) Federal Aviation Administration action of June 19, 1992 (14 C.F.R. Part 91).

''(b) PROHIBITION ON ASSISTANCE.—No funds appropriated or otherwise made available by law may be obligated or expended on behalf of the government of Serbia or the government of Montenegro.

''(c) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any assistance from that institution to the government of Serbia or the government of Montenegro, except for basic human needs.

''(d) EXCEPTION.—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against Serbia and Montenegro that are described in subsection (a) those United States-supported programs, projects, or activities that involve reform of the electoral process, the development of democratic institutions or democratic political parties, or humanitarian assistance (including refugee care and human rights observation).

''(e) WAIVER AUTHORITY.—(1) The President may waive or modify the application, in whole or in part, of any sanction described in subsection (a), the prohibition in subsection (b), or the requirement in subsection (c).

''(2) Such a waiver or modification may only be effective upon certification by the President to Congress that the President has determined that the waiver or modification is necessary (A) to meet emergency humanitarian needs, or (B) to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.''

IRAN-IRAQ ARMS NON-PROLIFERATION

Pub. L. 102–484, div. A, title XVI, Oct. 23, 1992, 106 Stat. 2571, provided that:

''SEC. 1601. SHORT TITLE.

''This title may be cited as the 'Iran-Iraq Arms Non-Proliferation Act of 1992'.

''SEC. 1602. UNITED STATES POLICY.

''(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

''(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.], the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 [22 U.S.C. 5601 et seq.], chapter 7 of the Arms Export Control Act [22 U.S.C. 2797 et seq.], and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

''(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

''(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

''SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

''The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513) [set out below], including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

''SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

''(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

''(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

''(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

''(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

''SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

''(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

''(1) the sanctions described in subsection (b) shall be imposed on such country; and

''(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

''(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

''(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

''(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

''(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act [22 U.S.C. 2778]), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

''(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance

with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

''(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

''(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

''(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act [50 U.S.C. 1701 et seq.], the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

''(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

''SEC. 1606. WAIVER.

''The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services [now Committee on National Security] and Foreign Affairs [now Committee on International Relations] of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

''SEC. 1607. REPORTING REQUIREMENT.

''(a) ANNUAL REPORT.—Beginning one year after the date of the enactment of this Act [Oct. 23, 1992], and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services [now Committee on National Security] and Foreign Affairs [now Committee on International Relations] of the House of Representatives a report detailing—

''(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

''(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

''(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services [now Committee on National Security] and Foreign Affairs [now Committee on International Relations] of the House of Representatives a report—

''(1) identifying the person or government and providing the details of the transfer; and

''(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

''(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

''SEC. 1608. DEFINITIONS.

''For purposes of this title:

''(1) The term 'advanced conventional weapons' includes—

''(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

''(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

''(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

''(2) The term 'cruise missile' means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

''(3) The term 'goods or technology' means—

''(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

''(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

''(4) The term 'person' means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

''(5) The term 'sanctioned country' means a country against which sanctions are required to be imposed pursuant to section 1605.

''(6) The term 'sanctioned person' means a person that makes a transfer described in section 1604(a).

''(7) The term 'United States assistance' means—

''(A) any assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], other than—

''(i) urgent humanitarian assistance or medicine, and

''(ii) assistance under chapter 11 of part I [22 U.S.C. 2295 et seq.] (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 [see Short Title note set out under section 5801 of Title 22, Foreign Relations and Intercourse]);

''(B) sales and assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.];

''(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

''(D) financing under the Export-Import Bank Act [of 1945] [22 U.S.C. 635 et seq.].''

[Memorandum of President of the United States, Sept. 27, 1994, 59 F.R. 50685, delegated to Secretary of State, in consultation with heads of other departments and agencies, all functions vested in President under title XVI of Pub. L. 102–484, set out above, without limitation of authority of other officials to exercise powers heretofore or hereafter delegated to them to implement sanctions imposed or actions directed by the Secretary pursuant to this delegation of authority.]

PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ

Pub. L. 101–519, §131, Nov. 5, 1990, 104 Stat. 2249, which authorized President to vest title in a portion of property in which transactions were blocked pursuant to Executive Order 12722 in order to satisfy obligations owed to United States Government and United States nationals for which Iraq had suspended repayment, was repealed by Pub. L. 102–27, title IV, §402(a), Apr. 10, 1991, 105 Stat. 155, as amended by Pub. L. 102–136, §126, Oct. 25, 1991, 105 Stat. 643, effective Nov. 5, 1990.

IRAQ SANCTIONS

Pub. L. 101–513, title V, §§586–586J, Nov. 5, 1990, 104 Stat. 2047–2054, provided that:

''SEC. 586. SHORT TITLE.

''Sections 586 through 586J of this Act may be cited as the 'Iraq Sanctions Act of 1990'.

''SEC. 586A. DECLARATIONS REGARDING IRAQ'S INVASION OF KUWAIT.

''The Congress—

''(1) condemns Iraq's invasion of Kuwait on August 2, 1990;

''(2) supports the actions that have been taken by the President in response to that invasion;

''(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

''(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

''(5) supports the imposition and enforcement of multilateral sanctions against Iraq;

''(6) calls on United States allies and other countries to support fully the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to Iraq's occupation of Kuwait; and

''(7) condemns the brutal occupation of Kuwait by Iraq and its gross violations of internationally recognized human rights in Kuwait, including widespread arrests, torture, summary executions, and mass extrajudicial killings.

''SEC. 586B. CONSULTATIONS WITH CONGRESS.

''The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

''SEC. 586C. TRADE EMBARGO AGAINST IRAQ.

''(a) CONTINUATION OF EMBARGO.—Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Numbered 12724 and 12725 [set out below] (August 9, 1990) and, to the extent they are still in effect, Executive Orders Numbered 12722 and 12723 [set out below] (August 2, 1990). Notwithstanding any other provision of law, no funds, credits, guarantees, or insurance appropriated or otherwise made available by this or any other Act for fiscal year 1991 or any fiscal year thereafter shall be used to support or administer any financial or commercial operation of any United States Government department, agency, or other entity, or of any person subject to the jurisdiction of the United States, for the benefit of the Government of Iraq, its agencies or instrumentalities, or any person working on behalf of the Government of Iraq, contrary to the trade embargo and other economic sanctions imposed in accordance with this section.

''(b) HUMANITARIAN ASSISTANCE.—To the extent that transactions involving foodstuffs or payments for foodstuffs are exempted 'in humanitarian circumstances' from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.

''(c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND TERMINATION OF SANCTIONS.—

''(1) NOTICE OF REGULATIONS.—Any regulations issued after the date of enactment of this Act [Nov. 5, 1990] with respect to the economic sanctions imposed with respect to Iraq and Kuwait by the United States under Executive Orders Numbered 12722 and 12723 (August 2, 1990) and Executive Orders Numbered 12724 and 12725 (August 9, 1990) shall be submitted to the Congress before those regulations take effect.

''(2) NOTICE OF TERMINATION OF SANCTIONS.—The President shall notify the Congress at least 15 days before the termination, in whole or in part, of any sanction imposed with respect to Iraq or Kuwait pursuant to those Executive orders.

''(d) RELATION TO OTHER LAWS.—

''(1) SANCTIONS LEGISLATION.—The sanctions that are described in subsection (a) are in addition to, and not in lieu of the sanctions provided for in section 586G of this Act or any other provision of law.

''(2) NATIONAL EMERGENCIES AND UNITED NATIONS LEGISLATION.—Nothing in this section supersedes any provision of the National Emergencies Act [50 U.S.C. 1601 et seq.] or any authority of the President under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] or section 5(a) of the United Nations Participation Act of 1945 [22 U.S.C. 287c(a)].

''SEC. 586D. COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ.

''(a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act [see Tables for classification] to carry out the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] (including title IV of chapter 2 of part I [22 U.S.C. 2191 et seq.], relating to the Overseas Private Investment Corporation) or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

''(1) such assistance is in the national interest of the United States;

''(2) such assistance will directly benefit the needy people in that country; or

''(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

''(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

''(1) the importation of products of Iraq into its customs territory, and

''(2) the export of its products to Iraq.

''SEC. 586E. PENALTIES FOR VIOLATIONS OF EMBARGO.

''Notwithstanding section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) and section 5(b) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(b))—

''(1) a civil penalty of not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act [Nov. 5, 1990], violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 [set out below] or any license, order, or regulation issued under any such Executive order; and

''(2) whoever, after the date of enactment of this Act, willfully violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive order—

''(A) shall, upon conviction, be fined not more than $1,000,000, if a person other than a natural person; or

''(B) if a natural person, shall, upon conviction, be fined not more than $1,000,000, be imprisoned for not more than 12 years, or both.

Any officer, director, or agent of any corporation who knowingly participates in a violation, evasion, or attempt described in paragraph (2) may be punished by imposition of the fine or imprisonment (or both) specified in subparagraph (B) of that paragraph.

''SEC. 586F. DECLARATIONS REGARDING IRAQ'S LONG-STANDING VIOLATIONS OF INTERNATIONAL LAW.

''(a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW.—The Congress determines that—

''(1) the Government of Iraq has demonstrated repeated and blatant disregard for its obligations under international law by violating the Charter of the United Nations, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925), as well as other international treaties;

''(2) the Government of Iraq is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and is obligated under the Covenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

''(3) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as 'abysmal';

''(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

''(5) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority of Iraq, deliberately destroyed more than 3,000 villages and towns in the Kurdish regions, and forcibly expelled more than 500,000 people, thus effectively depopulating the rural areas of Iraqi Kurdistan;

''(6) Iraq has blatantly violated international law by initiating use of chemical weapons in the Iran-Iraq war;

''(7) Iraq has also violated international law by using chemical weapons against its own Kurdish citizens, resulting in tens of thousands of deaths and more than 65,000 refugees;

''(8) Iraq continues to expand its chemical weapons capability, and President Saddam Hussein has threatened to use chemical weapons against other nations;

''(9) persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

''(10) there are strong indications that Iraq has taken steps to produce nuclear weapons and has attempted to smuggle from the United States, in violation of United States law, components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party; and

''(11) Iraqi President Saddam Hussein has threatened to use terrorism against other nations in violation of international law and has increased Iraq's support for the Palestine Liberation Organization and other Palestinian groups that have conducted terrorist acts.

''(b) HUMAN RIGHTS VIOLATIONS.—The Congress determines that the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights. All provisions of law that impose sanctions against a country whose government is engaged in a consistent pattern of gross violations of internationally recognized human rights shall be fully enforced against Iraq.

''(c) SUPPORT FOR INTERNATIONAL TERRORISM.—(1) The Congress determines that Iraq is a country which has repeatedly provided support for acts of international terrorism, a country which grants sanctuary from prosecution to individuals or groups which have committed an act of international terrorism, and a country which otherwise supports international terrorism. The provisions of law specified in paragraph (2) and all other provisions of law that impose sanctions against a country which has repeatedly provided support for acts of international terrorism, which grants sanctuary from prosecution to an individual or group which has committed an act of international terrorism, or which otherwise supports international terrorism shall be fully enforced against Iraq.

''(2) The provisions of law referred to in paragraph (1) are—

''(A) section 40 of the Arms Export Control Act [22 U.S.C. 2780];

''(B) section 620A of the Foreign Assistance Act of 1961 [22 U.S.C. 2371];

''(C) sections 555 and 556 of this Act [104 Stat. 2021, 2022] (and the corresponding sections of predecessor foreign operations appropriations Acts); and

''(D) section 555 of the International Security and Development Cooperation Act of 1985 [99 Stat. 227].

''(d) MULTILATERAL COOPERATION.—The Congress calls on the President to seek multilateral cooperation—

''(1) to deny dangerous technologies to Iraq;

''(2) to induce Iraq to respect internationally recognized human rights; and

''(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

''SEC. 586G. SANCTIONS AGAINST IRAQ.

''(a) IMPOSITION.—Except as provided in section 586H, the following sanctions shall apply with respect to Iraq:

''(1) FMS SALES.—The United States Government shall not enter into any sale with Iraq under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

''(2) COMMERCIAL ARMS SALES.—Licenses shall not be issued for the export to Iraq of any item on the United States Munitions List.

''(3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be used to prohibit the export to Iraq of any goods or technology listed pursuant to that section or section 5(c)(1) of that Act (50 U.S.C. App. 2404(c)(1)) on the control list provided for in section 4(b) of that Act (50 U.S.C. App. 2403(b)).

''(4) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

''(A) NRC LICENSES.—The Nuclear Regulatory Commission shall not issue any license or other authorization under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)), or any other material or technology requiring such a license or authorization.

''(B) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 shall not be used to distribute any special nuclear material, source material, or byproduct material to Iraq.

''(C) DOE AUTHORIZATIONS.—The Secretary of Energy shall not provide a specific authorization under section 57b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

''(5) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

''(6) ASSISTANCE THROUGH THE EXPORT-IMPORT BANK.—Credits and credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

''(7) ASSISTANCE THROUGH THE COMMODITY CREDIT CORPORATION.—Credit, credit guarantees, and other assistance through the Commodity Credit Corporation shall be denied to Iraq.

''(8) FOREIGN ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance, and under the Arms Export Control Act (22 U.S.C. 2751 and following) shall be denied to Iraq.

''(b) CONTRACT SANCTITY.—For purposes of the export controls imposed pursuant to subsection (a)(3), the date described in subsection (m)(1) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be deemed to be August 1, 1990.

''SEC. 586H. WAIVER AUTHORITY.

''(a) IN GENERAL.—The President may waive the requirements of any paragraph of section 586G(a) if the President makes a certification under subsection (b) or subsection (c).

''(b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI POLICIES AND ACTIONS.—The authority of subsection (a) may be exercised 60 days after the President certifies to the Congress that—

''(1) the Government of Iraq—

''(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

''(B) is not acquiring, developing, or manufacturing (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses; and

''(C) does not provide support for international terrorism;

''(2) the Government of Iraq is in substantial compliance with its obligations under international law, including—

''(A) the Charter of the United Nations;

''(B) the International Covenant on Civil and Political Rights (done at New York, December 16, 1966) and the International Covenant on Economic, Social, and Cultural Rights (done at New York, December 16, 1966);

''(C) the Convention on the Prevention and Punishment of the Crime of Genocide (done at Paris, December 9, 1948);

''(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925);

''(E) the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow, July 1, 1968); and

''(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow, April 10, 1972); and

''(3) the President has determined that it is essential to the national interests of the United States to exercise the authority of subsection (a).

''(c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI LEADERSHIP AND POLICIES.—The authority of subsection (a) may be exercised 30 days after the President certifies to the Congress that—

''(1) there has been a fundamental change in the leadership of the Government of Iraq; and

''(2) the new Government of Iraq has provided reliable and credible assurance that—

''(A) it respects internationally recognized human rights and it will demonstrate such respect through its conduct;

''(B) it is not acquiring, developing, or manufacturing and it will not acquire, develop, or manufacture (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses;

''(C) it is not and will not provide support for international terrorism; and

''(D) it is and will continue to be in substantial compliance with its obligations under international law, including all the treaties specified in subparagraphs (A) through (F) of subsection (b)(2).

''(d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS.—Any certification under subsection (b) or (c) shall include the justification for each determination required by that subsection. The certification shall also specify which paragraphs of section 586G(a) the President will waive pursuant to that certification.

''SEC. 586I. DENIAL OF LICENSES FOR CERTAIN EXPORTS TO COUNTRIES ASSISTING IRAQ'S ROCKET OR CHEMICAL, BIOLOGICAL, OR NUCLEAR WEAPONS CAPABILITY.

''(a) RESTRICTION ON EXPORT LICENSES.—None of the funds appropriated by this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines is assisting, or whose government officials the President determines are assisting, Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

''(b) NEGOTIATIONS.—The President is directed to begin immediate negotiations with those governments with which the United States has bilateral supercomputer agreements, including the Government of the United Kingdom and the Government of Japan, on conditions restricting the transfer to Iraq of supercomputer or associated technology.

''SEC. 586J. REPORTS TO CONGRESS.

''(a) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study on the sale, export, and third party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq including—

''(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical, and ballistic missile technology;

''(B) a detailed description and analysis of the international supply, information, support, and coproduction network, individual, corporate, and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical, and ballistic missile technology; and

''(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, coproduction, and deployment of nuclear, biological, chemical, and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

''(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not be limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control, or elimination of the threat of nuclear, biological, chemical, and ballistic missile proliferation.

''(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs [now Committee on International Relations] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

''(b) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY.—(1) The President shall conduct a study on Iraq's offensive military capability and its effect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

''(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs [now Committee on International Relations] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1).

''(c) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990, invasion of Kuwait, to curtail the export of goods, services, and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical, and ballistic missile capability.

''(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions adopted by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

''(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

''(4) Not later than every 6 months after the date of enactment of this Act [Nov. 5, 1990], the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs [now Committee on International Relations] of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.''

[Provisions similar to section 586D of Pub. L. 101–513, set out above, relating to compliance with sanctions against Iraq were contained in the following appropriations acts:

[Pub. L. 103–306, title V, §538, Aug. 23, 1994, 108 Stat. 1639.

[Pub. L. 103–87, title V, §539, Sept. 30, 1993, 107 Stat. 957.

[Pub. L. 102–391, title V, §573, Oct. 6, 1992, 106 Stat. 1683.]

Pub. L. 101–510, div. A, title XIV, §1458, Nov. 5, 1990, 104 Stat. 1697, provided that: ''If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

''(1) prohibited—

''(A) the importation of products of Iraq into its customs territory, and

''(B) the export of its products to Iraq; or

''(2) given assurances satisfactory to the President that such import and export sanctions will be promptly implemented.''

IRAN CLAIMS SETTLEMENT

Pub. L. 99–93, title V, Aug. 16, 1985, 99 Stat. 437, provided that:

''SEC. 501. RECEIPT AND DETERMINATION OF CERTAIN CLAIMS.

''(a) AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION.—The Foreign Claims Settlement Commission of the United States is authorized to receive and determine the validity and amounts of claims by nationals of the United States against Iran which are settled en bloc by the United States. In deciding such claims, the Commission shall apply, in the following order—

''(1) the terms of any settlement agreement;

''(2) the relevant provisions of the Declarations of the Government of the Democratic and Popular Republic of Algeria of January 19, 1981, giving consideration to interpretations thereof by the Iran-United States Claims Tribunal; and

''(3) applicable principles of international law, justice, and equity.

Except as otherwise provided in this title, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) shall apply with respect to claims under this section. Any reference in such provisions to 'this title' [translated therein as 'this subchapter'] shall be deemed to refer to those provisions and to this section.

''(b) CERTIFICATION AND PAYMENT.—The Commission shall certify to the Secretary of the Treasury any awards determined pursuant to subsection (a) in accordance with section 5 of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1624). Such awards shall be paid in accordance with sections 7 and 8 of such title (22 U.S.C. 1626 and 1627), except that—

''(1) the Secretary of the Treasury is authorized to make payments pursuant to paragraphs (1) and (2) of section 8(c) of such title in the amount of $10,000 or the principal amount of the award, whichever is less; and

''(2) the Secretary of the Treasury may deduct, pursuant to section 7(b) of such title, an amount calculated in accordance with section 502(a) of this Act, instead of 5 percent of payments made pursuant to section 8(c) of such title.

''SEC. 502. DEDUCTIONS FROM ARBITRAL AWARDS.

''(a) DEDUCTION FOR EXPENSES OF THE UNITED STATES.—Except as provided in section 503, the Federal Reserve Bank of New York shall deduct from the aggregate amount awarded under each enumerated claim before the Iran-United States Claims Tribunal in favor of a United States claimant, an amount equal to 1½ percent of the first $5,000,000 and 1 percent of any amount over $5,000,000, as reimbursement to the United States Government for expenses incurred in connection with the arbitration of claims of United States claimants against Iran before that Tribunal and the maintenance of the Security Account established pursuant to the Declarations of the Democratic and Popular Republic of Algeria of January 19, 1981. The Federal Reserve Bank of New York shall make the deduction required by the preceding sentence whenever the Bank receives an amount from the Security Account in satisfaction of an award rendered by the Iran-United States Claim Tribunal on the enumerated claim involved.

''(b) DEDUCTION TREATED AS MISCELLANEOUS RECEIPT.—Amounts deducted by the Federal Reserve Bank of New York pursuant to subsection (a) shall be deposited into the Treasury of the United States to the credit of miscellaneous receipts.

''(c) PAYMENT TO UNITED STATES CLAIMANTS.—Nothing in this section shall be construed to affect the payment to United States claimants of amounts received by the Federal Reserve Bank of New York in respect of awards by the Iran-United States Claims Tribunal, after deduction of the amounts calculated in accordance with subsection (a).

''(d) EFFECTIVE DATE.—This section shall be effective as of June 7, 1982.

''SEC. 503. EN BLOC SETTLEMENT.

''The deduction by the Federal Reserve Bank of New York provided for in section 502(a) of this Act shall not apply in the case of a sum received by the Bank pursuant to an en bloc settlement of any category of claims of United States nationals against Iran when such sum is to be used for payments in satisfaction of awards certified by the Foreign Claims Settlement Commission pursuant to section 501(b) of this Act.

''SEC. 504. REIMBURSEMENT TO THE FEDERAL RESERVE BANK OF NEW YORK.

''The Secretary of the Treasury may reimburse the Federal Reserve Bank of New York for expenses incurred by the Bank in the performance of fiscal agency agreements relating to the settlement or arbitration of claims pursuant to the Declarations of the Democratic and Popular Republic of Algeria of January 19, 1981.

''SEC. 505. CONFIDENTIALITY OF RECORDS.

''Notwithstanding section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), records pertaining to the arbitration of claims before the Iran-United States Claims Tribunal may not be disclosed to the general public, except that—

''(1) rules, awards, and other decisions of the Tribunal and claims and responsive pleadings filed at the Tribunal by the United States on its own behalf shall be made available to the public, unless the Secretary of State determines that public disclosure would be prejudicial to the interests of the United States or United States claimants in proceedings before the Tribunal, or that public disclosure would be contrary to the rules of the Tribunal; and

''(2) the Secretary of State may determine on a case-by-case basis to make such information available when in the judgment of the Secretary the interests of justice so require.''

EX. ORD. NO. 12170. BLOCKING IRANIAN GOVERNMENT PROPERTY

Ex. Ord. No. 12170, Nov. 14, 1979, 44 F.R. 65729, provided:

Pursuant to the authority vested in me as President by the Constitution and laws of the United States including the International Emergency Economic Powers Act, 50 U.S.C.A. sec. 1701 et seq., the National Emergencies Act, 50 U.S.C. sec. 1601 et seq., and 3 U.S.C. sec. 301,

I, JIMMY CARTER, President of the United States, find that the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order blocked all property and interests in property of the Government of Iran, its instrumentalities and controlled entities and the Central Bank of Iran which are or become subject to the jurisdiction of the United States or which are in or come within the possession or control of persons subject to the jurisdiction of the United States.

The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act [this chapter] to carry out the provisions of this order.

This order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

JIMMY CARTER.

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY EX. ORD. NO. 12170

Notice of President of the United States, dated Oct. 31, 1994, 59 F.R. 54785, provided:

On November 14, 1979, by Executive Order No. 12170 [set out above], the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the Federal Register. The most recent notice appeared in the Federal Register on November 2, 1993. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1994. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

Prior continuations of national emergency declared by Ex. Ord. No. 12170 were contained in the following:

Notice of President of the United States, dated Nov. 1, 1993, 58 F.R. 58639.

Notice of President of the United States, dated Oct. 25, 1992, 57 F.R. 48719.

Notice of President of the United States, dated Nov. 12, 1991, 56 F.R. 57791.

Notice of the President of the United States, dated Nov. 9, 1990, 55 F.R. 47453.

Notice of the President of the United States, dated Oct. 30, 1989, 54 F.R. 46043.

Notice of the President of the United States, dated Nov. 8, 1988, 53 F.R. 45750.

Notice of the President of the United States, dated Nov. 10, 1987, 52 F.R. 43549.

Notice of the President of the United States, dated Nov. 10, 1986, 51 F.R. 41067.

Notice of the President of the United States, dated Nov. 1, 1985, 50 F.R. 45901.

Notice of the President of the United States, dated Nov. 7, 1984, 49 F.R. 44741.

Notice of the President of the United States, dated Nov. 8, 1982, 47 F.R. 50841.

EX. ORD. NO. 12205. PROHIBITING CERTAIN TRANSACTIONS WITH IRAN

Ex. Ord. No. 12205, Apr. 7, 1980, 45 F.R. 24099, as amended by Ex. Ord. No. 12211, Apr. 17, 1980, 45 F.R. 26685, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in order to take steps additional to those set forth in Executive Order No. 12170 of November 14, 1979 [set out as a note above], to deal with the threat to the national security, foreign policy and economy of the United States referred to in that Order, and in furtherance of the objectives of United Nations Security Council Resolution 461 (1979) adopted on December 31, 1979, it is hereby ordered as follows:

1–101. The following are prohibited effective immediately, notwithstanding any contracts entered into or licenses granted before the date of this Order [Apr. 7, 1980]:

(a) The sale, supply or other transfer, by any person subject to the jurisdiction of the United States, of any items, commodities or products, except food, medicine and supplies intended strictly for medical purposes, and donations of clothing intended to be used to relieve human suffering, from the United States, or from any foreign country, whether or not originating in the United States, either to or destined for Iran, an Iranian governmental entity in Iran, any other person or body in Iran or any other person or body for the purposes of any enterprise carried on in Iran.

(b) The shipment by vessel, aircraft, railway or other land transport of United States registration or owned by or under charter to any person subject to the jurisdiction of the United States or the carriage (whether or not in bond) by land transport facilities across the United States of any of the items, commodities and products covered by paragraph (a) of this section which are consigned to or destined for Iran, an Iranian governmental entity or any person or body in Iran, or to any enterprise carried on in Iran.

(c) The shipment from the United States of any of the items, products and commodities covered by paragraph (a) of this section on vessels or aircraft registered in Iran.

(d) The following acts, when committed by any person subject to the jurisdiction of the United States in connection with any transaction involving Iran, an Iranian governmental entity, an enterprise controlled by Iran or an Iranian governmental entity, or any person in Iran:

(i) Making available any new credits or loans;

(ii) Making available any new deposit facilities or allowing substantial increases in non-dollar deposits which exist as of the date of this Order [Apr. 7, 1980];

(iii) Allowing more favorable terms of payment than are customarily used in international commercial transactions; or

(iv) Failing to act in a businesslike manner in exercising any rights when payments due on existing credits or loans are not made in a timely manner.

(v) Make any payment, transfer of credit, or other transfer of funds or other property or interests therein, except for purposes of family remittances.

(e) The engaging by any person subject to the jurisdiction of the United States in any service contract in support of an industrial project in Iran, except any such contract entered into prior to the date of this Order [Apr. 7, 1980] or concerned with medical care.

(f) The engaging by any person subject to the jurisdiction of the United States in any transaction which evades or avoids, or has the purpose or effect of evading or avoiding, any of the prohibitions set forth in this section.

1–102. The prohibitions in section 1–101 above shall not apply to transactions by any person subject to the jurisdiction of the United States which is a nonbanking association, corporation, or other organization organized and doing business under the laws of any foreign country.

1–103. The Secretary of the Treasury is delegated, and authorized to exercise, all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government.

1–104. The Secretary of the Treasury shall ensure that actions taken pursuant to this Order and Executive Order No. 12170 [set out above] are accounted for as required by Section 401 of the National Emergencies Act (50 U.S.C. 1641).

1–105. This Order is effective immediately. In accord with Section 401 of the National Emergencies Act (50 U.S.C. 1641) and Section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703), it shall be immediately transmitted to the Congress and published in the Federal Register.

JIMMY CARTER.

REVOCATION OF PROHIBITIONS CONTAINED IN EXECUTIVE ORDER NO. 12205

For provisions relating to the revocation of prohibitions contained in Ex. Ord. No. 12205, Apr. 7, 1980, 45 F.R. 24099, as amended, which prohibited certain transactions with Iran, see Ex. Ord. No. 12282, Jan. 19, 1981, 46 F.R. 7925, set out below.

EX. ORD. NO. 12211. PROHIBITING CERTAIN TRANSACTIONS WITH IRAN

Ex. Ord. No. 12211, Apr. 17, 1980, 45 F.R. 26685, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Sections 1732 and 2656 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in order to take steps additional to those set forth in Executive Order No. 12170 of November 14, 1979 [set out above], and Executive Order No. 12205 of April 7, 1980 [set out above], to deal with the threat to the national security, foreign policy and economy of the United States referred to in those Orders, and the added unusual and extraordinary threat to the national security, foreign policy and economy of the United States created by subsequent events in Iran and neighboring countries, including the Soviet invasion of Afghanistan, with respect to which I hereby declare a national emergency, and to carry out the policy of the United States to deny the use of its resources to aid, encourage or give sanctuary to those persons involved in directing, supporting or participating in acts of international terrorism, it is hereby ordered as follows:

1–101. Paragraph 1–101(d) of Executive Order No. 12205 [set out above] is hereby amended by the addition of a new subparagraph (v) as follows:

(v) Make any payment, transfer of credit, or other transfer of funds or other property or interests therein, except for purposes of family remittances.

1–102. The following transactions are prohibited, notwithstanding any contracts entered into or licenses granted before the date of this Order [Apr. 17, 1980]:

(a) Effective immediately, the direct or indirect import from Iran into the United States of Iranian goods or services, other than materials imported for news publication or news broadcast dissemination.

(b) Effective immediately, any transactions with a foreign person or foreign entity by any citizen or permanent resident of the United States relating to that person's travel to Iran after the date of this Order [Apr. 17, 1980].

(c) Effective seven days from the date of this Order [Apr. 17, 1980], the payment by or on behalf of any citizen or permanent resident of the United States who is within Iran of any expenses for transactions within Iran.

The prohibitions in paragraphs (b) and (c) of this section shall not apply to a person who is also a citizen of Iran and those prohibitions and the prohibitions in section 1–101 shall not apply to a journalist or other person who is regularly employed by a news gathering or transmitting organization and who travels to Iran or is within Iran for the purpose of gathering or transmitting news, making news or documentary films, or similar activities.

1–103. The Secretary of the Treasury is hereby directed, effective fourteen days from the date of this Order [Apr. 17, 1980], to revoke existing licenses for transactions by persons subject to the jurisdiction of the United States with Iran Air, the National Iranian Oil Company, and the National Iranian Gas Company previously issued pursuant to regulations under Executive Order No. 12170 [set out above], or Executive Order No. 12205 [set out above].

1–104. The Secretary of the Treasury is delegated, and authorized to exercise, all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government.

1–105. The Secretary of the Treasury shall ensure that actions taken by him pursuant to the above provisions of this Order, Executive Order No. 12170 [set out above] and Executive Order No. 12205 [set out above] are accounted for as required by Section 401 of the National Emergencies Act (50 U.S.C. 1641).

1–106. The Secretary of State is delegated, and authorized to exercise in furtherance of the purposes of this Order, the powers vested in the President by Section 2001 of the Revised Statutes (22 U.S.C. 1732), Section 1 of the Act of July 3, 1926 (22 U.S.C. 211a), and Section 215 of the Immigration and Nationality Act (8 U.S.C. 1185), with respect to:

(a) the restriction of the use of United States passports for travel to, in or through Iran; and

(b) the regulation of departures from and entry into the United States in connection with travel to Iran by citizens and permanent residents of the United States.

1–107. Except as otherwise indicated herein, this Order is effective immediately. In accord with Section

401 of the National Emergencies Act (50 U.S.C. 1641) and Section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703), it shall be immediately transmitted to the Congress and published in the Federal Register.

JIMMY CARTER.

REVOCATION OF PROHIBITIONS CONTAINED IN EXECUTIVE ORDER NO. 12211

For provisions relating to the revocation of prohibitions contained in Ex. Ord. No. 12211, Apr. 17, 1980, 45 F.R. 26685, which prohibited certain transactions with Iran, see Ex. Ord. No. 12282, Jan. 19, 1981, 46 F.R. 7925, set out below.

EX. ORD. NO. 12276. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION RELATING TO ESTABLISHMENT OF ESCROW ACCOUNTS

Ex. Ord. No. 12276, Jan. 19, 1981, 46 F.R. 7913, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

1–101. The Secretary of the Treasury is authorized to enter into, and to license, authorize, direct, and compel any appropriate official and/or the Federal Reserve Bank of New York, as fiscal agent of the United States, to enter into escrow or related agreements with a foreign central bank and with the Central Bank of Algeria under which certain money and other assets, as and when directed by the Secretary of the Treasury, shall be credited by the foreign central bank to an escrow account on its books in the name of the Central Bank of Algeria for transfer to the Government of Iran if and when the Central Bank of Algeria receives from the Government of Algeria a certification that the 52 U.S. diplomats and nationals being held hostage in Iran have safely departed from Iran. Such agreements shall include other parties and terms as determined by the Secretary of the Treasury to be appropriate to carry out the purposes of this Order.

1–102. The Secretary of the Treasury is authorized to license, authorize, direct, and compel the Federal Reserve Bank of New York, as fiscal agent of the United States, to receive certain money and other assets in which Iran or its agencies, instrumentalities, or controlled entities have an interest and to hold or transfer such money and other assets, and any interest earned thereon, in such a manner as he deems necessary to fulfill the rights and obligations of the United States under the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, and the escrow and related agreements described in paragraph 1–101 of this Order. Such money and other assets may be held in interest-bearing form and where possible shall be invested with or through the entity holding the money or asset on the effective date of this Order.

1–103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets referred to in paragraphs 1–101 and 1–102 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12277. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION TO TRANSFER IRANIAN GOVERNMENT ASSETS

Ex. Ord. No. 12277, Jan. 19, 1981, 46 F.R. 7915, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran and in which Iran and the United States instruct and require that the assets described in this order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1–101. The Federal Reserve Bank of New York is licensed, authorized, directed, and compelled to transfer to accounts at the Bank of England, and subsequently to transfer to accounts at the Bank of England established pursuant to an escrow agreement approved by the Secretary of the Treasury, all gold bullion, and other assets (or the equivalent thereof) in its custody, of the Government of Iran, or its agencies, instrumentalities or controlled entities. Such transfers shall be executed when and in the manner directed by the Secretary of the Treasury. The Secretary of the Treasury is also authorized to license, authorize, direct, and compel the Federal Reserve Bank of New York to engage in whatever further transactions he deems appropriate and consistent with the purposes of this Order, including any transactions related to the return of such bullion and other assets pursuant to the escrow agreement.

1–102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1–101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1–101 of this Order and

which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1–101 of this Order.

1–103. Compliance with this Order, any other Executive Order licensing, authorizing, directing, or compelling the transfer of the assets described in section 1–101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12278. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION TO TRANSFER IRANIAN GOVERNMENT ASSETS OVERSEAS

Ex. Ord. No. 12278, Jan. 19, 1981, 46 F.R. 7917, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1–101. Any branch or office of a United States bank or subsidiary thereof, which branch or office is located outside the territory of the United States and which on or after 8:10 a.m. E.S.T. on November 14, 1979 (a) has been or is in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or (b) has carried or is carrying on its books deposits standing to the credit of or beneficially owned by such Government, agencies, instrumentalities, or controlled entities, is licensed, authorized, directed, and compelled to transfer such funds, securities, and deposits, including interest from November 14, 1979, at commercially reasonable rates, to the account of the Federal Reserve Bank of New York at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The Secretary of the Treasury shall determine when the transfers required by this section shall take place. The funds, securities and deposits described in this section shall be further transferred as provided for in the Declaration of the Government of the Democratic and Popular Republic of Algeria and its Annex.

1–102. Any banking institution subject to the jurisdiction of the United States that has executed a set-off on or after November 14, 1979, at 8:10 a.m. E.S.T. against Iranian funds, securities, or deposits referred to in section 1–101 is hereby licensed, authorized, directed, and compelled to cancel such set-off and to transfer all funds, securities, and deposits which have been subject to such set-off, including interest from November 14, 1979, at commercially reasonable rates, pursuant to the provisions of section 1–101 of this Order.

1–103. If the funds, securities, and deposits described in section 1–101 are not promptly transferred to the control of the Government of Iran, such funds, securities, and deposits shall be returned to the banking institutions holding them on the effective date of this Order and the set-offs described in section 1–102 shall be in force as if this Order had not been issued and the status of all such funds, securities, deposits and set-offs shall be status quo ante.

1–104. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Sections 1–101 and 1–102 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in Sections 1–101 and 1–102 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. E.S.T., including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Sections 1–101 and 1–102 of this Order.

1–105. Compliance with this Order, any other Executive Order licensing, authorizing, directing, or compelling the transfer of the assets described in Sections 1–101 and 1–102 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–106. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1–107. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers

Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–108. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12279. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION TO TRANSFER IRANIAN GOVERNMENT ASSETS HELD BY DOMESTIC BANKS

Ex. Ord. No. 12279, Jan. 19, 1981, 46 F.R. 7919, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1–101. Any branch or office of a banking institution subject to the jurisdiction of the United States, which branch or office is located within the United States and is, on the effective date, either (a) in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or (b) carrying on its books deposits standing to the credit of or beneficially owned by such Government, agencies, instrumentalities, or controlled entities is licensed, authorized, directed and compelled to transfer such funds, securities, and deposits, including interest from November 14, 1979, at commercially reasonable rates, to the Federal Reserve Bank of New York, to be held or transferred as directed by the Secretary of the Treasury.

1–102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1–101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1–101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1–101 of this Order.

1–103. Compliance with this Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in section 1–101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12280. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION TO TRANSFER IRANIAN GOVERNMENT FINANCIAL ASSETS HELD BY NON-BANKING INSTITUTIONS

Ex. Ord. No. 12280, Jan. 19, 1981, 46 F.R. 7921, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1–101. Any person subject to the jurisdiction of the United States which is not a banking institution and is on the effective date in possession or control of funds or securities of Iran or its agencies, instrumentalities, or controlled entities is licensed, authorized, directed and compelled to transfer such funds or securities to the Federal Reserve Bank of New York to be held or transferred as directed by the Secretary of the Treasury.

1–102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1–101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1–101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1–101 of this Order.

1–103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in paragraph 1–101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of and all actions taken pursuant to, each of its provisions.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12281. RELEASE OF AMERICAN HOSTAGES IN IRAN—DIRECTION TO TRANSFER CERTAIN IRANIAN GOVERNMENT ASSETS

Ex. Ord. No. 12281, Jan. 19, 1981, 46 F.R. 7923, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1–101. All persons subject to the jurisdiction of the United States in possession or control of properties, not including funds and securities, owned by Iran or its agencies, instrumentalities, or controlled entities are licensed, authorized, directed and compelled to transfer such properties, as directed after the effective date of this Order by the Government of Iran, acting through its authorized agent. Except where specifically stated, this license, authorization, and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act [this chapter].

1–102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1–101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1–101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1–101 of this Order.

1–103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in paragraph 1–101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1–104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12282. RELEASE OF AMERICAN HOSTAGES IN IRAN—REVOCATION OF PROHIBITIONS AGAINST TRANSACTIONS INVOLVING IRAN

Ex. Ord. No. 12282, Jan. 19, 1981, 46 F.R. 7925, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostage and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

1–101. The prohibitions contained in Executive Order 12205 of April 7, 1980 [set out above], and Executive Order 12211 of April 17, 1980 [set out above], and Proclamation 4702 of November 12, 1979 [amending Proc. No. 3279, set out under section 1862 of Title 19, Customs Duties], are hereby revoked.

1–102. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the Presi-

dent by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purpose of this Order.

1–103. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12283. RELEASE OF AMERICAN HOSTAGES IN IRAN—NON-PROSECUTION OF CLAIMS OF HOSTAGES AND FOR ACTIONS AT THE UNITED STATES EMBASSY AND ELSEWHERE

Ex. Ord. No. 12283, Jan. 19, 1981, 46 F.R. 7927, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

1–101. The Secretary of the Treasury shall promulgate regulations: (a) prohibiting any person subject to U.S. jurisdiction from prosecuting in any court within the United States or elsewhere any claim against the Government of Iran arising out of events occurring before the date of this Order relating to (1) the seizure of the hostages on November 4, 1979, (2) their subsequent detention, (3) injury to United States property or property of United States nationals within the United States Embassy compound in Tehran after November 3, 1979, or (4) injury to United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran; (b) prohibiting any person not a U.S. national from prosecuting any such claim in any court within the United States; (c) ordering the termination of any previously instituted judicial proceedings based upon such claims; and (d) prohibiting the enforcement of any judicial order issued in the course of such proceedings.

1–102. The Attorney General of the United States is authorized and directed, immediately upon the issuance of regulations in accordance with Section 1–101, to take all appropriate measures to notify all appropriate courts of the existence of this Order and implementing regulations and the resulting termination of litigation.

1–103. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purpose of this Order.

1–104. This Order shall be effective immediately.

JIMMY CARTER.

EX. ORD. NO. 12284. RELEASE OF AMERICAN HOSTAGES IN IRAN—RESTRICTIONS ON TRANSFER OF PROPERTY OF FORMER SHAH OF IRAN

Ex. Ord. No. 12284, Jan. 19, 1981, 46 F.R. 7929, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170 [set out above], issued November 14, 1979, and in Executive Order 12211 [set out above], issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

1–101. For the purpose of protecting the rights of litigants in courts within the United States, all property and assets located in the United States within the control of the estate of Mohammad Reza Pahlavi, the former Shah of Iran, or any close relative of the former Shah served as a defendant in litigation in such courts brought by Iran seeking the return of property alleged to belong to Iran, is hereby blocked as to each such estate or person until all such litigation against such estate or person is finally terminated.

1–102. The Secretary of the Treasury is authorized and directed (a) to promulgate regulations requiring all persons who are subject to the jurisdiction of the United States and who, as of November 3, 1979, or as of this date, have actual or constructive possession of property of the kind described in Section 1–101, or knowledge of such possession by others, to report such possession or knowledge thereof, to the Secretary of the Treasury in accordance with such regulations and (b) to make available to the Government of Iran or its designated agents all identifying information derived from such reports to the fullest extent permitted by law. Such reports shall be required as to all individuals described in 1–101 and shall be required to be filed within 30 days after publication of a notice in the Federal Register.

1–103. The Secretary of the Treasury is authorized and directed (a) to require all agencies within the Executive Branch of the United States Government to deliver to the Secretary all official financial books and records which serve to identify any property of the kind described in Section 1–101 of this Order, and (b) to make available to the Government of Iran or its designated agents all identifying information derived from such books and records to the fullest extent permitted by law.

1–104. The Attorney General of the United States having advised the President of his opinion that no claim on behalf of the Government of Iran for recovery of property of the kind described in Section 1–101 of this Order should be considered legally barred either by sovereign immunity principles or by the act of state doctrine, the Attorney General is authorized and directed to prepare, and upon the request of counsel representing the Government of Iran to present to the appropriate court or courts within the United States, suggestions of interest reflecting that such is the position of the United States, and that it is also the position of the United States that Iranian decrees and judgments relating to the assets of the former Shah and the persons described in Section 1–101 should be enforced by such courts in accordance with United States law.

1–105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of this Order.

1–106. This Order shall be effective immediately.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12285

Ex. Ord. No. 12285, Jan. 19, 1981, 46 F.R. 7931, as amended by Ex. Ord. No. 12307, June 4, 1981, 46 F.R.

30483; Ex. Ord. No. 12317, Aug. 14, 1981, 46 F.R. 42241, which established the President's Commission on Hostage Compensation and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §21, Aug. 17, 1982, 47 F.R. 36100, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 12294. SUSPENSION OF LITIGATION AGAINST IRAN

Ex. Ord. No. 12294, Feb. 24, 1981, 46 F.R. 14111, provided:

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which were based the declarations of national emergency in Executive Order No. 12170, issued November 14, 1979 [set out above], and in Executive Order No. 12211, issued April 17, 1980 [set out above], in light of the agreement with the Government of Iran, as reflected in the Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of United States diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, in order to implement Article II of the Declaration of Algeria concerning the settlement of claims and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

SECTION 1. All claims which may be presented to the Iran-United States Claims Tribunal under the terms of Article II of the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, and all claims for equitable or other judicial relief in connection with such claims, are hereby suspended, except as they may be presented to the Tribunal. During the period of this suspension, all such claims shall have no legal effect in any action now pending in any court of the United States, including the courts of any state or any locality thereof, the District of Columbia and Puerto Rico, or in any action commenced in any such court after the effective date of this Order. Nothing in this action precludes the commencement of an action after the effective date of this Order for the purpose of tolling the period of limitations for commencement of such action.

SEC. 2. Nothing in this Order shall require dismissal of any action for want of prosecution.

SEC. 3. Suspension under this Order of a claim or a portion thereof submitted to the Iran-United States Claims Tribunal for adjudication shall terminate upon a determination by the Tribunal that it does not have jurisdiction over such claim or such portion thereof.

SEC. 4. A determination by the Iran-United States Claims Tribunal on the merits that a claimant is not entitled to recover on a claim shall operate as a final resolution and discharge of the claim for all purposes. A determination by the Tribunal that a claimant shall have recovery on a claim in a specified amount shall operate as a final resolution and discharge of the claim for all purposes upon payment to the claimant of the full amount of the award, including any interest awarded by the Tribunal.

SEC. 5. Nothing in this Order shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond or other similar instrument.

SEC. 6. Nothing in this Order shall prohibit the assertion of a counterclaim or set-off by a United States national in any judicial proceeding pending or hereafter commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality, or entity controlled by the Government of Iran or any political subdivision thereof.

SEC. 7. The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act [this chapter] and by 22 U.S.C. §1732 to carry out the purposes of this Order.

SEC. 8. Executive Order Nos. 12276 through 12285 of January 19, 1981 [set out above], are ratified.

This Order shall be effective immediately and copies shall be transmitted to the Congress.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12444

Ex. Ord. No. 12444, Oct. 14, 1983, 48 F.R. 48215, which continued effectiveness of the Export Administration Act of 1979, 50 App. U.S.C. 2401 et seq., and of orders, rules and regulations promulgated thereunder, was revoked by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, set out below.

EX. ORD. NO. 12451. CONTINUATION OF EXPORT CONTROL REGULATIONS

Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereinafter referred to as "IEEPA"), 22 U.S.C. 287c, and the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) (hereinafter referred to as "the Act), it is hereby ordered as follows:

SECTION 1. In view of the extension by Public Law 98–207 (December 5, 1983) [amending 50 App. U.S.C. 2419], of the authorities contained in the Act, Executive Order No. 12444 of October 14, 1983, which continued in effect export control regulations under IEEPA, is revoked, and the declaration of economic emergency is rescinded.

SEC. 2. The revocation of Executive Order No. 12444 shall not affect any violation of any rules, regulations, orders, licenses and other forms of administrative action under that Order which occurred during the period that Order was in effect. All rules and regulations issued or continued in effect under the authority of the IEEPA and that Order, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, regulations, licenses and other forms of administrative action issued, taken or continued in effect pursuant thereto, shall remain in full force and effect, as if issued, taken or continued in effect pursuant to the Act until amended or revoked by the proper authority. Nothing in this Order shall affect the continued applicability of the provision for the administration of the Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 and Executive Order No. 12214 of May 2, 1980 [50 App. U.S.C. 2403 note].

SEC. 3. All orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12444 relating to the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) shall remain in full force and effect until amended or revoked under proper authority.

SEC. 4. This Order shall take effect immediately.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12470

Ex. Ord. No. 12470, Mar. 30, 1984, 49 F.R. 13099, which continued effectiveness of the Export Administration Act of 1979, 50 App. U.S.C. 2401 et seq., and of the orders, rules and regulations promulgated thereunder, was revoked by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757, set out below.

Continuation of emergency declared by Ex. Ord. No. 12470 was contained in Notice of the President of the United States, dated Mar. 28, 1985, 50 F.R. 12513.

EXECUTIVE ORDER NO. 12513

Ex. Ord. No. 12513, May 1, 1985, 50 F.R. 18629, which prohibited trade and certain other transactions involving Nicaragua, was revoked by Ex. Ord. No. 12707, Mar. 13, 1990, 55 F.R. 9707, set out below.

Continuations of national emergency declared by Ex. Ord. No. 12513 were contained in the following:

Notice of the President of the United States, dated Apr. 21, 1989, 54 F.R. 17701.

Notice of the President of the United States, dated Apr. 25, 1988, 53 F.R. 15011.

Notice of the President of the United States, dated Apr. 21, 1987, 52 F.R. 13425.

Notice of the President of the United States, dated Apr. 22, 1986, 51 F.R. 15461.

EX. ORD. NO. 12525. TERMINATION OF EMERGENCY AUTHORITY FOR EXPORT CONTROLS

Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereinafter referred to as ''IEEPA''), 22 U.S.C. 287c, and the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) (hereinafter referred to as ''the Act''), it is hereby ordered as follows:

SECTION 1. In view of the extension by Public Law 99–64 (July 12, 1985) [amending 50 App. U.S.C. 2419] of the authorities contained in the Act, Executive Order No. 12470 of March 30, 1984, which continued in effect export control regulations under IEEPA, is revoked, and the declaration of economic emergency is rescinded.

SEC. 2. The revocation of Executive Order No. 12470 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that Order that occurred during the period that Order was in effect. All rules and regulations issued or continued in effect under the authority of the IEEPA and that Order, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, regulations, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, shall remain in full force and effect, as if issued, taken or continued in effect pursuant to and as authorized by the Act or by other appropriate authority until amended or revoked by the proper authority. Nothing in this Order shall affect the continued applicability of the provision for the administration of the Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, and Executive Order No. 12214 of May 2, 1980 [set out under 50 App. U.S.C. 2403].

SEC. 3. All rules, regulations, orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12470 relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) shall remain in full force and effect until amended or revoked under proper authority.

SEC. 4. This Order shall take effect immediately.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12532

Ex. Ord. No. 12532, Sept. 9, 1985, 50 F.R. 36861, which prohibited trade and certain other transactions involving South Africa, was revoked by Ex. Ord. No. 12769, § 4, July 10, 1991, 56 F.R. 31855, set out as a note under section 5061 of Title 22, Foreign Relations and Intercourse.

Continuation of national emergency declared by Ex. Ord. No. 12532 was contained in Notice of the President of the United States, dated Sept. 4, 1986, 51 F.R. 31925.

EXECUTIVE ORDER NO. 12535

Ex. Ord. No. 12535, Oct. 1, 1985, 50 F.R. 40325, which prohibited importation into United States of South African Krugerrands, was revoked by Ex. Ord. No. 12769, § 4, July 10, 1991, 56 F.R. 31855, set out as a note under section 5061 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 12543. PROHIBITING TRADE AND CERTAIN TRANSACTIONS INVOLVING LIBYA

Ex. Ord. No. 12543, Jan. 7, 1986, 51 F.R. 875, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), sections 504 and 505 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) [22 U.S.C. 2349aa–8, 2349aa–9], section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1514) [now 49 U.S.C. 40106(b)], and section 301 of title 3 of the United States Code.

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order:

SECTION 1. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Libyan origin, other than publications and materials imported for news publications or news broadcast dissemination;

(b) The export to Libya of any goods, technology (including technical data or other information) or services from the United States, except publications and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Libya; the provision of transportation to or from the United States by any Libyan person or any vessel or aircraft of Libyan registration; or the sale in the United States by any person holding authority under the Federal Aviation Act [of 1958, now 49 U.S.C. 40101 et seq.] of any transportation by air which includes any stop in Libya;

(d) The purchase by any United States person of goods for export from Libya to any country;

(e) The performance by any United States person of any contract in support of an industrial or other commercial or governmental project in Libya;

(f) The grant or extension of credits or loans by any United States person to the Government of Libya, its instrumentalities and controlled entities;

(g) Any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Libya, or to activities by any such person within Libya, after the date of this Order, other than transactions necessary to effect such person's departure from Libya, to perform acts permitted until February 1, 1986, by Section 3 of this Order, or travel for journalistic activity by persons regularly employed in such capacity by a newsgathering organization; and

(h) Any transaction by any United States person which evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this Order.

For purposes of this Order, the term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any person in the United States.

SEC. 2. In light of the prohibition in Section 1(a) of this Order, section 251 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1881), and section 126 of the Trade Act of 1974, as amended (19 U.S.C. 2136) will have no effect with respect to Libya.

SEC. 3. This Order is effective immediately, except that the prohibitions set forth in Section 1(a), (b), (c),

(d) and (e) shall apply as of 12:01 a.m. Eastern Standard Time, February 1, 1986.

SEC. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Libya, its instrumentalities and controlled entities, or to any Libyan national or entity owned or controlled, directly or indirectly, by Libya or Libyan nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

This Order shall be transmitted to the Congress and published in the Federal Register.

RONALD REAGAN.

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY EX. ORD. NO. 12543

Notice of President of the United States, dated Dec. 22, 1994, 59 F.R. 67119, provided:

On January 7, 1986, by Executive Order No. 12543 [set out above], President Reagan declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Libya. On January 8, 1986, by Executive Order No. 12544 [set out below], the President took additional measures to block Libyan assets in the United States. The President has transmitted a notice continuing this emergency to the Congress and the Federal Register every year since 1986.

The crisis between the United States and Libya that led to the declaration of a national emergency on January 7, 1986, has not been resolved. The Government of Libya has continued its actions and policies in support of terrorism, despite the calls by the United Nations Security Council, in Resolutions 731 (1992), 748 (1992), and 883 (1993) that it demonstrate by concrete actions its renunciation of such terrorism. Such Libyan actions and policies pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interest of the United States. For these reasons, the national emergency declared on January 7, 1986, and the measures adopted on January 7 and January 8, 1986, to deal with that emergency, must continue in effect beyond January 7, 1995. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Libya. This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

Prior continuations of national emergency declared by Ex. Ord. No. 12543 were contained in the following:

Notice of President of the United States, dated Dec. 2, 1993, 58 F.R. 64361.

Notice of President of the United States, dated Dec. 14, 1992, 57 F.R. 59895.

Notice of President of the United States, dated Dec. 26, 1991, 56 F.R. 67465.

Notice of the President of the United States, dated Jan. 2, 1991, 56 F.R. 477.

Notice of the President of the United States, dated Jan. 4, 1990, 55 F.R. 589.

Notice of the President of the United States, dated Dec. 28, 1988, 53 F.R. 52971.

Notice of the President of the United States, dated Dec. 15, 1987, 52 F.R. 47891.

Notice of the President of the United States, dated Dec. 23, 1986, 51 F.R. 46849.

EX. ORD. NO. 12544. BLOCKING LIBYAN GOVERNMENT PROPERTY IN THE UNITED STATES OR HELD BY U.S. PERSONS

Ex. Ord. No. 12544, Jan. 8, 1986, 51 F.R. 1235, provided:

By the authority vested in me as President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3 of the United States Code, in order to take steps with respect to Libya additional to those set forth in Executive Order No. 12543 of January 7, 1986 [set out above], to deal with the threat to the national security and foreign policy of the United States referred to in that Order,

I, RONALD REAGAN, President of the United States, hereby order blocked all property and interests in property of the Government of Libya, its agencies, instrumentalities and controlled entities and the Central Bank of Libya that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of U.S. persons, including overseas branches of U.S. persons.

The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to employ all powers granted to me by the International Emergency Economics [sic] Power[s] Act, 50 U.S.C. 1701 *et seq.*, to carry out the provisions of this Order.

This Order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

RONALD REAGAN.

EX. ORD. NO. 12613. PROHIBITING IMPORTS FROM IRAN

Ex. Ord. No. 12613, Oct. 29, 1987, 52 F.R. 41940, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa–9), and section 301 of Title 3 of the United States Code,

I, RONALD REAGAN, President of the United States of America, find that the Government of Iran is actively supporting terrorism as an instrument of state policy. In addition, Iran has conducted aggressive and unlawful military action against U.S.-flag vessels and merchant vessels of other non-belligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of non-belligerent nations of that region. To ensure that United States imports of Iranian goods and services will not contribute financial support to terrorism or to further aggressive actions against non-belligerent shipping, I hereby order that:

SECTION 1. Except as otherwise provided in regulations issued pursuant to this Order, no goods or services of Iranian origin may be imported into the United States, including its territories and possessions, after the effective date of this Order.

SEC. 2. The prohibition contained in Section 1 shall not apply to:

(a) Iranian-origin publications and materials imported for news publications or news broadcast dissemination;

(b) petroleum products refined from Iranian crude oil in a third country;

(c) articles imported directly from Iran into the United States that were exported from Iran prior to the effective date of this Order.

SEC. 3. This Order shall take effect at 12:01 p.m. Eastern Standard Time on October 29, 1987, except as otherwise provided in regulations issued pursuant to this Order.

SEC. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. The Secretary of the Treasury

may redelegate any of these functions to other officers and agencies of the Federal Government. All agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

SEC. 5. The measures taken pursuant to this Order are in response to the actions of the Government of Iran referred to above, occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those actions.

This Order shall be transmitted to the Congress and published in the Federal Register.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12635

Ex. Ord. No. 12635, Apr. 8, 1988, 53 F.R. 12134, which blocked property and interests in property of the Government of Panama that were in the United States, was revoked by Ex. Ord. No. 12710, Apr. 5, 1990, 55 F.R. 13099, set out below.

Continuation of national emergency declared by Ex. Ord. No. 12635 was contained in Notice of the President of the United States, dated Apr. 6, 1989, 54 F.R. 14197.

EX. ORD. NO. 12707. TERMINATION OF EMERGENCY WITH RESPECT TO NICARAGUA

Ex. Ord. No. 12707, Mar. 13, 1990, 55 F.R. 9707, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), chapter 12 of title 50 of the United States Code (50 U.S.C. 191 *et seq.*), and section 301 of title 3 of the United States Code.

I, GEORGE BUSH, President of the United States of America, find that the February 25, 1990, democratic election in Nicaragua has ended the unusual and extraordinary threat to the national security and foreign policy of the United States previously posed by the policies and actions of the Sandinista government in that country, and the need to continue the national emergency declared in Executive Order No. 12513 of May 1, 1985, to deal with that threat.

I hereby revoke Executive Order No. 12513 and terminate the national emergency declared in that order with respect to Nicaragua.

Pursuant to section 202 of the National Emergencies Act (50 U.S.C. 1622), termination of the national emergency with respect to Nicaragua shall not affect any action taken or proceeding pending and not finally concluded or determined at the effective date of this order, or any action or proceeding based on any act committed prior to the effective date of this order, or any rights or duties that matured or penalties that were incurred prior to the effective date of this order.

This order shall take effect immediately.

GEORGE BUSH.

EX. ORD. NO. 12710. TERMINATION OF EMERGENCY WITH RESPECT TO PANAMA

Ex. Ord. No. 12710, Apr. 5, 1990, 55 F.R. 13099, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (hereinafter referred to as ''IEEPA''), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (hereinafter referred to as ''the NEA''), chapter 12 of title 50 of the United States Code (50 U.S.C. 191 *et seq.*), and section 301 of title 3 of the United States Code.

I, GEORGE BUSH, President of the United States of America, find that the restoration of a democratically elected government in Panama has ended the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States previously posed by the policies and actions of Manuel Antonio Noriega in that country, and the need to continue the national emergency declared in Executive Order No. 12635 of April 8, 1988, to deal with that threat.

I hereby revoke Executive Order No. 12635 and terminate the national emergency declared in that order with respect to Panama.

Pursuant to section 202 of the NEA (50 U.S.C. 1622), termination of the national emergency with respect to Panama shall not affect any action taken or proceeding pending not finally concluded or determined as of the effective date of this order, or any action or proceeding based on any act committed prior to the effective date of this order, or any rights or duties that matured or penalties that were incurred prior to the effective date of this order. Pursuant to section 207 (50 U.S.C. 1706) of IEEPA, I hereby determine that the continuation of prohibitions with regard to transactions involving property in which the Government of Panama has an interest is necessary on account of claims involving Panama.

This order shall take effect immediately.

GEORGE BUSH.

EX. ORD. NO. 12722. BLOCKING IRAQI GOVERNMENT PROPERTY AND PROHIBITING TRANSACTIONS WITH IRAQ

Ex. Ord. No. 12722, Aug. 2, 1990, 55 F.R. 31803, provided:

By the authority vested in me as President by the constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code.

I, GEORGE BUSH, President of the United States of America, find that the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order:

SECTION 1. All property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

SECTION 2. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials;

(b) The export to Iraq of any goods, technology (including technical data or other information controlled for export pursuant to Section 5 of the Export Administration Act (50 U.S.C. App. 2404)) or services from the United States, except publications and other informational materials, and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Iraq; the provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended [now 49 U.S.C. 40101 et seq.] (49 U.S.C. 1514), of any transportation by air which includes any stop in Iraq;

(d) The purchase by any United States person of goods for export from Iraq to any country;

(e) The performance by any United States person of any contract in support of an industrial or other commercial or governmental project in Iraq;

(f) The grant or extension of credits or loans by any United States person to the Government of Iraq, its instrumentalities and controlled entities;

(g) Any transaction by a United States person relating to travel by any United States citizen or permanent

resident alien to Iraq, or to activities by any such person within Iraq, after the date of this Order, other than transactions necessary to effect such person's departure from Iraq, or travel for journalistic activity by persons regularly employed in such capacity by a news-gathering organization; and

(h) Any transaction by any United States person which evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this Order.

For purposes of this Order, the term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.

SECTION 3. This Order is effective immediately.

SECTION 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Iraq, its instrumentalities and controlled entities, or to any Iraqi national or entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

This Order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

[Ex. Ord. No. 12722 was revoked by Ex. Ord. No. 12724, §6, Aug. 9, 1990, 55 F.R. 33090, set out below, to the extent inconsistent with Ex. Ord. No. 12724.]

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY EX. ORD. NO. 12722

Notice of President of the United States, dated July 19, 1994, 59 F.R. 37151, provided:

On August 2, 1990, by Executive Order No. 12722 [set out above], President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Iraq. By Executive Orders Nos. 12722 of August 2, 1990, and 12724 of August 9, 1990 [set out below], President Bush imposed trade sanctions on Iraq and blocked Iraqi government assets. Because the Government of Iraq has continued its activities hostile to United States interests in the Middle East, the national emergency declared on August 2, 1990, and the measures adopted on August 2 and August 9, 1990, to deal with that emergency must continue in effect beyond August 2, 1994. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iraq.

This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

Prior continuations of national emergency declared by Ex. Ord. No. 12722 were contained in the following:

Notice of President of the United States, dated July 20, 1993, 58 F.R. 39111.

Notice of President of the United States, dated July 21, 1992, 57 F.R. 32875.

Notice of President of the United States, dated July 26, 1991, 56 F.R. 35995.

EXECUTIVE ORDER NO. 12723

Ex. Ord. No. 12723, Aug. 2, 1990, 55 F.R. 31805, which directed Secretary of the Treasury to block all property and interests in Kuwaiti Government property that are in the United States or within possession or control of United States persons, was revoked by Ex. Ord. No. 12771, July 25, 1991, 56 F.R. 35993, set out below.

EX. ORD. NO. 12724. BLOCKING IRAQI GOVERNMENT PROPERTY AND PROHIBITING TRANSACTIONS WITH IRAQ

Ex. Ord. No. 12724, Aug. 9, 1990, 55 F.R. 33089, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 301 of title 3 of the United States Code, and the United Nations Participation Act [22 U.S.C. 287 et seq.] (22 U.S.C. 287c), in view of United Nations Security Council Resolution No. 661 of August 6, 1990, and in order to take additional steps with respect to Iraq's invasion of Kuwait and the national emergency declared in Executive Order No. 12722 [set out above],

I, GEORGE BUSH, President of the United States of America, hereby order:

SECTION 1. Except to the extent provided in regulations that may hereafter be issued pursuant to this order, all property and interests in property of the Government of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

SEC. 2. The following are prohibited, except to the extent provided in regulations that may hereafter be issued pursuant to this order:

(a) The importation into the United States of any goods or services of Iraqi origin, or any activity that promotes or is intended to promote such importation;

(b) The exportation to Iraq, or to any entity operated from Iraq, or owned or controlled by the Government of Iraq, directly or indirectly, of any goods, technology (including technical data or other information), or services either (i) from the United States, or (ii) requiring the issuance of a license by a Federal agency, or any activity that promotes or is intended to promote such exportation, except donations of articles intended to relieve human suffering, such as food and supplies intended strictly for medical purposes;

(c) Any dealing by a United States person related to property of Iraqi origin exported from Iraq after August 6, 1990, or property intended for exportation from Iraq to any country, or exportation to Iraq from any country, or any activity of any kind that promotes or is intended to promote such dealing;

(d) Any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Iraq, or to activities by any such person within Iraq, after the date of this order, other than transactions necessary to effect (i) such person's departure from Iraq, (ii) travel and activities for the conduct of the official business of the Federal Government or the United Nations, or (iii) travel for journalistic activity by persons regularly employed in such capacity by a news-gathering organization;

(e) Any transaction by a United States person relating to transportation to or from Iraq; the provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*) [now 49 U.S.C. 40101 et seq.], of any transportation by air that includes any stop in Iraq;

(f) The performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Iraq;

(g) Except as otherwise authorized herein, any commitment or transfer, direct or indirect, of funds, or other financial or economic resources by any United States person to the Government of Iraq or any other person in Iraq;

(h) Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this order.

SEC. 3. For purposes of this order:

(a) the term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States, and vessels of U.S. registration.

(b) the term ''Government of Iraq'' includes the Government of Iraq, its agencies, instrumentalities and controlled entities, and the Central Bank of Iraq.

SEC. 4. This order is effective immediately.

SEC. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Iraq, or to any Iraqi national or entity owned or controlled, directly or indirectly, by the Government of Iraq or Iraqi nationals. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the Federal Government. All agencies of the Federal Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 6. Executive Order No. 12722 of August 2, 1990 [set out above], is hereby revoked to the extent inconsistent with this order. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under Executive Order No. 12722 and not revoked administratively shall remain in full force and effect under this order until amended, modified, or terminated by proper authority. The revocation of any provision of Executive Order No. 12722 pursuant to this section shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under that order during the period that such provision of that order was in effect.

This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

EXECUTIVE ORDER NO. 12725

Ex. Ord. No. 12725, Aug. 9, 1990, 55 F.R. 33091, which directed Secretary of the Treasury to block all property and interests in Kuwaiti Government property that are in the United States or within possession or control of United States persons and which prohibited transactions with Kuwait, was revoked by Ex. Ord. No. 12771, July 25, 1991, 56 F.R. 35993, set out below.

EXECUTIVE ORDER NO. 12730

Ex. Ord. No. 12730, Sept. 30, 1990, 55 F.R. 40373, which continued effectiveness of the Export Administration Act of 1979, 50 App. U.S.C. 2401 et seq., and of the orders, rules and regulations promulgated thereunder, was revoked by Ex. Ord. No. 12867, §1, Sept. 30, 1993, 58 F.R. 51747, set out below.

Continuations of national emergency declared by Ex. Ord. No. 12730 were contained in the following:

Notice of President of the United States, dated Sept. 25, 1992, 57 F.R. 44649.

Notice of President of the United States, dated Sept. 26, 1991, 56 F.R. 49385.

EXECUTIVE ORDER NO. 12735

Ex. Ord. No. 12735, Nov. 16, 1990, 55 F.R. 48587, which declared a national emergency to deal with threat of proliferation of chemical and biological weapons and imposed controls on exports that would assist a country in developing, stockpiling, delivering, or using chemical or biological weapons and associated sanctions, was revoked by Ex. Ord. No. 12938, §10, Nov. 14, 1994, 59 F.R. 59099, set out below.

Continuations of national emergency declared by Ex. Ord. No. 12735 were contained in the following:

Notice of President of the United States, dated Nov. 12, 1993, 58 F.R. 60361.

Notice of President of the United States, dated Nov. 11, 1992, 57 F.R. 53979.

Notice of President of the United States, dated Nov. 14, 1991, 56 F.R. 58171.

EX. ORD. NO. 12771. REVOKING EARLIER ORDERS WITH RESPECT TO KUWAIT

Ex. Ord. No. 12771, July 25, 1991, 56 F.R. 35993, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C.1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 301 of title 3 of the United States Code, and United Nations Participation Act [22 U.S.C. 287 et seq.] (22 U.S.C. 287c),

I, GEORGE BUSH, President of the United States of America, find that the expulsion from Kuwait of Iraq's occupation forces, the restoration of Kuwait to its citizens, and the reinstatement of the lawful Government of Kuwait eliminate the need for Executive Order No. 12723 of August 2, 1990, entitled ''Blocking Kuwaiti Government Property,'' and Executive Order No. 12725 of August 9, 1990, entitled ''Blocking Kuwaiti Government Property and Prohibiting Transactions With Kuwait.'' Those orders were issued to protect the assets of the Government of Kuwait which were subject to United States jurisdiction, and to prevent the transfer of benefits by United States persons to Iraq based upon its invasion of Kuwait. Those orders also implemented the foreign policy and protected the national security of the United States, in conformity with applicable resolutions of the United Nations Security Council. Finding continuation of these orders unnecessary, I hereby order:

SECTION 1. Executive Order No. 12723 and Executive Order No. 12725 are hereby revoked. This revocation shall not affect the national emergency declared in Executive Order No. 12722 [set out above] to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the policies and action of the Government of Iraq.

SEC. 2. This revocation shall not affect:

(a) any action taken or proceeding pending and not finally concluded or determined on the effective date of this order;

(b) any action or proceeding based on any act committed prior to the effective date of this order; or

(c) any rights or duties that matured or penalties that were incurred prior to the effective date of this order.

SEC. 3. This order shall take effect immediately.

GEORGE BUSH.

EXECUTIVE ORDER NO. 12775

Ex. Ord. No. 12775, Oct. 4, 1991, 56 F.R. 50641, which declared a national emergency to deal with Republic of Haiti, directed Secretary of Treasury to block all property and interests in property of Government of Haiti that were in United States or within possession or control of United States persons, and prohibited transactions with Haiti, was revoked, and such national emergency terminated, by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

Continuations of national emergency declared by Ex. Ord. No. 12775 were contained in the following:

Notice of President of the United States, dated Sept. 30, 1994, 59 F.R. 50479.

Notice of President of the United States, dated Sept. 30, 1993, 58 F.R. 51563.

Notice of President of the United States, dated Sept. 30, 1992, 57 F.R. 45557.

EXECUTIVE ORDER NO. 12779

Ex. Ord. No. 12779, Oct. 28, 1991, 56 F.R. 55975, which directed Secretary of the Treasury to block all property and interests in property of Government of Haiti that were in United States or within possession or control of United States persons and which prohibited transactions with Haiti and most imports from and exports to Haiti, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EX. ORD. NO. 12801. BARRING OVERFLIGHT, TAKEOFF, AND LANDING OF AIRCRAFT FLYING TO OR FROM LIBYA

Ex. Ord. No. 12801, Apr. 15, 1992, 57 F.R. 14319, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), the National Emergencies Act (50 U.S.C. 1601, *et seq.*), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1514) [now 49 U.S.C. 40106(b)], section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in view of United Nations Security Council Resolutions Nos. 731 of January 21, 1992, and 748 of March 31, 1992, and in order to take additional steps with respect to Libya's continued support for international terrorism and the national emergency declared in Executive Order No. 12543 of January 7, 1986 [set out above], it is hereby ordered that:

SECTION 1. Except to the extent provided in regulations, orders, directives, authorizations, or licenses that may hereafter be issued pursuant to this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, the granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or as a continuation of that flight, is destined to land in or has taken off from the territory of Libya, is hereby prohibited.

SEC. 2. The Secretary of the Treasury, in consultation with the Secretary of Transportation, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the provisions of section 1 of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers in the Department of the Treasury and may confer or impose such authority upon any other officer of the United States, with the consent of the head of the department or agency within which such officer is serving. All executive branch agencies of the Federal Government hereby affected are directed to consult as appropriate on the implementation of this order and to take all necessary measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 3. Nothing contained in this order shall confer any substantive or procedural right or privilege on any person or organization, enforceable against the United States, its agencies or instrumentalities, its officers, or its employees.

SEC. 4. This order is effective 11:59 p.m. eastern daylight time, April 15, 1992.

SEC. 5. This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12808. BLOCKING ''YUGOSLAV GOVERNMENT'' PROPERTY AND PROPERTY OF GOVERNMENTS OF SERBIA AND MONTENEGRO

Ex. Ord. No. 12808, May 30, 1992, 57 F.R. 23299, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), the National Emergencies Act (50 U.S.C. 1601, *et seq.*), and section 301 of title 3 of the United States Code,

I, GEORGE BUSH, President of the United States of America, find that the actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and Bosnia-Hercegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

SECTION 1. Except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order, all property and interests in property of the Government of Serbia and the Government of Montenegro that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

SEC. 2. Except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order, all property and interests in property in the name of the Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

SEC. 3. Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited.

SEC. 4. For the purposes of this order:

(a) The term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or person in the United States;

(b) The terms ''Government of Serbia'' and ''Government of Montenegro'' include the governments of Serbia and Montenegro, including any subdivisions thereof or local government therein, their respective agencies, instrumentalities and controlled entities, and any persons acting or purporting to act for or on behalf of any of the foregoing, including the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and the Montenegrin Chamber of Economy;

(c) The terms ''Government of the Socialist Federal Republic of Yugoslavia'' and ''Government of the Federal Republic of Yugoslavia'' include the government of the former Socialist Federal Republic of Yugoslavia, the government of the newly constituted Federal Republic of Yugoslavia, their respective agencies, instrumentalities and controlled entities, and any persons acting or purporting to act for or on behalf of any of the foregoing, including the National Bank of Yugoslavia, the Yugoslav National Army, and the Yugoslav Chamber of Economy.

SEC. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], as may be necessary to carry out the purposes of this order. Such actions may include prohibiting or regulating payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person to the Government of the Socialist Federal Republic of Yugoslavia, the Government of the Federal Republic of Yugoslavia, the Government of Serbia, the Government of Montenegro, any person

in Serbia or Montenegro, or any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by any of the foregoing. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 7. (a) This order shall take effect at 11:59 p.m. Eastern Daylight Time, May 30, 1992.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY EX. ORD. NO. 12808

Notice of President of the United States, dated May 25, 1994, 59 F.R. 27429, provided:

On May 30, 1992, by Executive Order No. 12808 [set out above], President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. The President took additional measures to prohibit trade and other transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro) by Executive Orders Nos. 12810, 12831, and 12846 [set out below], issued on June 5, 1992, January 15, 1993, and April 25, 1993, respectively. Because the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) has continued its actions and policies in support of groups seizing and attempting to seize territory in Croatia and Bosnia-Herzegovina by force and violence, the national emergency declared on May 30, 1992, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond May 30, 1994. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro).

This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

Prior continuation of national emergency declared by Ex. Ord. No. 12808 was contained in the following:

Notice of President of the United States, dated May 25, 1993, 58 F.R. 30693.

EX. ORD. NO. 12810. BLOCKING PROPERTY OF AND PROHIBITING TRANSACTIONS WITH FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

Ex. Ord. No. 12810, June 5, 1992, 57 F.R. 24347, as amended by Ex. Ord. No. 12831, § 4, Jan. 15, 1993, 58 F.R. 5253, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), the National Emergencies Act (50 U.S.C. 1601, *et seq.*), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1514), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in view of United Nations Security Council Resolution No. 757 of May 30, 1992, and in order to take additional steps with respect to the actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the national emergency described and declared in Executive Order No. 12808 [set out above],

I, GEORGE BUSH, President of the United States of America, hereby order:

SECTION 1. Except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, all property and interests in property of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), and property and interests in property held in the name of the Government of the Federal Republic of Yugoslavia or of the former Government of the Socialist Federal Republic of Yugoslavia, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked.

SEC. 2. The following are prohibited, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) The importation into the United States of any goods originating in, or services performed in, the Federal Republic of Yugoslavia (Serbia and Montenegro), exported from the Federal Republic of Yugoslavia (Serbia and Montenegro) after May 30, 1992, or any activity that promotes or is intended to promote such importation;

(b) The exportation to the Federal Republic of Yugoslavia (Serbia and Montenegro), or to any entity operated from the Federal Republic of Yugoslavia (Serbia and Montenegro), or owned or controlled by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), directly or indirectly, of any goods, technology (including technical data or other information controlled for export pursuant to the Export Administration Regulations, 15 C.F.R. Parts 768, *et seq.*), or services, either (i) from the United States, (ii) requiring the issuance of a license by a Federal agency, or (iii) involving the use of U.S.-registered vessels or aircraft, or any activity that promotes or is intended to promote such exportation;

(c) Any dealing by a United States person related to property originating in the Federal Republic of Yugoslavia (Serbia and Montenegro) exported from the Federal Republic of Yugoslavia (Serbia and Montenegro) after May 30, 1992, or property intended for exportation from the Federal Republic of Yugoslavia (Serbia and Montenegro) to any country, or exportation to the Federal Republic of Yugoslavia (Serbia and Montenegro) from any country, or any activity of any kind that promotes or is intended to promote such dealing;

(d) Any transaction by a United States person, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the Federal Republic of Yugoslavia (Serbia and Montenegro), the provision of transportation to or from the United States by any person in the Federal Republic of Yugoslavia (Serbia and Montenegro) or any vessel or aircraft registered in the Federal Republic of Yugoslavia (Serbia and Montenegro), or the sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*) [now 49 U.S.C. 40101 et seq.], of any transportation by air that includes any stop in the Federal Republic of Yugoslavia (Serbia and Montenegro);

(e) The granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or as a continuation of that flight, is destined to land in or has taken off from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro);

(f) The performance by any United States person of any contract, including a financing contract, in sup-

port of an industrial, commercial, public utility, or governmental project in the Federal Republic of Yugoslavia (Serbia and Montenegro);

(g) Any commitment or transfer, direct or indirect, of funds, or other financial or economic resources by any United States person to or for the benefit of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) or any other person in the Federal Republic of Yugoslavia (Serbia and Montenegro);

(h) Any transaction in the United States or by a United States person related to participation in sporting events in the United States by persons or groups representing the Federal Republic of Yugoslavia (Serbia and Montenegro);

(i) [Revoked by Ex. Ord. No. 12831, §4, Jan. 15, 1993, 58 F.R. 5253.]

SEC. 3. Nothing in this order shall apply to (i) the transshipment through the Federal Republic of Yugoslavia (Serbia and Montenegro) of commodities and products originating outside the Federal Republic of Yugoslavia (Serbia and Montenegro) and temporarily present in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) only for the purpose of such transshipment, and (ii) activities related to the United Nations Protection Force (UNPROFOR), the Conference on Yugoslavia, or the European Community Monitor Mission.

SEC. 4. Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited.

SEC. 5. For the purposes of this order:

(a) The term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States, and vessels and aircraft of U.S. registration;

(b) The term ''the Federal Republic of Yugoslavia (Serbia and Montenegro)'' means the territory of Serbia and Montenegro;

(c) The term ''the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro)'' includes the government of the newly constituted Federal Republic of Yugoslavia, the Government of Serbia, and the Government of Montenegro, including any subdivisions thereof or local governments therein, their respective agencies, instrumentalities and controlled entities, and any persons acting or purporting to act for or on behalf of any of the foregoing, including the National Bank of Yugoslavia, the Yugoslav National Army, and the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and the Montenegrin Chamber of Economy.

SEC. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] and the United Nations Participation Act [22 U.S.C. 287 et seq.], as may be necessary to carry out the purposes of this order. Such actions may include prohibiting or regulating payments or transfers of any property, or any transactions involving the transfer of anything of economic value by the [sic] any United States person to the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), any person in the Federal Republic of Yugoslavia (Serbia and Montenegro), or any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by any of the foregoing. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 7. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under Executive Order No. 12808 [set out above] and not revoked administratively shall remain in full force and effect under this order until amended, modified, or terminated by proper authority.

SEC. 8. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 9. (a) This order is effective immediately.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12817. TRANSFER OF CERTAIN IRAQI GOVERNMENT ASSETS HELD BY DOMESTIC BANKS

Ex. Ord. No. 12817, Oct. 21, 1992, 57 F.R. 48433, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in order to apply in the United States measures adopted in United Nations Security Council Resolution No. 778 of October 2, 1992, and in order to take additional steps with respect to the actions and policies of the Government of Iraq and the national emergency described and declared in Executive Order No. 12722 [set out above],

I, GEORGE BUSH, President of the United States of America, hereby order:

SECTION 1. The Secretary of the Treasury is authorized and directed to take all actions necessary to carry out the provisions of United Nations Security Council Resolution No. 778 with respect to blocked funds and other assets described in section 2 of this order, or funds and other assets received from the United Nations in repayment of funds and assets transferred pursuant to section 2 of this order. For this purpose, the Secretary of the Treasury is delegated and authorized to exercise all authorities vested in the President by sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

SEC. 2. Upon a determination by the Secretary of the Treasury that funds or other assets in which the Government of Iraq or its agencies, instrumentalities, or controlled entities have an interest represent the proceeds of the sale of Iraqi petroleum or petroleum products, paid for by or on behalf of the purchaser on or after August 6, 1990, each and every United States financial institution is directed and compelled to transfer such funds or assets held by it or carried on its books to the Federal Reserve Bank of New York, when, to the extent, and in the manner required by the Secretary of the Treasury.

SEC. 3. The Federal Reserve Bank of New York, as fiscal agent of the United States, is authorized, directed, and compelled to receive funds and other assets in which the Government of Iraq or its agencies, instrumentalities, or controlled entities have an interest, and to hold, invest, or transfer such funds and assets, and any earnings thereon, when, to the extent, and in the manner required by the Secretary of the Treasury in order to fulfill the rights and obligations of the United States under United Nations Security Council Resolution No. 778.

SEC. 4. Compliance with this order, or any regulation, instruction, or direction issued under this order, licensing, authorizing, directing, or compelling the transfer of the blocked funds and other assets described in section 2 of this order, or funds and other assets received

from the United Nations in repayment of funds and assets transferred pursuant to section 2 of this order, shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligation of the person making the transfer. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this order or any regulation, instruction, or direction issued hereunder. The operation of this order shall have no effect on rights, debts, and claims existing with respect to funds or other assets prior to their transfer to the Federal Reserve Bank of New York.

SEC. 5. For the purposes of this order, the term ''United States financial institution'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States, or any person located in the United States, which is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange or securities, including, but not limited to, depository institutions, banks, saving banks, trust companies, securities brokers and dealers, clearing corporations, investment companies, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of the foregoing. This term includes branches, offices, and agencies of foreign financial institutions which are located in the United States.

SEC. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to take such actions, including the issuance of directive licenses, rules, and regulations, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the Federal Government. All agencies of the Federal Government are directed to take all appropriate measures within their authority to carry out the provisions of this order.

SEC. 7. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party (other than the United States) against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 8.

(a) This order is effective immediately.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12831. ADDITIONAL MEASURES WITH RESPECT TO FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

Ex. Ord. No. 12831, Jan. 15, 1993, 58 F.R. 5253, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in view of United Nations Security Council Resolutions No. 757 of May 30, 1992, and No. 787 of November 16, 1992, and in order to take additional steps with respect to the actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the national emergency described and declared in Executive Order No. 12808 [set out above] and expanded in Executive Order No. 12810 [set out above],

I, GEORGE BUSH, President of the United States of America, hereby order:

SECTION 1. The following are prohibited, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order:

(a) Any transaction within the United States or by a United States person related to the transshipment of commodities or products through the Federal Republic of Yugoslavia (Serbia and Montenegro); and

(b) Any transaction within the United States or by a United States person relating to any vessel in which a majority or controlling interest is held by a person or entity in, or operating from, the Federal Republic of Yugoslavia (Serbia and Montenegro) regardless of the flag under which the vessel sails.

SEC. 2. Any vessel in which a majority or controlling interest is held by a person or entity in, or operating from, the Federal Republic of Yugoslavia (Serbia and Montenegro) shall be considered as a vessel of the Federal Republic of Yugoslavia (Serbia and Montenegro) regardless of the flag under which the vessel sails.

SEC. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] and the United Nations Participation Act [22 U.S.C. 287 et seq.], as may be necessary to carry out the purpose of this order. Such actions may include prohibiting or regulating trade and financial transactions involving any areas of the territory of the former Socialist Federal Republic of Yugoslavia as to which there is inadequate assurance that such transactions will not be diverted to the benefit of the Federal Republic of Yugoslavia (Serbia and Montenegro). The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the United States Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 4. Section 3[2](i) of Executive Order No. 12810 [set out above] is hereby revoked.

SEC. 5. The definitions contained in Section 5 of Executive Order No. 12810 [set out above] apply to the terms used in this order.

SEC. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 7. (a) This order is effective immediately.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12846. ADDITIONAL MEASURES WITH RESPECT TO FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

Ex. Ord. No. 12846, Apr. 25, 1993, 58 F.R. 25771, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, in view of United Nations Security Council Resolution No. 757 of May 30, 1992, No. 787 of November 16, 1992, and No. 820 of April 17, 1993, and in order to take additional steps with respect to the actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the national emergency described and declared in Executive Order No. 12808 [set out above] and expanded in Executive Order No. 12810 [set out above] and No. 12831 [set out above],

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

SECTION 1. Notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any

license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) All property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the Federal Republic of Yugoslavia (Serbia and Montenegro), including, without limitation, the property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked;

(b) All expenses incident to the blocking and maintenance of property blocked under Executive Order Nos. 12808, 12810, 12831 [set out above] or this order shall be charged to the owners or operators of such property, which expenses shall not be met from blocked funds. Such property may also be sold or liquidated and the proceeds placed in a blocked interest-bearing account in the name of the owner;

(c) All vessels, freight vehicles, rolling stock, aircraft and cargo that are within or hereafter come within the United States and are not subject to blocking under Executive Order Nos. 12808, 12810, 12831 or this order, but which are suspected of a violation of United Nations Security Council Resolution Nos. 713, 757, 787 or 820, shall be detained pending investigation and, upon a determination by the Secretary of the Treasury that they have been in violation of any of these resolutions, shall be blocked. Such blocked conveyances and cargo may also be sold or liquidated and the proceeds placed in a blocked interest-bearing account in the name of the owner;

(d) No vessel registered in the United States or owned or controlled by United States persons, other than a United States naval vessel, may enter the territorial waters of the Federal Republic of Yugoslavia (Serbia and Montenegro); and

(e) Any dealing by a United States person relating to the importation from, exportation to, or transshipment through the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia-Hercegovina under the control of Bosnian Serb forces, or activity of any kind that promotes or is intended to promote such dealing, is prohibited.

SEC. 2. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] and the United Nations Participation Act [22 U.S.C. 287 et seq.] as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the Federal Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 3. Nothing in this order shall apply to activities related to the United Nations Protection Force, the International Conference on the Former Yugoslavia, and the European Community Monitor Mission.

SEC. 4. The definitions contained in section 5 of Executive Order No. 12810 [set out above] apply to the terms used in this order.

SEC. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 6. This order shall not affect the provisions of licenses and authorizations issued pursuant to Executive Order Nos. 12808, 12810, 12831 [set out above] and in force on the effective date of this order, except as such licenses or authorization may hereafter be terminated, modified or suspended by the issuing federal agency.

SEC. 7. (a) This order shall take effect at 12:01 a.m. Eastern Daylight Time, April 26, 1993.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 12853

Ex. Ord. No. 12853, June 30, 1993, 58 F.R. 35843, which directed Secretary of the Treasury to block all property and interests in property of Government of Haiti and the de facto regime in Haiti or controlled directly or indirectly by either that were in United States or within possession or control of United States persons and which prohibited sale or supply to Haiti of petroleum or arms and related materiel by United States persons or from United States or using U.S.-registered vessels or aircraft, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EX. ORD. NO. 12865. PROHIBITING CERTAIN TRANSACTIONS WITH RESPECT TO UNITA

Ex. Ord. No. 12865, Sept. 26, 1993, 58 F.R. 51005, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution No. 864 of September 15, 1993,

I, WILLIAM J. CLINTON, President of the United States of America, take note of the United Nations Security Council's determination that, as a result of UNITA's military actions, the situation in Angola constitutes a threat to international peace and security, and find that the actions and policies of UNITA, in continuing military actions, repeated attempts to seize additional territory and failure to withdraw its troops from locations that it has occupied since the resumption of hostilities, in repeatedly attacking United Nations personnel working to provide humanitarian assistance, in holding foreign nationals against their will, in refusing to accept the results of the democratic elections held in Angola in 1992, and in failing to abide by the ''Acordos de Paz,'' constitute an unusual and extraordinary threat to the foreign policy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

SECTION 1. The following are prohibited, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) The sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment and spare parts for the aforementioned, as well as petroleum and petroleum products, regardless of origin:

(1) to UNITA;

(2) to the territory of Angola, other than through points of entry to be designated by the Secretary of the Treasury, or any activity by United States persons or in the United States which promotes or is calculated to promote such sale or supply.

(b) Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

SEC. 2. For purposes of this order:

(a) The term ''United States person'' means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or person in the United States;

(b) The term ''UNITA'' includes:

(1) the Uniao Nacional para a Independencia Total de Angola (UNITA), known in English as the ''National Union for the Total Independence of Angola;''

(2) the Forcas Armadas para a Liberacao de Angola (FALA), known in English as the ''Armed Forces for the Liberation of Angola;'' and

(3) any person acting or purporting to act for or on behalf of any of the foregoing, including the Free Angola Information Service, Inc.

SEC. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] and the United Nations Participation Act [22 U.S.C. 287 et seq.] as may be necessary to carry out the purpose of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government.

SEC. 4. Nothing contained in the order shall be construed to supersede the requirements established under the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) and the Export Administration Act (50 U.S.C. App. 2401 *et seq.*) to obtain licenses for the exportation from the United States or from a third country of any goods, data, or services subject to the export jurisdiction of the Department of State or the Department of Commerce.

SEC. 5. All Federal agencies are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 7. (a) This order shall take effect immediately.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON.

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY EX. ORD. NO. 12865

Notice of President of the United States, dated Aug. 17, 1994, 59 F.R. 42749, provided:

On September 26, 1993, by Executive Order No. 12865 [set out above], I declared a national emergency to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of the National Union for the Total Independence of Angola (''UNITA''), prohibiting the sale or supply by United States persons or from the United States, or using U.S. registered vessels or aircraft, of arms and related material of all types, and petroleum and petroleum products to the territory of Angola, other than through designated points of entry. The order also prohibits the sale or supply of such commodities to UNITA. Because of our continuing international obligations and because of the prejudicial effect that discontinuation of the sanctions would have on the Angolan peace process, the national emergency declared on September 26, 1993, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond September 26, 1994. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to UNITA.

This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

EX. ORD. NO. 12867. TERMINATION OF EMERGENCY AUTHORITY FOR CERTAIN EXPORT CONTROLS

Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (''the IEEPA''), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) (''the Act''), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. In view of the extension of the Act by Public Law 103–10 (March 27, 1993) [amending 50 App. U.S.C. 2419], Executive Order No. 12730 of September 30, 1990, which continued the effect of export control regulations under the IEEPA, is revoked, and the declaration of economic emergency is rescinded, as provided in this order.

SEC. 2. The revocation of Executive Order No. 12730 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that Order that occurred during the period the order was in effect. All rules and regulations issued or continued in effect under the authority of the IEEPA and Executive Order No. 12735, including those codified at 15 CFR Sections 768–799 (1993), and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall remain in full force and effect, as if issued, taken, or continued in effect pursuant to and as authorized by the Act or by other appropriate authority until amended or revoked by the proper authority. Nothing in this order shall affect the continued applicability of the provision for the administration of the Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980 [50 App. U.S.C. 2403 notes], and Executive Order No. 12735 of November 16, 1990.

SEC. 3. All rules, regulations, orders, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12730 relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) shall remain in full force and effect until amended or revoked under proper authority.

SEC. 4. This order shall take effect immediately.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 12868

Ex. Ord. No. 12868, Sept. 30, 1993, 58 F.R. 51749, which directed Secretary of Commerce to regulate activities of United States persons to prevent participation in weapons proliferation activities, was revoked, with savings provision, by Ex. Ord. No. 12930, §3, Sept. 29, 1994, 59 F.R. 50475, formerly set out below.

EXECUTIVE ORDER NO. 12872

Ex. Ord. No. 12872, Oct. 18, 1993, 58 F.R. 54029, which directed Secretary of the Treasury to block property of persons obstructing democratization in Haiti, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EXECUTIVE ORDER NO. 12914

Ex. Ord. No. 12914, May 7, 1994, 59 F.R. 24339, which directed Secretary of the Treasury to block all funds and financial resources of officers and employees of Haitian military, including police, and of all major participants in coup d'état in Haiti of 1991 and in illegal governments that followed, and which prohibited air travel between United States territory and Haiti except regularly scheduled commercial passenger flights, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EXECUTIVE ORDER NO. 12917

Ex. Ord. No. 12917, May 21, 1994, 59 F.R. 26925, which prohibited imports into United States from Haiti and

activity by United States persons or in United States promoting or dealing in Haitian exports, with certain exceptions, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EXECUTIVE ORDER NO. 12920

Ex. Ord. No. 12920, June 10, 1994, 59 F.R. 30501, which prohibited payment or transfer of funds or other financial or investment assets or credits to Haiti from or through United States or from Haiti to or through United States and the sale, supply, or exportation of goods, technology, or services to Haiti or promotion of such activity, with certain exceptions, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EXECUTIVE ORDER NO. 12922

Ex. Ord. No. 12922, June 21, 1994, 59 F.R. 32645, which directed Secretary of the Treasury to block property and interests in property of Haitian national residents in Haiti and to continue blocking property of certain other persons that were in United States or within possession and control of United States persons, was revoked by Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, set out below.

EXECUTIVE ORDER NO. 12923

Ex. Ord. No. 12923, June 30, 1994, 59 F.R. 34551, which continued effectiveness of the Export Administration Act of 1979, 50 App. U.S.C. 2401 et seq., and of the orders, rules and regulations promulgated thereunder, was revoked by Ex. Ord. No. 12924, §4, Aug. 19, 1994, 59 F.R. 43438, set out below.

EX. ORD. NO. 12924. CONTINUATION OF EXPORT CONTROL REGULATIONS

Ex. Ord. No. 12924, Aug. 19, 1994, 59 F.R. 43437, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to section 203 of the International Emergency Economic Powers Act (''Act'') (50 U.S.C. 1702), I, WILLIAM J. CLINTON, President of the United States of America, find that the unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and hereby declare a national emergency with respect to that threat.

Accordingly, in order (a) to exercise the necessary vigilance over exports and activities affecting the national security of the United States; (b) to further significantly the foreign policy of the United States, including its policy with respect to cooperation by U.S. persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

SECTION 1. To the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, and the provisions for administration of the Export Administration Act of 1979, as amended, shall be carried out under this order so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration regulations issued under the Export Administration Act of 1979, as amended. The delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 [50 App. U.S.C. 2403 note], as amended by Executive Order No. 12755 of March 12, 1991; Executive Order No. 12214 of May 2, 1980 [50 App. U.S.C. 2403 note]; Executive Order No. 12735 of November 16, 1990 [50 U.S.C. 1701 note]; and Executive Order No. 12851 of June 11, 1993 [22 U.S.C. 2797 note], shall be incorporated in this order and shall apply to the exercise of authorities under this order.

SEC. 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended [50 App. U.S.C. 2401 et seq.], including those published in Title 15, Subtitle B, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 through 799, and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect as if issued or taken pursuant to this order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

SEC. 3. Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).

SEC. 4. Executive Order No. 12923 of June 30, 1994, is revoked, and that declaration of emergency is rescinded. The revocation of Executive Order No. 12923 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that order that occurred during the period the order was in effect.

SEC. 5. This order shall be effective as of midnight between August 20, 1994, and August 21, 1994, and shall remain in effect until terminated.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 12930

Ex. Ord. No. 12930, Sept. 29, 1994, 59 F.R. 50475, which directed Secretary of Commerce to take measures to restrict participation by United States persons in weapons proliferation activities, was revoked by Ex. Ord. No. 12938, §10, Nov. 14, 1994, 59 F.R. 59099, set out below.

EX. ORD. NO. 12932. TERMINATION OF EMERGENCY WITH RESPECT TO HAITI

Ex. Ord. No. 12932, Oct. 14, 1994, 59 F.R. 52403, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (''NEA'') (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, and taking into consideration United Nations Security Council Resolution 944 of September 29, 1994,

I, WILLIAM J. CLINTON, President of the United States of America, find that the restoration of a democratically elected government in Haiti has ended the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States previously posed by the policies and actions of the *de facto* regime in Haiti and the need to continue the national emergency declared in Executive Order No. 12775 of October 4, 1991, to deal with that threat.

I hereby revoke Executive Order Nos. 12775, 12779, 12853, 12872, 12914, 12917, 12920, and 12922 and terminate the national emergency declared in Executive Order No. 12775 with respect to Haiti.

Pursuant to section 202 of the NEA (50 U.S.C. 1622), termination of the national emergency with respect to

Haiti shall not affect any action taken or proceeding pending not finally concluded or determined as of the effective date of this order, or any action or proceeding based on any act committed prior to the effective date of this order, or any rights or duties that matured or penalties that were incurred prior to the effective date of this order.

This order shall take effect at 12:01 a.m. eastern daylight time on October 16, 1994.

WILLIAM J. CLINTON.

EX. ORD. NO. 12934. BLOCKING PROPERTY AND ADDITIONAL MEASURES WITH RESPECT TO BOSNIAN SERB-CONTROLLED AREAS OF REPUBLIC OF BOSNIA AND HERZEGOVINA

Ex. Ord. No. 12934, Oct. 25, 1994, 59 F.R. 54117, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, in view of United Nations Security Council Resolution 942 of September 23, 1994, and in order to take additional steps with respect to the crisis in the former Yugoslavia, I hereby expand the scope of the national emergency declared in Executive Order No. 12808 [set out above] to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina.

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

SECTION 1. Notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses, which may hereafter be issued pursuant to this order, all property and interests in property of: (a) the Bosnian Serb military and paramilitary forces and the authorities in those areas of the Republic of Bosnia and Herzegovina under the control of those forces;

(b) any entity, including any commercial, industrial, or public utility undertaking, organized or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces;

(c) any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces;

(d) any person acting for or on behalf of any person included within the scope of paragraph (a), (b), or (c) of this section; that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked.

SEC. 2. Notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses, which may hereafter be issued pursuant to this order: (a) the provision or exportation of services to those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or to any person for the purpose of any business carried on in those areas, either from the United States or by a United States person, is prohibited; and

(b) no vessel registered in the United States or owned or controlled by a United States person, other than a United States naval vessel, may enter the riverine ports of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

SEC. 3. Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited.

SEC. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] and the United Nations Participation Act of 1945 [22 U.S.C. 287 et seq.], as amended, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the United States Government, all agencies of which are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

SEC. 5. Nothing in this order shall apply to activities related to the United Nations Protection Force, the International Conference on the Former Yugoslavia, or the European Community Monitoring Missions.

SEC. 6. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a corporation, partnership, association, or other organization;

(c) The term ''United States person'' is as defined in section 5 of Executive Order No. 12810 [set out above].

SEC. 7. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 8 (a) This order shall take effect at 11:59 p.m. eastern daylight time on October 25, 1994.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON.

EX. ORD. NO. 12938. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Ex. Ord. No. 12938, Nov. 14, 1994, 59 F.R. 59099, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), Executive Orders Nos. 12851 [22 U.S.C. 2797 note] and 12924 [set out above], and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the proliferation of nuclear, biological, and chemical weapons (''weapons of mass destruction'') and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

SECTION 1. *International Negotiations.* It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of weapons of mass destruction and the means of delivering such weapons. Accordingly, the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of weapons of mass destruction and their means of delivery.

SEC. 2. *Imposition of Controls.* As provided herein, the Secretary of State and the Secretary of Commerce shall use their respective authorities, including the Arms Export Control Act [22 U.S.C. 2751 et seq.] and the International Emergency Economic Powers Act [50

U.S.C. 1701 et seq.], to control any exports, to the extent they are not already controlled by the Department of Energy and the Nuclear Regulatory Commission, that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

SEC. 3. *Department of Commerce Controls.* (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to the Secretary's export jurisdiction that the Secretary of Commerce determines, in consultation with the Secretary of State, the Secretary of Defense, and other appropriate officials, would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) of this section will not apply to exports relating to a particular category of weapons of mass destruction (i.e., nuclear, chemical, or biological weapons) if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of that category of weapons of mass destruction-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to that category of goods and technology, or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

(d) The Secretary of Commerce, in consultation with the Secretary of State, shall take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction or their means of delivery, as provided in the Export Administration Regulations, set forth in Title 15, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive.

SEC. 4. *Sanctions Against Foreign Persons.* (a) In addition to the sanctions imposed on foreign persons as provided in the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510, see Tables for classification] and the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 [22 U.S.C. 5601 et seq.], sanctions also shall be imposed on a foreign person with respect to chemical and biological weapons proliferation if the Secretary of State determines that the foreign person on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, knowingly and materially contributed to the efforts of any foreign country, project, or entity to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(b) No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods or services from any foreign person described in subsection (a) of this section. The Secretary of the Treasury shall prohibit the importation into the United States of products produced by that foreign person.

(c) Sanctions pursuant to this section may be terminated or not imposed against foreign persons if the Secretary of State determines that there is reliable evidence that the foreign person concerned has ceased all activities referred to in subsection (a).

(d) The Secretary of State and the Secretary of the Treasury may provide appropriate exemptions for procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements, sole source suppliers, spare parts, components, routine servicing and maintenance of products, and medical and humanitarian items. They may provide exemptions for contracts in existence on the date of this order under appropriate circumstances.

SEC. 5. *Sanctions Against Foreign Countries.* (a) In addition to the sanctions imposed on foreign countries as provided in the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 [22 U.S.C. 5601 et seq.], sanctions also shall be imposed on a foreign country as specified in subsection (b) of this section, if the Secretary of State determines that the foreign country has, on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, (1) used chemical or biological weapons in violation of international law; (2) made substantial preparations to use chemical or biological weapons in violation of international law; or (3) developed, produced, stockpiled, or otherwise acquired chemical or biological weapons in violation of international law.

(b) The following sanctions shall be imposed on any foreign country identified in subsection (a)(1) of this section unless the Secretary of State determines, on grounds of significant foreign policy or national security, that any individual sanction should not be applied. The sanctions specified in this section may be made applicable to the countries identified in subsections (a)(2) or (a)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (b)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) *Foreign Assistance.* No assistance shall be provided to that country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any successor act, or the Arms Export Control Act [22 U.S.C. 2751 et seq.], other than assistance that is intended to benefit the people of that country directly and that is not channeled through governmental agencies or entities of that country.

(2) *Multilateral Development Bank Assistance.* The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) *Denial of Credit or Other Financial Assistance.* The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) *Prohibition of Arms Sales.* The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) *Exports of National Security-Sensitive Goods and Technology.* No exports shall be permitted of any goods or technologies controlled for national security reasons under the Export Administration Regulations.

(6) *Further Export Restrictions.* The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) *Import Restrictions.* Restrictions shall be imposed on the importation into the United States of articles (that may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(8) *Landing Rights.* At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10) [see 49 U.S.C. 40102(5)]).

SEC. 6. *Duration.* Any sanctions imposed pursuant to sections 4 or 5 of this order shall remain in force until the Secretary of State determines that lifting any

sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4 of this order, until the Secretary has made the determination under section 4(c).

SEC. 7. *Implementation*. The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5 of this order, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads and shall be implemented in accordance with procedures established pursuant to Executive Order No. 12851 [22 U.S.C. 2797 note]. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

SEC. 8. *Preservation of Authorities*. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of the International Economic Emergency Powers Act [International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq.], the Export Administration Act [50 App. U.S.C. 2401 et seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], the Nuclear Non-proliferation Act [22 U.S.C. 3201 et seq.], Executive Order No. 12730 of September 30, 1990 [50 U.S.C. 1701 note], Executive Order No. 12735 of November 16, 1990, Executive Order No. 12924 of August 18, 1994 [50 U.S.C. 1701 note], and Executive Order No. 12930 of September 29, 1994.

SEC. 9. *Judicial Review*. This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

SEC. 10. *Revocation of Executive Orders Nos. 12735 and 12930*. Executive Order No. 12735 of November 16, 1990, and Executive Order No. 12930 of September 29, 1994, are hereby revoked.

SEC. 11. *Effective Date*. This order is effective immediately.

This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

§ 1702. Presidential authorities

(a)(1) At the times and to the extent specified in section 1701 of this title, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value;

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 1701 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances; or[1]

(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 2404 of the Appendix to this title, or under section 2405 of the Appendix to this title to the extent that such controls promote the non-

[1] So in original. The word ''or'' probably should not appear.

proliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18; or

(4) any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

(Pub. L. 95–223, title II, § 203, Dec. 28, 1977, 91 Stat. 1626; Pub. L. 100–418, title II, § 2502(b)(1), Aug. 23, 1988, 102 Stat. 1371; Pub. L. 103–236, title V, § 525(c)(1), Apr. 30, 1994, 108 Stat. 474.)

AMENDMENTS

1994—Subsec. (b)(3), (4). Pub. L. 103–236 added pars. (3) and (4) and struck out former par. (3) which read as follows: ''the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 2404 of the Appendix to this title or with respect to which no acts are prohibited by chapter 37 of title 18.''

1988—Subsec. (b)(3). Pub. L. 100–418 added par. (3).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 525(c)(2) and (3) of Pub. L. 103–236 provided that:

''(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act [50 U.S.C. 1702(b)(3)] apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act [Apr. 30, 1994] which are in effect on such date and to actions taken under such section on or after such date.

''(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] on the date of enactment of this Act.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2502(b)(2) of Pub. L. 100–418 provided that: ''The amendments made by paragraph (1) [amending this section] apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act [this section] before the date of the enactment of this Act [Aug. 23, 1988] which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title; title 22 section 6004.

§ 1703. Consultation and reports

(a) Consultation with Congress

The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this chapter and shall consult regularly with the Congress so long as such authorities are exercised.

(b) Report to Congress upon exercise of Presidential authorities

Whenever the President exercises any of the authorities granted by this chapter, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) Periodic follow-up reports

At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) of this section with respect to an exercise of authorities under this chapter, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b) of this section.

(d) Supplemental requirements

The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act [50 U.S.C. 1641].

(Pub. L. 95–223, title II, § 204, Dec. 28, 1977, 91 Stat. 1627.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (d), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title IV of the National Emergencies Act enacted subchapter IV (§ 1641) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

§ 1704. Authority to issue regulations

The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this chapter.

(Pub. L. 95–223, title II, § 205, Dec. 28, 1977, 91 Stat. 1628.)

§ 1705. Penalties

(a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this chapter.

(b) Whoever willfully violates any license, order, or regulation issued under this chapter shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(Pub. L. 95–223, title II, § 206, Dec. 28, 1977, 91 Stat. 1628; Pub. L. 102–393, title VI, § 629, Oct. 6, 1992, 106 Stat. 1773; Pub. L. 102–396, title IX, § 9155, Oct. 6, 1992, 106 Stat. 1943.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–396 substituted ''$10,000'' for ''$50,000''.

Pub. L. 102–393 substituted ''$50,000'' for ''$10,000''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1956; title 22 section 2778.

§ 1706. Savings provisions

(a) Termination of national emergencies pursuant to National Emergencies Act

(1) Except as provided in subsection (b) of this section, notwithstanding the termination pursuant to the National Emergencies Act [50 U.S.C. 1601 et seq.] of a national emergency declared for purposes of this chapter, any authorities granted by this chapter, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) Congressional termination of national emergencies by concurrent resolution

The authorities described in subsection (a)(1) of this section may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act [50 U.S.C. 1622] and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c) Supplemental savings provisions; supersedure of inconsistent provisions

(1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) [50 U.S.C. 1601(a)(1), (2), (3)] and of paragraphs (A), (B), and (C) of section 202(a) [50 U.S.C. 1622(a)(A), (B), and (C)] of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) [50 U.S.C. 1601(a)] and of title II [50 U.S.C. 1621 et seq.] of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) Periodic reports to Congress

If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

(Pub. L. 95–223, title II, § 207, Dec. 28, 1977, 91 Stat. 1628.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsecs. (a)(1) and (c)(2), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§ 1601 et seq.) of this title. Title II of the National Emergencies Act is classified generally to subchapter II (§ 1621 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Section 101(b) of this Act, referred to in subsec. (a)(2), is section 101(b) of Pub. L. 95–223, which is set out as a note under section 5 of the Appendix to this title.

CHAPTER 36—FOREIGN INTELLIGENCE SURVEILLANCE

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 sections 2232, 2511, 2522, 3121; title 47 section 1008.

SUBCHAPTER I—ELECTRONIC SURVEILLANCE

§ 1801. Definitions

As used in this subchapter:

(a) ''Foreign power'' means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) ''Agent of a foreign power'' means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4) of this section;

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that

are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) ''International terrorism'' means activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) ''Sabotage'' means activities that involve a violation of chapter 105 of title 18, or that would involve such a violation if committed against the United States.

(e) ''Foreign intelligence information'' means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) ''Electronic surveillance'' means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) ''Attorney General'' means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) ''Minimization procedures'', with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1) of this section, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 1802(a) of this title, procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 1805 of this title is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) ''United States person'' means a citizen of the United States, an alien lawfully admitted

for permanent residence (as defined in section 1101(a)(20) of title 8), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3) of this section.

(j) ''United States'', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) ''Aggrieved person'' means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) ''Wire communication'' means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) ''Person'' means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) ''Contents'', when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(Pub. L. 95–511, title I, § 101, Oct. 25, 1978, 92 Stat. 1783.)

EFFECTIVE DATE; EXCEPTION

Section 401, formerly section 301 of Pub. L. 95–511, as renumbered § 401 and amended by Pub. L. 103–359, title VIII, § 807(a)(1), (2), Oct. 14, 1994, 108 Stat. 3443, provided that: ''The provisions of this Act [enacting this chapter, amending sections 2511, 2518, and 2519 of Title 18, Crimes and Criminal Procedure, and enacting provision set out as a note below] (other than title III [enacting subchapter II of this chapter]) and the amendments made hereby shall become effective upon the date of enactment of this Act [Oct. 25, 1978], except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act [enacting this subchapter] within ninety days following the designation of the first judge pursuant to section 103 of this Act [section 1803 of this title].''

SHORT TITLE

Section 1 of Pub. L. 95–511 provided: ''That this Act [enacting this chapter, amending sections 2511, 2518, and 2519 of Title 18, Crimes and Criminal Procedure, and enacting provision set out as a note above] may be cited as the 'Foreign Intelligence Surveillance Act of 1978'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402a, 438, 1802, 1804, 1805, 1810, 1821, 1822, 1823, 1824, 1828 of this title; title 12 section 3414; title 18 sections 794, 2511, 2709.

§ 1802. Electronic surveillance authorization without court order; certification by Attorney General; reports to Congressional committees; transmittal under seal; duties and compensation of communication common carrier; applications; jurisdiction of court

(a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 1801(a)(1), (2), or (3) of this title; or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title;

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 1801(h) of this title; and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 1808(a) of this title.

(3) The Attorney General shall immediately transmit under seal to the court established under section 1803(a) of this title a copy of his certification. Such certification shall be maintained under security measures established by

the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 1801(h)(4) and 1804 of this title; or

(B) the certification is necessary to determine the legality of the surveillance under section 1806(f) of this title.

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this subchapter are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 1803 of this title, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 1805 of this title, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) of this section unless such surveillance may involve the acquisition of communications of any United States person.

(Pub. L. 95–511, title I, § 102, Oct. 25, 1978, 92 Stat. 1786.)

EX. ORD. NO. 12139. EXERCISE OF CERTAIN AUTHORITY RESPECTING ELECTRONIC SURVEILLANCE

Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, provided:

By the authority vested in me as President by Sections 102 and 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802 and 1804), in order to provide as set forth in that Act [this chapter] for the authorization of electronic surveillance for foreign intelligence purposes, it is hereby ordered as follows:

1–101. Pursuant to Section 102(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802(a)), the Attorney General is authorized to approve electronic surveillance to acquire foreign intelligence information without a court order, but only if the Attorney General makes the certifications required by that Section.

1–102. Pursuant to Section 102(b) of the Foreign Intelligence Act of 1978 (50 U.S.C. 1802(b)), the Attorney General is authorized to approve applications to the court having jurisdiction under Section 103 of that Act [50 U.S.C. 1803] to obtain orders for electronic surveillance for the purpose of obtaining foreign intelligence information.

1–103. Pursuant to Section 104(a)(7) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804(a)(7)), the following officials, each of whom is employed in the area of national security or defense, is designated to make the certifications required by Section 104(a)(7) of the Act in support of applications to conduct electronic surveillance:

(a) Secretary of State.
(b) Secretary of Defense.
(c) Director of Central Intelligence.
(d) Director of the Federal Bureau of Investigation.
(e) Deputy Secretary of State.
(f) Deputy Secretary of Defense.
(g) Deputy Director of Central Intelligence.

None of the above officials, nor anyone officially acting in that capacity, may exercise the authority to make the above certifications, unless that official has been appointed by the President with the advice and consent of the Senate.

1–104. Section 2–202 of Executive Order No. 12036 [set out under section 401 of this title] is amended by inserting the following at the end of that section: ''Any electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act as well as this Order.''.

1–105. Section 2–203 of Executive Order No. 12036 [set out under section 401 of this title] is amended by inserting the following at the end of that section: ''Any monitoring which constitutes electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978 shall be conducted in accordance with that Act as well as this Order.''.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1801, 1805 of this title.

§ 1803. Designation of judges

(a) Court to hear applications and grant orders; record of denial; transmittal to court of review

The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this chapter, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this chapter which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this chapter, such judge shall provide immediately for the record a written statement of each reason of his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b) of this section.

(b) Court of review; record, transmittal to Supreme Court

The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this chapter. If such court determines that the application was properly denied, the court shall immediately provide

for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) Expeditious conduct of proceedings; security measures for maintenance of records

Proceedings under this chapter shall be conducted as expeditiously as possible. The record of proceedings under this chapter, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

(d) Tenure

Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) of this section shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) of this section shall be designated for terms of three, five, and seven years.

(Pub. L. 95–511, title I, § 103, Oct. 25, 1978, 92 Stat. 1788.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (c), was in the original ''this Act'', meaning Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1802, 1804, 1805, 1821, 1822, 1824 of this title.

§ 1804. Applications for court orders

(a) Submission by Federal officer; approval of Attorney General; contents

Each application for an order approving electronic surveillance under this subchapter shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 1803 of this title. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this subchapter. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 1801(e) of this title; and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this subchapter involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this subchapter should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Exclusion of certain information respecting foreign power targets

Whenever the target of the electronic surveillance is a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, and each of the

facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a) of this section, but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) Additional affidavits or certifications

The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) Additional information

The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 1805 of this title.

(Pub. L. 95–511, title I, § 104, Oct. 25, 1978, 92 Stat. 1788.)

DESIGNATION OF CERTAIN OFFICIALS TO MAKE CERTIFICATIONS

For designation of certain officials to make certifications required by subsec. (a)(7) of this section, see Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, set out under section 1802 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1802, 1805 of this title.

§ 1805. Issuance of order

(a) Necessary findings

Upon an application made pursuant to section 1804 of this title, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 1804(h) of this title; and

(5) the application which has been filed contains all statements and certifications required by section 1804 of this title and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 1804(a)(7)(E) of this title and any other information furnished under section 1804(d) of this title.

(b) Specifications and directions of orders

An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Exclusion of certain information respecting foreign power targets

Whenever the target of the electronic surveillance is a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1) of this section, but shall generally describe the information

sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d) Duration of order; extensions; review of circumstances under which information was acquired, retained or disseminated

(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 1801(a)(1), (2), or (3) of this title, for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this subchapter may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 1801(a)(5) or (6) of this title, or against a foreign power as defined in section 1801(a)(4) of this title that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Emergency orders

Notwithstanding any other provision of this subchapter, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this subchapter to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 1803 of this title is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this subchapter is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this subchapter for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 1803 of this title.

(f) Testing of electronic equipment; discovering unauthorized electronic surveillance; training of intelligence personnel

Notwithstanding any other provision of this subchapter, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and:

(D) *Provided*, That the test may exceed ninety days only with the prior approval of the Attorney General;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, or section 605 of title 47, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this subchapter; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Retention of certifications, applications and orders

Certifications made by the Attorney General pursuant to section 1802(a) of this title and applications made and orders granted under this subchapter shall be retained for a period of at least ten years from the date of the certification or application.

(Pub. L. 95–511, title I, § 105, Oct. 25, 1978, 92 Stat. 1790; Pub. L. 98–549, § 6(b)(3), Oct. 30, 1984, 98 Stat. 2804.)

AMENDMENTS

1984—Subsec. (f)(2)(C). Pub. L. 98–549 substituted ''section 705'' for ''section 605'' in the original to accommodate renumbering of sections in subchapter VI (section 601 et seq.) of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, by section 6(a) of Pub. L. 98–549. Because both sections translate as ''section 605 of Title 47'', the amendment by Pub. L. 98–549 resulted in no change in text.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98–549, set out as a note under section 521 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1801, 1802, 1804, 1806 of this title; title 47 section 1002.

§ 1806. Use of information

(a) Compliance with minimization procedures; privileged communications; lawful purposes

Information acquired from an electronic surveillance conducted pursuant to this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this subchapter. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this subchapter shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Statement for disclosure

No information acquired pursuant to this subchapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Notification by United States

Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Notification by States or political subdivisions

Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Motion to suppress

Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) In camera and ex parte review by district court

Whenever a court or other authority is notified pursuant to subsection (c) or (d) of this section, or whenever a motion is made pursuant to subsection (e) of this section, or whenever any

motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this chapter, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) Suppression of evidence; denial of motion

If the United States district court pursuant to subsection (f) of this section determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Finality of orders

Orders granting motions or requests under subsection (g) of this section, decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) Destruction of unintentionally acquired information

In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) Notification of emergency employment of electronic surveillance; contents; postponement, suspension or elimination

If an emergency employment of electronic surveillance is authorized under section 1805(e) of this title and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

(Pub. L. 95–511, title I, § 106, Oct. 25, 1978, 92 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1802 of this title.

§ 1807. Report to Administrative Office of the United States Court and to Congress

In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this subchapter; and

(b) the total number of such orders and extensions either granted, modified, or denied.

(Pub. L. 95–511, title I, § 107, Oct. 25, 1978, 92 Stat. 1795.)

§ 1808. Report of Attorney General to Congressional committees; limitation on authority or responsibility of information gathering activities of Congressional committees; report of Congressional committees to Congress

(a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this subchapter. Nothing in this subchapter shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(b) On or before one year after October 25, 1978, and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this chapter. Said reports shall include but not be limited to

an analysis and recommendations concerning whether this chapter should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

(Pub. L. 95–511, title I, § 108, Oct. 25, 1978, 92 Stat. 1795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1802 of this title.

§ 1809. Criminal sanctions

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) Defense

It is a defense to a prosecution under subsection (a) of this section that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Penalties

An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95–511, title I, § 109, Oct. 25, 1978, 92 Stat. 1796.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1810 of this title.

§ 1810. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A) of this title, respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 1809 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

(Pub. L. 95–511, title I, § 110, Oct. 25, 1978, 92 Stat. 1796.)

§ 1811. Authorization during time of war

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

(Pub. L. 95–511, title I, § 111, Oct. 25, 1978, 92 Stat. 1796.)

SUBCHAPTER II—PHYSICAL SEARCHES

§ 1821. Definitions

As used in this subchapter:

(1) The terms ''foreign power'', ''agent of a foreign power'', ''international terrorism'', ''sabotage'', ''foreign intelligence information'', ''Attorney General'', ''United States person'', ''United States'', ''person'', and ''State'' shall have the same meanings as in section 1801 of this title, except as specifically provided by this subchapter.

(2) ''Aggrieved person'' means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

(3) ''Foreign Intelligence Surveillance Court'' means the court established by section 1803(a) of this title.

(4) ''Minimization procedures'' with respect to physical search, means—

(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 1801(e)(1) of this title, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand such foreign intelligence information or assess its importance;

(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(D) notwithstanding subparagraphs (A), (B), and (C), with respect to any physical search approved pursuant to section 1822(a) of this title, procedures that require that no information, material, or property of a United States person shall be disclosed, disseminated, or used for any purpose or retained for longer than 24 hours unless a court order under section 1824 of this title is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(5) ''Physical search'' means any physical intrusion within the United States into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include (A) ''electronic surveillance'', as defined in section 1801(f) of this title, or (B) the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 1801(f) of this title.

(Pub. L. 95–511, title III, § 301, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3443.)

PRIOR PROVISIONS

A prior section 301 of Pub. L. 95–511 was renumbered section 401 and is set out as a note under section 1801 of this title.

EFFECTIVE DATE

Section 807(c) of Pub. L. 103–359 provided that: ''The amendments made by subsections (a) and (b) [enacting this subchapter and amending provisions set out as a note under section 1801 of this title] shall take effect 90 days after the date of enactment of this Act [Oct. 14, 1994], except that any physical search approved by the Attorney General of the United States to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 [this subchapter] (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1822 of this title.

§ 1822. Authorization of physical searches for foreign intelligence purposes

(a) Presidential authorization

(1) Notwithstanding any other provision of law, the President, acting through the Attorney General, may authorize physical searches without a court order under this subchapter to acquire foreign intelligence information for periods of up to one year if—

(A) the Attorney General certifies in writing under oath that—

(i) the physical search is solely directed at premises, information, material, or property used exclusively by, or under the open and exclusive control of, a foreign power or powers (as defined in section 1801(a)(1), (2), or (3) of this title);

(ii) there is no substantial likelihood that the physical search will involve the premises, information, material, or property of a United States person; and

(iii) the proposed minimization procedures with respect to such physical search meet the definition of minimization procedures under paragraphs (1) through (4)[1] of section 1821(4) of this title; and

(B) the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days before their effective date, unless the Attorney General determines that immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) A physical search authorized by this subsection may be conducted only in accordance with the certification and minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 1826 of this title.

(3) The Attorney General shall immediately transmit under seal to the Foreign Intelligence Surveillance Court a copy of the certification. Such certification shall be maintained under security measures established by the Chief Justice of the United States with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the physical search is made under section 1821(4) of this title and section 1823 of this title; or

(B) the certification is necessary to determine the legality of the physical search under section 1825(g) of this title.

(4)(A) With respect to physical searches authorized by this subsection, the Attorney General may direct a specified landlord, custodian, or other specified person to—

(i) furnish all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search; and

(ii) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain.

(B) The Government shall compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid.

(b) Application for order; authorization

Applications for a court order under this subchapter are authorized if the President has, by

[1] So in original. Probably should be ''subparagraphs (A) through (D)''.

written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other provision of law, a judge of the court to whom application is made may grant an order in accordance with section 1824 of this title approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

(c) Jurisdiction of Foreign Intelligence Surveillance Court

The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this subchapter, except that no judge shall hear the same application which has been denied previously by another judge designated under section 1803(a) of this title. If any judge so designated denies an application for an order authorizing a physical search under this subchapter, such judge shall provide immediately for the record a written statement of each reason for such decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 1803(b) of this title.

(d) Court of review; record; transmittal to Supreme Court

The court of review established under section 1803(b) of this title shall have jurisdiction to review the denial of any application made under this subchapter. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(e) Expeditious conduct of proceedings; security measures for maintenance of records

Judicial proceedings under this subchapter shall be concluded as expeditiously as possible. The record of proceedings under this subchapter, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

(Pub. L. 95–511, title III, § 302, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3444.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1824 of this title.

§ 1823. Application for order

(a) Submission by Federal officer; approval of Attorney General; contents

Each application for an order approving a physical search under this subchapter shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this subchapter. Each application shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;

(4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

(A) the target of the physical search is a foreign power or an agent of a foreign power;

(B) the premises or property to be searched contains foreign intelligence information; and

(C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President, by and with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the search is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 1801(e) of this title; and

(E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D);

(8) where the physical search involves a search of the residence of a United States person, the Attorney General shall state what investigative techniques have previously been utilized to obtain the foreign intelligence information concerned and the degree to which these techniques resulted in acquiring such information; and

(9) a statement of the facts concerning all previous applications that have been made to any judge under this subchapter involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

(b) Additional affidavits or certifications

The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(c) Additional information

The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 1824 of this title.

(Pub. L. 95–511, title III, § 303, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1822, 1824 of this title.

§ 1824. Issuance of order

(a) Necessary findings

Upon an application made pursuant to section 1823 of this title, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power;

(4) the proposed minimization procedures meet the definition of minimization contained in this subchapter; and

(5) the application which has been filed contains all statements and certifications required by section 1823 of this title, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 1823(a)(7)(E) of this title and any other information furnished under section 1823(c) of this title.

(b) Specifications and directions of orders

An order approving a physical search under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the physical search;

(B) the nature and location of each of the premises or property to be searched;

(C) the type of information, material, or property to be seized, altered, or reproduced;

(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the authorized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

(E) the period of time during which physical searches are approved; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

(C) that such landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

(c) Duration of order; extensions; assessment of compliance

(1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for forty-five days, whichever is less, except that an order under this section shall approve a physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 1801(a) of this title, for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this subchapter may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this chapter for a physical search targeted against a foreign power, as defined in section 1801(a)(5) or (6) of this title, or against a foreign power, as defined in section 1801(a)(4) of this title, that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(d) Emergency orders

(1)(A) Notwithstanding any other provision of this subchapter, whenever the Attorney General

reasonably makes the determination specified in subparagraph (B), the Attorney General may authorize the execution of an emergency physical search if—

(i) a judge having jurisdiction under section 1803 of this title is informed by the Attorney General or the Attorney General's designee at the time of such authorization that the decision has been made to execute an emergency search, and

(ii) an application in accordance with this subchapter is made to that judge as soon as practicable but not more than 24 hours after the Attorney General authorizes such search.

(B) The determination referred to in subparagraph (A) is a determination that—

(i) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and

(ii) the factual basis for issuance of an order under this subchapter to approve such a search exists.

(2) If the Attorney General authorizes an emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this subchapter for the issuance of a judicial order be followed.

(3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—

(A) the date on which the information sought is obtained;

(B) the date on which the application for the order is denied; or

(C) the expiration of 24 hours from the time of authorization by the Attorney General.

(4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 1822 of this title.

(e) Retention of applications and orders

Applications made and orders granted under this subchapter shall be retained for a period of at least 10 years from the date of the application.

(Pub. L. 95–511, title III, § 304, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3447.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original ''this Act'', meaning Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1822, 1823, 1825 of this title.

§ 1825. Use of information

(a) Compliance with minimization procedures; lawful purposes

Information acquired from a physical search conducted pursuant to this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this subchapter. No information acquired from a physical search pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Notice of search and identification of property seized, altered, or reproduced

Where a physical search authorized and conducted pursuant to section 1824 of this title involves the residence of a United States person, and, at any time after the search the Attorney General determines there is no national security interest in continuing to maintain the secrecy of the search, the Attorney General shall provide notice to the United States person whose residence was searched of the fact of the search conducted pursuant to this chapter and shall identify any property of such person seized, altered, or reproduced during such search.

(c) Statement for disclosure

No information acquired pursuant to this subchapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(d) Notification by United States

Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search pursuant to the authority of this subchapter, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(e) Notification by States or political subdivisions

Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or

other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search pursuant to the authority of this subchapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(f) Motion to suppress

(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

(A) the information was unlawfully acquired; or

(B) the physical search was not made in conformity with an order of authorization or approval.

(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(g) In camera and ex parte review by district court

Whenever a court or other authority is notified pursuant to subsection (d) or (e) of this section, or whenever a motion is made pursuant to subsection (f) of this section, or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this subchapter or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this subchapter, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

(h) Suppression of evidence; denial of motion

If the United States district court pursuant to subsection (g) of this section determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Finality of orders

Orders granting motions or requests under subsection (h) of this section, decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

(j) Notification of emergency execution of physical search; contents; postponement, suspension, or elimination

(1) If an emergency execution of a physical search is authorized under section 1824(d) of this title and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is in the interests of justice to serve, notice of—

(A) the fact of the application;

(B) the period of the search; and

(C) the fact that during the period information was or was not obtained.

(2) On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

(Pub. L. 95–511, title III, § 305, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3449.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1822, 1826 of this title.

§ 1826. Congressional oversight

On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this subchapter.

On a semiannual basis the Attorney General shall also provide to those committees and the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

(1) the total number of applications made for orders approving physical searches under this subchapter;

(2) the total number of such orders either granted, modified, or denied; and

(3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 1825(b) of this title.

(Pub. L. 95–511, title III, § 306, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3451.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1822 of this title.

§ 1827. Penalties

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

(b) Defense

It is a defense to a prosecution under subsection (a) of this section that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Fine or imprisonment

An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95–511, title III, § 307, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1828 of this title.

§ 1828. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A), respectively, of this title, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 1827 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

(Pub. L. 95–511, title III, § 308, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

§ 1829. Authorization during time of war

Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

(Pub. L. 95–511, title III, § 309, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

CHAPTER 37—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

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§ 1901. Short title, findings, and purposes

(a) Short title

This chapter may be cited as the ''David L. Boren National Security Education Act of 1991''.

(b) Findings

The Congress makes the following findings:

(1) The security of the United States is and will continue to depend on the ability of the United States to exercise international leadership.

(2) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(3) Recent changes in the world pose threats of a new kind to international stability as Cold War tensions continue to decline while economic competition, regional conflicts, terrorist activities, and weapon proliferations have dramatically increased.

(4) The future national security and economic well-being of the United States will depend substantially on the ability of its citizens to communicate and compete by knowing the languages and cultures of other countries.

(5) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(6) The Federal Government also has an interest in taking actions to alleviate the problem of American undergraduate and graduate students being inadequately prepared to meet the challenges posed by increasing global interaction among nations.

(7) American colleges and universities must place a new emphasis on improving the teaching of foreign languages, area studies, and other international fields to help meet those challenges.

(c) Purposes

The purposes of this chapter are as follows:

(1) To provide the necessary resources, accountability, and flexibility to meet the national security education needs of the United States, especially as such needs change over time.

(2) To increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign languages, area studies, and other international fields that are critical to the Nation's interest.

(3) To produce an increased pool of applicants for work in the departments and agencies of the United States Government with national security responsibilities.

(4) To expand, in conjunction with other Federal programs, the international experience, knowledge base, and perspectives on which the United States citizenry, Government employees, and leaders rely.

(5) To permit the Federal Government to advocate the cause of international education.

(Pub. L. 102–183, title VIII, § 801, Dec. 4, 1991, 105 Stat. 1271; Pub. L. 102–496, title IV, § 404(a), Oct. 24, 1992, 106 Stat. 3185.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 amended subsec. (a) generally, inserting ''David L. Boren''.

§ 1902. Scholarship, fellowship, and grant program

(a) Program required

(1) In general

The Secretary of Defense shall carry out a program for—

(A) awarding scholarships to undergraduate students who are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 1903(d)(4)(A) of this title) in those language and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 1906(d) of this title);

(B) awarding fellowships to graduate students who—

(i) are United States citizens to enable such students to pursue education as part of a graduate degree program of a United States institution of higher education in the disciplines of foreign languages, area studies, and other international fields that are critical areas of those disciplines (as determined under section 1903(d)(4)(B) of this title) and in which deficiencies exist (as identified in the assessments undertaken pursuant to section 1906(d) of this title); and

(ii) pursuant to subsection (b)(2) of this section, enter into an agreement to work for an agency or office of the Federal Government or in the field of education in the area of study for which the fellowship was awarded; and

(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, or improve programs in foreign languages, area studies, and other international fields that are critical areas of those disciplines (as determined under section 1903(d)(4)(C) of this title).

(2) Funding allocations

Of the amount available for obligation out of the National Security Education Trust Fund for any fiscal year for the purposes stated in paragraph (1), the Secretary shall have a goal of allocating—

(A) ⅓ of such amount for the awarding of scholarships pursuant to paragraph (1)(A);

(B) ⅓ of such amount for the awarding of fellowships pursuant to paragraph (1)(B); and

(C) ⅓ of such amount for the awarding of grants pursuant to paragraph (1)(C).

(3) Consultation with National Security Education Board

The program required under this chapter shall be carried out in consultation with the

National Security Education Board established under section 1903 of this title.

(4) Contract authority

The Secretary may enter into one or more contracts, with private national organizations having an expertise in foreign languages, area studies, and other international fields, for the awarding of the scholarships, fellowships, and grants described in paragraph (1) in accordance with the provisions of this chapter. The Secretary may enter into such contracts without regard to section 5 of title 41 or any other provision of law that requires the use of competitive procedures. In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time.

(b) Service agreement

In awarding a scholarship or fellowship under the program, the Secretary or contract organization referred to in subsection (a)(4) of this section, as the case may be, shall require a recipient of any fellowship, or of scholarships that provide assistance for periods that aggregate 12 months or more, to enter into an agreement that, in return for such assistance, the recipient—

(1) will maintain satisfactory academic progress, as determined in accordance with regulations issued by the Secretary, and agrees that failure to maintain such progress shall constitute grounds upon which the Secretary or contract organization referred to in subsection (a)(4) of this section may terminate such assistance;

(2) will, upon completion of such recipient's baccalaureate degree or education under the program, as the case may be, and in accordance with regulations issued by the Secretary, work for the Federal Government or in the field of education in the area of study for which the scholarship or fellowship was awarded for a period specified by the Secretary, which period for the recipients of scholarships shall be no more than the same period for which scholarship assistance was provided and for the recipients of fellowships shall be not less than one and not more than three times the period for which the fellowship assistance was provided; and

(3) if the recipient fails to meet either of the obligations set forth in paragraph (1) or (2), will reimburse the United States Government for the amount of the assistance provided the recipient under the program, together with interest at a rate determined in accordance with regulations issued by the Secretary.

(c) Distribution of assistance

In selecting the recipients for awards of scholarships, fellowships, or grants pursuant to this chapter, the Secretary or a contract organization referred to in subsection (a)(4) of this section, as the case may be, shall take into consideration (1) the extent to which the selections will result in there being an equitable geographic distribution of such scholarships, fellowships, or grants (as the case may be) among the various regions of the United States, and (2) the extent to which the distribution of scholarships and fellowships to individuals reflects the cultural, racial, and ethnic diversity of the population of the United States.

(d) Merit review

The Secretary shall award scholarships, fellowships, and grants under the program based upon a merit review process.

(e) Limitation on use of program participants

No person who receives a grant, scholarship, or fellowship or any other type of assistance under this chapter shall, as a condition of receiving such assistance or under any other circumstances, be used by any department, agency, or entity of the United States Government engaged in intelligence activities to undertake any activity on its behalf during the period such person is pursuing a program of education for which funds are provided under the program carried out under this chapter.

(Pub. L. 102–183, title VIII, § 802, Dec. 4, 1991, 105 Stat. 1271; Pub. L. 102–496, title IV, § 404(b), (c), Oct. 24, 1992, 106 Stat. 3185; Pub. L. 103–178, title III, § 311(b)(2), (d), Dec. 3, 1993, 107 Stat. 2037.)

AMENDMENTS

1993—Subsec. (a)(1)(A). Pub. L. 103–178, § 311(b)(2)(A), (d), struck out comma after ''term,'' and inserted before semicolon at end ''in those language and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 1906(d) of this title)''.

Subsec. (a)(1)(B)(i). Pub. L. 103–178, § 311(b)(2)(B), inserted before semicolon at end ''and in which deficiencies exist (as identified in the assessments undertaken pursuant to section 1906(d) of this title)''.

1992—Subsec. (a)(1)(A). Pub. L. 102–496, § 404(b)(1), inserted ''or equivalent term,'' after ''semester''.

Subsec. (a)(1)(B)(i). Pub. L. 102–496, § 404(b)(2), substituted ''as part of a graduate degree program of a United States institution of higher education'' for ''in the United States''.

Subsec. (a)(4). Pub. L. 102–496, § 404(b)(3), inserted at end ''In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time.''

Subsecs. (e), (f). Pub. L. 102–496, § 404(c), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: ''The Secretary shall administer the program through the Defense Intelligence College.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1903, 1904 of this title.

§ 1903. National Security Education Board

(a) Establishment

The Secretary of Defense shall establish a National Security Education Board.

(b) Composition

The Board shall be composed of the following individuals or the representatives of such individuals:

(1) The Secretary of Defense, who shall serve as the chairman of the Board.

(2) The Secretary of Education.

(3) The Secretary of State.

(4) The Secretary of Commerce.

(5) The Director of Central Intelligence.

(6) The Director of the United States Information Agency.

(7) The Chairperson of the National Endowment for the Humanities.

(8) Six individuals appointed by the President, by and with the advice and consent of the Senate, who shall be experts in the fields of international, language, and area studies education and who may not be officers or employees of the Federal Government.

(c) Term of appointees

Each individual appointed to the Board pursuant to subsection (b)(7) of this section shall be appointed for a period specified by the President at the time of the appointment, but not to exceed four years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

(d) Functions

The Board shall perform the following functions:

(1) Develop criteria for awarding scholarships, fellowships, and grants under this chapter.

(2) Provide for wide dissemination of information regarding the activities assisted under this chapter.

(3) Establish qualifications for students desiring scholarships or fellowships, and institutions of higher education desiring grants, under this chapter, including, in the case of students desiring a scholarship or fellowship, a requirement that the student have a demonstrated commitment to the study of the discipline for which the scholarship or fellowship is to be awarded.

(4) Make recommendations to the Secretary regarding—

(A) which countries are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying, and are, therefore, critical countries for the purposes of section 1902(a)(1)(A) of this title;

(B) which areas within the disciplines described in section 1902(a)(1)(B) of this title are areas of study in which United States students are deficient in learning and are, therefore, critical areas within those disciplines for the purposes of that section;

(C) which areas within the disciplines described in section 1902(a)(1)(C) of this title are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within those disciplines for the purposes of that section; and

(D) how students desiring scholarships or fellowships can be encouraged to work for an agency or office of the Federal Government involved in national security affairs or national security policy upon completion of their education.

(5) Review the administration of the program required under this chapter.

(Pub. L. 102–183, title VIII, § 803, Dec. 4, 1991, 105 Stat. 1273; Pub. L. 102–496, title IV, § 404(d), Oct. 24, 1992, 106 Stat. 3186.)

AMENDMENTS

1992—Subsec. (b)(7). Pub. L. 102–496, § 404(d)(2), added par. (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 102–496, § 404(d)(1), (3), redesignated par. (7) as (8), substituted ''Six individuals'' for ''Four individuals'', and inserted before period at end ''and who may not be officers or employees of the Federal Government''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1902, 1906, 1908 of this title.

§ 1904. National Security Education Trust Fund

(a) Establishment of Fund

There is established in the Treasury of the United States a trust fund to be known as the ''National Security Education Trust Fund''. The assets of the Fund consist of amounts appropriated to the Fund and amounts credited to the Fund under subsection (e) of this section.

(b) Availability of sums in Fund

Sums in the Fund shall, to the extent provided in appropriations Acts, be available—

(1) for awarding scholarships, fellowships, and grants in accordance with the provisions of this chapter; and

(2) for properly allocable costs of the Federal Government for the administration of the program under this chapter.

(c) Investment of Fund assets

The Secretary of the Treasury shall invest in full the amount in the Fund that is not immediately necessary for expenditure. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(d) Authority to sell obligations

Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(e) Amounts credited to Fund

(1) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(2) Any amount paid to the United States under section 1902(b)(3) of this title shall be credited to and form a part of the Fund.

(3) Any gifts of money shall be credited to and form a part of the Fund.

(Pub. L. 102–183, title VIII, § 804, Dec. 4, 1991, 105 Stat. 1274; Pub. L. 102–496, title IV, § 404(e), Oct. 24, 1992, 106 Stat. 3186; Pub. L. 103–160, div. A, title III, § 375, Nov. 30, 1993, 107 Stat. 1637.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–160, § 375(b), struck out ''(1)'' before ''Sums in the Fund'', redesignated former subpars. (A) and (B) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows: ''No amount may be appropriated to the Fund, or obligated from the Fund, unless authorized by law.''

Subsec. (e)(3). Pub. L. 103–160, § 375(a), added par. (3).

1992—Subsec. (c). Pub. L. 102–496 substituted ''expenditure'' for ''obligation'' in first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1905, 1908, 1910 of this title.

§ 1905. Regulations and administrative provisions

(a) Regulations

The Secretary may prescribe regulations to carry out the program required by this chapter. Before prescribing any such regulations, the Secretary shall submit a copy of the proposed regulations to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. Such proposed regulations may not take effect until 30 days after the date on which they are submitted to those committees.

(b) Acceptance and use of gifts

In order to conduct the program required by this chapter, the Secretary may—

(1) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purpose of conducting the program required by this chapter; and

(2) may use, sell, or otherwise dispose of such property for that purpose.

(c) Voluntary services

In order to conduct the program required by this chapter, the Secretary may accept and use the services of voluntary and noncompensated personnel.

(d) Necessary expenditures

Expenditures necessary to conduct the program required by this chapter shall be paid from the Fund, subject to section 1904(b) of this title.

(Pub. L. 102–183, title VIII, § 805, Dec. 4, 1991, 105 Stat. 1275.)

§ 1906. Annual report

(a) Annual report

The Secretary shall submit to the President and to the Congress an annual report of the conduct of the program required by this chapter. The report shall be submitted each year at the time that the President's budget for the next fiscal year is submitted to Congress pursuant to section 1105 of title 31.

(b) Contents of report

Each such report shall contain—

(1) an analysis of the trends within language, international, and area studies, along with a survey of such areas as the Secretary determines are receiving inadequate attention;

(2) the effect on those trends of activities under the program required by this chapter;

(3) an analysis of the assistance provided under the program for the previous fiscal year, to include the subject areas being addressed and the nature of the assistance provided;

(4) an analysis of the performance of the individuals who received assistance under the program during the previous fiscal year, to include the degree to which assistance was terminated under the program and the extent to which individual recipients failed to meet their obligations under the program;

(5) an analysis of the results of the program for the previous fiscal year, and cumulatively, to include, at a minimum—

(A) the percentage of individuals who have received assistance under the program who subsequently became employees of the United States Government;

(B) in the case of individuals who did not subsequently become employees of the United States Government, an analysis of the reasons why they did not become employees and an explanation as to what use, if any, was made of the assistance by those recipients; and

(C) the uses made of grants to educational institutions; and

(6) any legislative changes recommended by the Secretary to facilitate the administration of the program or otherwise to enhance its objectives.

(c) Submission of initial report

The first report under this section shall be submitted at the time the budget for fiscal year 1994 is submitted to Congress.

(d) Consultation

During the preparation of each report required by subsection (a) of this section, the Secretary shall consult with the members of the Board specified in paragraphs (1) through (7) of section 1903(b) of this title. Each such member shall submit to the Secretary an assessment of their hiring needs in the areas of language and area studies and a projection of the deficiencies in such areas. The Secretary shall include all assessments in the report required by subsection (a) of this section.

(Pub. L. 102–183, title VIII, § 806, Dec. 4, 1991, 105 Stat. 1276; Pub. L. 103–178, title III, § 311(b)(1), Dec. 3, 1993, 107 Stat. 2037.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–178 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1902 of this title.

§ 1907. General Accounting Office audits

The conduct of the program required by this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property of the Department of Defense pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 102–183, title VIII, § 807, Dec. 4, 1991, 105 Stat. 1276.)

§ 1908. Definitions

For the purpose of this chapter:

(1) The term ''Board'' means the National Security Education Board established pursuant to section 1903 of this title.

(2) The term ''Fund'' means the National Security Education Trust Fund established pursuant to section 1904 of this title.

(3) The term ''institution of higher education'' has the meaning given that term by section 1141(a) of title 20.

(Pub. L. 102–183, title VIII, § 808, Dec. 4, 1991, 105 Stat. 1276.)

§ 1909. Fiscal year 1992 funding

(a) Authorization of appropriations to Fund

There is hereby authorized to be appropriated to the Fund for fiscal year 1992 the sum of $150,000,000.

(b) Authorization of obligations from Fund

During fiscal year 1992, there may be obligated from the Fund such amounts as may be provided in appropriations Acts, not to exceed $35,000,000. Amounts made available for obligation from the Fund for fiscal year 1992 shall remain available until expended.

(Pub. L. 102–183, title VIII, § 809, Dec. 4, 1991, 105 Stat. 1277.)

§ 1910. Funding

(a) Fiscal years 1993 and 1994

Amounts appropriated to carry out this chapter for fiscal years 1993 and 1994 shall remain available until expended.

(b) Fiscal years 1995 and 1996

There is authorized to be appropriated from, and may be obligated from, the Fund for each of the fiscal years 1995 and 1996 not more than the amount credited to the Fund in interest only for the preceding fiscal year under section 1904(e) of this title.

(Pub. L. 102–183, title VIII, § 810, as added Pub. L. 103–178, title III, § 311(c), Dec. 3, 1993, 107 Stat. 2037.)

CHAPTER 38—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY

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CODIFICATION

The Central Intelligence Agency Retirement Act, comprising this chapter, was originally enacted as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees by Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90–539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91–185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91–626, §§1–6, Dec. 31, 1970, 84 Stat. 1872–1874; Pub. L. 93–31, May 8, 1973, 87 Stat. 65; Pub. L. 93–210, §1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94–361, title VIII, §801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94–522, title I, §§101, 102, title II, §§201–213, Oct. 17, 1976, 90 Stat. 2467–2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97–269, title VI, §§602–611, Sept. 27, 1982, 96 Stat. 1145–1148, 1152–1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98–618, title III, §302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99–169, title VII, §702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99–335, title V, §§501–506, June 6, 1986, 100 Stat. 622–624; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–569, title III, §302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100–178, title IV, §§401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012–1014; Pub. L. 100–453, title III, §302(a), (b)(1), (c)(1), (d)(1), (2), title V, §502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101–193, title III, §§302–304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–88, title III, §§302–305(a), 306–307(b), Aug. 14, 1991, 105 Stat. 431–433; Pub. L. 102–183, title III, §§302(a)–(c), 303(a), 304–306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262–1266; Pub. L. 102–496, title III, §304(b), Oct. 24, 1992, 106 Stat. 3183, and was set out as a note under section 403 of this title. The Act is shown herein, however, as having been added by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, without reference to such intervening amendments because of the extensive revision and restatement of the Act's provisions by Pub. L. 102–496.

SUBCHAPTER I—DEFINITIONS

§ 2001. Definitions relating to the system

When used in this chapter:

(1) Agency

The term ''Agency'' means the Central Intelligence Agency.

(2) Director

The term ''Director'' means the Director of Central Intelligence.

(3) Qualifying service

The term ''qualifying service'' means service determined by the Director to have been performed in carrying out duties described in section 2013 of this title.

(4) Fund balance

The term ''fund balance'' means the sum of—

(A) the investments of the fund calculated at par value; and

(B) the cash balance of the fund on the books of the Treasury.

(5) Unfunded liability

The term ''unfunded liability'' means the estimated amount by which—

(A) the present value of all benefits payable from the fund exceeds

(B) the sum of—

(i) the present value of deductions to be withheld from the future basic pay of participants subject to subchapter II of this chapter and of future Agency contributions to be made on the behalf of such participants;

(ii) the present value of Government payments to the fund under sections 2091(c) and 2091(d) of this title; and

(iii) the fund balance as of the date on which the unfunded liability is determined.

(6) Normal cost

The term ''normal cost'' means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.

(7) Lump-sum credit

The term ''lump-sum credit'' means the unrefunded amount consisting of retirement deductions made from a participant's basic pay and amounts deposited by a participant covering earlier service, including any amounts deposited under section 2082(h) of this title.

(8) Congressional intelligence committees

The term ''congressional intelligence committees'' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(9) Employee

The term ''employee'' includes an officer of the Agency.

(Pub. L. 88–643, title I, § 101, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3197; amended Pub. L. 103–178, title II, § 202(a)(1), Dec. 3, 1993, 107 Stat. 2025.)

PRIOR PROVISIONS

A prior section 101 of Pub. L. 88–643, title I, Oct. 13, 1964, 78 Stat. 1043, provided a short title for Pub. L. 88–643 as the ''Central Intelligence Agency Retirement Act of 1964 for Certain Employees'' and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Par. (7). Pub. L. 103–178 substituted ''basic pay and amounts deposited'' for ''basic pay, amounts deposited'' and struck out '', and interest determined under section 2121 of this title'' after ''section 2082(h) of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 202(b) of Pub. L. 103–178 provided that: ''The amendments made by subsection (a) [amending this section and sections 2011, 2021, 2031, 2032, 2034, 2035, 2051, 2052, 2054, 2071, 2094, 2095, 2131, and 2154 of this title] shall take effect as of February 1, 1993.''

EFFECTIVE DATE

Section 805 of Pub. L. 102–496 provided that: ''The amendments made by sections 802 and 803 [enacting this chapter and amending sections 403n, 403r, and 403s of this title, sections 8347 and 8423 of Title 5, Government Organization and Employees, section 1605 of Title 10, Armed Forces, and provisions set out as a note under section 402 of this title] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 24, 1992].''

EFFECTIVE DATE OF AMENDMENTS TO PUB. L. 88–643 PRIOR TO ENACTMENT OF PUB. L. 102–496

Pub. L. 102–183, title III, § 302(d), Dec. 4, 1991, 105 Stat. 1263, provided that: ''The amendments made by this section [amending sections 204(b)(3), 221(c)–(e), and 232(c)–(e) of Pub. L. 88–643] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Dec. 4, 1991] and shall apply with respect to annuities payable to children by reason of the death of a participant or annuitant on or after that date.''

Pub. L. 102–183, title III, § 303(b), Dec. 4, 1991, 105 Stat. 1264, provided that: ''(1) The amendments made by subsection (a) [amending section 221(p)–(r) of Pub. L. 88–643] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Dec. 4, 1991].

''(2)(A) The amendment made by subsection (a)(2) [enacting section 221(q) of Pub. L. 88–643] shall apply with respect to participants and former participants regardless of whether they retire before, on, or after the effective date specified in paragraph (1), except that paragraph (1)(A) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) shall apply only with respect to participants who retire on or after that effective date.

''(B) In applying the provisions of paragraph (1)(B) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) to a participant or former participant who retires before the effective date specified in paragraph (1)—

''(i) the 18-month period referred to in that paragraph shall be considered to begin on the effective date specified in paragraph (1); and

''(ii) the amount referred to in paragraph (2) of that section (as added by subsection (a)(2)) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).''

Pub. L. 102–183, title III, § 306(c), Dec. 4, 1991, 105 Stat. 1265, provided that:

''(1) The amendment made by subsection (a)(1) [amending section 226(a) of Pub. L. 88–643] shall be deemed to have become effective as of September 30, 1990, and shall apply in the case of annuitants whose divorce occurs on or after that date.

''(2) The amendments made by subsections (a)(2) and (a)(3) [amending section 226(a) of Pub. L. 88–643] shall be deemed to have become effective as of September 29, 1988.''

Pub. L. 102–183, title III, § 309(b), Dec. 4, 1991, 105 Stat. 1266, provided that: ''Subsection (h) of section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643], as added by subsection (a), shall be deemed to have become effective as of December 2, 1987.''

Pub. L. 102–183, title III, § 310(b), Dec. 4, 1991, 105 Stat. 1267, provided that: ''The amendment made by subsection (a) [amending section 204(b)(4) of Pub. L. 88–643] shall apply only to a former husband or wife of a participant or former participant whose divorce from the participant or former participant becomes final after the date of the enactment of this Act [Dec. 4, 1991].''

Pub. L. 102–88, title III, § 305(b), Aug. 14, 1991, 105 Stat. 432, provided that:

''(1) The amendments made by subsection (a) [amending sections 221, 222, and 232 of Pub. L. 88–643] relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

''(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act [Aug. 14, 1991].''

Amendment by section 307 of Pub. L. 102–88 (amending sections 224 and 225 of Pub. L. 88–643) effective as of Oct. 1, 1990, and no benefits provided pursuant to such amendment to be payable with respect to any period before such date, see section 307(d) of Pub. L. 102–88, set out as an Effective Date of 1991 Amendment note under section 403p of this title.

Pub. L. 101–193, title III, § 304(b), Nov. 30, 1989, 103 Stat. 1703, provided that: ''The amendment made by this section [amending section 224(a)(2) of Pub. L. 88–643] shall be effective as of October 1, 1986.''

Pub. L. 100–453, title III, § 302(b)(2), Sept. 29, 1988, 102 Stat. 1907, provided that: ''The amendments made by paragraph (1) [amending section 224 of Pub. L. 88–643] shall take effect as of October 1, 1986.''

Pub. L. 100–453, title III, § 302(c)(2), Sept. 29, 1988, 102 Stat. 1907, provided that: ''The amendment made by paragraph (1) [amending section 225(a) of Pub. L. 88–643] shall take effect as of December 2, 1987.''

Pub. L. 100–453, title III, § 302(d)(3), Sept. 29, 1988, 102 Stat. 1907, provided that: ''The amendment made by this subsection [amending section 221(n), (p) of Pub. L. 88–643] shall apply to marriages which occur on or after May 7, 1985.''

Pub. L. 100–178, title IV, § 402(c)–(e), Dec. 2, 1987, 101 Stat. 1014, provided that:

''(c)(1) Except as provided in paragraph (2), the amendments made by this section [amending section 403n of this title and sections 221(*o*)(2), 232(b), and 304 of Pub. L. 88–643] shall take effect on November 15, 1982, the effective date of the Central Intelligence Agency Spouses' Retirement Equity Act of 1982.

''(2) The amendment made by subsection (b)(2) [amending section 304 of Pub. L. 88–643] shall take effect on January 1, 1987, the effective date of the Federal Employees' Retirement System Act of 1986.

''(d) Nothing in this section or any amendment made by this section shall be construed to require the forfeiture by any individual of benefits received before the date of the enactment of this Act [Dec. 2, 1987].

''(e) Nothing in this section or any amendment made by this section shall be construed to require a reduction in the level of benefits received by any individual who was receiving benefits under section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643] before the date of enactment of this Act [Dec. 2, 1987]''.

Amendment by section 302(a) of Pub. L. 99–569 (enacting section 224 of Pub. L. 88–643) effective Oct. 1, 1986, see section 302(d) of Pub. L. 99–569, set out as an Effective Date of 1986 Amendment note under section 403n of this title.

Pub. L. 97–269, title VI, §613, Sept. 27, 1982, 96 Stat. 1154, provided that:

''(a) Except as provided in subsections (b) and (c) of this section, this title [enacting section 403n of this title and sections 222 and 223 of Pub. L. 88–643 and amending sections 204, 211, 221, 234, and 263 of Pub. L. 88–643] shall take effect on November 15, 1982.

''(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643], as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title [Nov. 15, 1982] becomes a former spouse of an individual who separates from service with the Agency after such date.

''(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643], the provisions of section 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title [Nov. 15, 1982] becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.''

Pub. L. 94–522, title II, §215, Oct. 17, 1976, 90 Stat. 2472, provided that:

''(a) This Act [amending Pub. L. 88–643] shall become effective October 1, 1976.

''(b) The amendments made by sections 201(a), (b), (c), and (d), 202, and 208 [amending sections 204(a), (b)(2), (3)(i), 221(b) and 232(b) of Pub. L. 88–643] shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) [amending section 204 of Pub. L. 88–643] shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

''(c) The amendment made by section 203 [enacting section 221(f)(2) of Pub. L. 88–643] shall apply to a participant who married prior to enactment [Oct. 17, 1976] but only if the election is made within one year after enactment [Oct. 17, 1976].

''(d) The amendment made by section 210 [amending section 251 of Pub. L. 88–643] is effective only with respect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.

''(e) The amendment in section 211 [amending section 252(a)(2) of Pub. L. 88–643] to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.

''(f) The amendment in section 212 [enacting section 264 of Pub. L. 88–643] is effective as of June 30, 1974.

''(g) The amendment to recompute a reduced annuity during periods when not married in section 202 [amending section 221(b) of Pub. L. 88–643] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 17, 1976], but no increase in annuity shall be paid for any period prior to November 1, 1974.

''(h) Annuity increases under sections 204 [enacting section 221(*l*) of Pub. L. 88–643] and 214 [set out below] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 17, 1976], but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.''

Pub. L. 93–210, §1(b), Dec. 28, 1973, 87 Stat. 908, provided that: ''The amendments made by subsection (a) [amending section 291(b) of Pub. L. 88–643] shall apply only with respect to annuities which commence on or after July 2, 1973.''

Pub. L. 91–185, §6, Dec. 30, 1969, 83 Stat. 849, provided that:

''(a) The amendments made by section 1 [amending section 211(a) of Pub. L. 88–643, set out above] shall become effective at the beginning of the first applicable pay period beginning after December 31, 1969.

''(b) The amendments made by sections 3, 4 [amending sections 231(a) and 232(h) of Pub. L. 88–643], and 2 [amending section 221 of Pub. L. 88–643], with the exception of 2(c) [amending subsec. (c) thereof], shall become effective October 20, 1969.

''(c) The amendments made by sections 2(c) and 5 [amending sections 221(c) and 291 of Pub. L. 88–643] shall become effective November 1, 1969.

''(d) The amendments made by sections 2(a), 2(e), 3, and 4(a)(1)–(2) [amending section 221(a), adding section 221(h), and amending sections 231(a) and 232(b) of Pub. L. 88–643] shall not apply in the cases of persons retired or otherwise separated prior to October 20, 1969, and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such sections had not been enacted.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–36, §1, June 8, 1993, 107 Stat. 104, provided that: ''This Act [amending section 2053 of this title and enacting provisions set out as a note under section 403–4 of this title] may be cited as the 'Central Intelligence Agency Voluntary Separation Pay Act'.''

SHORT TITLE OF 1992 AMENDMENT

Section 801 of title VIII of Pub. L. 102–496 provided that: ''This title [enacting this chapter, amending sections 403n, 403r, 403r–1, and 403s of this title, sections 8347 and 8423 of Title 5, Government Organization and Employees, section 1605 of Title 10, Armed Forces and sections 4071b to 4071d of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 402 of this title] may be cited as the 'CIARDS Technical Corrections Act of 1992'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–269, title VI, §601, Sept. 27, 1982, 96 Stat. 1145, provided that: ''This title [enacting section 403n of this title and amending Pub. L. 88–643] may be cited as the 'Central Intelligence Agency Spouses' Retirement Equity Act of 1982'.''

SHORT TITLE

Section 1(a) of Pub. L. 88–643, as added by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, provided that: ''This Act [enacting this chapter] may be cited as the 'Central Intelligence Agency Retirement Act'.''

SAVINGS PROVISION

Section 804 of Pub. L. 102–496 provided that:

''(a) PRIOR ELECTIONS.—Any election made under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643 prior to enactment of Pub. L. 102–496, formerly set out as a note under sec-

tion 403 of this title] before the effective date specified in section 805 [set out as an Effective Date note above] shall not be affected by the amendment made by section 802 [enacting this chapter] and shall be deemed to have been made under the corresponding provision of that Act as restated by section 802 as the Central Intelligence Agency Retirement Act.

''(b) REFERENCES.—Any reference in any other Act, or in any Executive order, rule, or regulation, to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, or to a provision of that Act, shall be deemed to refer to that Act and to the corresponding provision of that Act, as restated by section 802 as the Central Intelligence Agency Retirement Act.''

FUNDING REQUIREMENTS FOR AMENDMENTS TO PUB. L. 88–643 PRIOR TO ENACTMENT OF PUB. L. 102–496

Pub. L. 100–453, title III, § 302(e), Sept. 29, 1988, 102 Stat. 1907, provided that: ''Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided pursuant to the amendments made by this section [enacting section 226 and amending sections 221, 224, and 225 of Pub. L. 88–643] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.''

For provision that any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made to sections 224 and 225 of Pub. L. 88–643 by section 307 of Pub. L. 102–88 be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts, see section 307(c) of Pub. L. 102–88, set out as a Compliance With Budget Act note under section 403p of this title.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND; ANNUITY INCREASE PAYMENT; MONTHLY RATE

Pub. L. 94–522, title II, § 214, Oct. 17, 1976, 90 Stat. 2472, provided that:

''(a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by $240 per annum.

''(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by $132 per annum.

''(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) [section 221 of Pub. L. 88–643 prior to enactment of Pub. L. 102–496; see 50 U.S.C. 2031(a)] for purposes of computing the minimum annuity under new section 221(*l*) of the Act, as added by section 204 of this Act.''

TEMPORARY RETIREMENT CONTRIBUTIONS AND PROCEDURES FOR CERTAIN PARTICIPANTS

For temporary provisions providing modified contributions and procedures for officers and employees participating in the Central Intelligence Agency Retirement and Disability System who are also required to pay employment taxes relating to benefits under title II of the Social Security Act, 42 U.S.C. 401 et seq., until they are covered by a new Government retirement system or Jan. 1, 1986, whichever is earlier, see title II of Pub. L. 98–168, set out as a note under section 8331 of Title 5, Government Organization and Employees.

CONTINGENT ONCE-A-YEAR ADJUSTMENT IN ANNUITIES

For provisions which directed the President, subject to certain conditions, to provide for a single cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643] during the period Sept. 1, 1980, to Aug. 31, 1981, and which further directed that, subject to the enactment of specified legislation providing for the adjustment of annuities paid under section 8331 et seq. of Title 5, Government Organization and Employees, the President exercise the authority vested in him under section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88–643] to provide for cost-of-living adjustments in the annuities paid under that Act on an identical basis, see Pub. L. 96–342, title VIII, § 812(a)(3), (4), (b)(3), (4), (c), Sept. 8, 1980, 94 Stat. 1098, set out as a note under section 1401a of Title 10, Armed Forces.

EXECUTIVE ORDER NO. 11950

Ex. Ord. No. 11950, Jan. 6, 1977, 42 F.R. 1451, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with respect to cost of living increases in annuities when there were increases in the price index.

EXECUTIVE ORDER NO. 12023

Ex. Ord. No. 12023, Dec. 1, 1977, 42 F.R. 61443, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to allotments or assignments of moneys by annuitants.

EXECUTIVE ORDER NO. 12197

Ex. Ord. No. 12197, Mar. 5, 1980, 45 F.R. 14833, conformed Central Intelligence Agency Retirement and Disability System to amendments to Civil Service Retirement and Disability System with regard to restoration of previously reduced annuities.

EXECUTIVE ORDER NO. 12253

Ex. Ord. No. 12253, Nov. 25, 1980, 45 F.R. 78995, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to definition of ''dependent''.

EXECUTIVE ORDER NO. 12273

Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to cost-of-living increases to annuities.

EXECUTIVE ORDER NO. 12326

Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889, as amended by Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to notification of loss or reduction of survivor benefits, computation of annuities, cost-of-living increases, accuracy of information, and withholding of State income tax.

EXECUTIVE ORDER NO. 12443

Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to restoration of disability retirement annuities, entitlement to and computation and payment of annuities, accuracy of information, and adjustments in amounts.

EXECUTIVE ORDER NO. 12485

Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827, conformed Central Intelligence Agency Retirement and Disability System and Civil Service Retirement and Disability System with regard to prior service credit.

EXECUTIVE ORDER NO. 12684

Ex. Ord. No. 12684, July 27, 1989, 54 F.R. 31643, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to considering part-time service in computing annuities and remarriage of surviving spouses.

§ 2002. Definitions relating to participants and annuitants

(a) General definitions

When used in subchapter II of this chapter:

(1) Former participant

The term ''former participant'' means a person who—

(A) while an employee of the Agency was a participant in the system; and

(B) separates from the Agency without entitlement to immediate receipt of an annuity from the fund.

(2) Retired participant

The term ''retired participant'' means a person who—

(A) while an employee of the Agency was a participant in the system; and

(B) is entitled to receive an annuity from the fund based upon such person's service as a participant.

(3) Surviving spouse

(A) In general

The term ''surviving spouse'' means the surviving wife or husband of a participant or retired participant who (i) was married to the participant or retired participant for at least 9 months immediately preceding the participant's or retired participant's death, or (ii) who is the parent of a child born of the marriage.

(B) Treatment when participant dies less than 9 months after marriage

In a case in which the participant or retired participant dies within the 9-month period beginning on the date of the marriage, the requirement under subparagraph (A)(i) that a marriage have a duration of at least 9 months immediately preceding the death of the participant or retired participant shall be treated as having been met if—

(i) the death of the participant or retired participant was accidental; or

(ii) the surviving wife or husband had been previously married to the participant or retired participant (and subsequently divorced) and the aggregate time married is at least 9 months.

(4) Former spouse

The term ''former spouse'' means a former wife or husband of a participant, former participant, or retired participant as follows:

(A) Divorces on or before December 4, 1991

In the case of a divorce that became final on or before December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent outside the United States by both such participant and former wife or husband during the participant's service as an employee of the Agency.

(B) Divorces after December 4, 1991

In the case of a divorce that becomes final after December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent by the participant during the participant's service as an employee of the Agency (i) outside the United States, or (ii) otherwise in a position the duties of which qualified the participant for designation by the Director as a participant under section 2013 of this title.

(C) Creditable service

For purposes of subparagraphs (A) and (B), the term ''creditable service'' means all periods of a participant's service that are creditable under sections 2081, 2082, and 2083 of this title.

(5) Previous spouse

The term ''previous spouse'' means an individual who was married for at least 9 months to a participant, former participant, or retired participant who had at least 18 months of service which are creditable under sections 2081, 2082, and 2083 of this title.

(6) Spousal agreement

The term ''spousal agreement'' means an agreement between a participant, former participant, or retired participant and the participant, former participant, or retired participant's spouse or former spouse that—

(A) is in writing, is signed by the parties, and is notarized;

(B) has not been modified by court order; and

(C) has been authenticated by the Director.

(7) Court order

The term ''court order'' means—

(A) a court decree of divorce, annulment, or legal separation; or

(B) a court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

(8) Court

The term ''court'' means a court of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.

(b) "Child" defined

For purposes of sections 2031 and 2052 of this title:

(1) In general

The term ''child'' means any of the following:

(A) Minor children

An unmarried dependent child under 18 years of age, including—

(i) an adopted child;

(ii) a stepchild, but only if the stepchild lived with the participant or retired participant in a regular parent-child relationship;

(iii) a recognized natural child; and

(iv) a child who lived with the participant, for whom a petition of adoption was filed by the participant or retired participant, and who is adopted by the surviving spouse after the death of the participant or retired participant.

(B) Disabled adult children

An unmarried dependent child, regardless of age, who is incapable of self-support because of a physical or mental disability incurred before age 18.

(C) Students

An unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

(2) Special rules for students

(A) Extension of age termination of status as "child"

For purposes of this subsection, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, shall be treated as having attained the age of 22 on the first day of July following that birthday.

(B) Treatment of interim period between school years

A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim does not exceed 5 months and if the child shows to the satisfaction of the Director that the child has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim.

(3) "Dependent" defined

For purposes of this subsection, the term ''dependent'', with respect to the child of a participant or retired participant, means that the participant or retired participant was, at the time of the death of the participant or retired participant, either living with or contributing to the support of the child, as determined in accordance with regulations prescribed under subchapter II of this chapter.

(4) Exclusion of stepchildren from lump-sum payment

For purposes of section 2071(c) of this title, the term ''child'' includes an adopted child and a natural child, but does not include a stepchild.

(Pub. L. 88–643, title I, § 102, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3198.)

PRIOR PROVISIONS

A prior section 111 of Pub. L. 88–643, title I, Oct. 13, 1964, 78 Stat. 1043; Pub. L. 94–522, title I, § 101, Oct. 17, 1976, 90 Stat. 2467, provided definitions for Pub. L. 88–643 and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 403s, 2031, 2154 of this title.

SUBCHAPTER II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2001, 2002, 2151, 2154 of this title; title 22 sections 4071b, 4071c, 4071d.

PART A—ESTABLISHMENT OF SYSTEM

§ 2011. CIARDS system

(a) In general

(1) Establishment of system

There is a retirement and disability system for certain employees of the Central Intelligence Agency known as the Central Intelligence Agency Retirement and Disability System (hereinafter in this chapter referred to as the ''system''), originally established pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

(2) DCI regulations

The Director shall prescribe regulations for the system. The Director shall submit any proposed regulations for the system to the congressional intelligence committees not less than 14 days before they take effect.

(b) Administration of system

The Director shall administer the system in accordance with regulations prescribed under this subchapter and with the principles established by this subchapter.

(c) Finality of decisions of DCI

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement section 403–3(c)(5) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of chapter 7 of title 5 or any other provision of law (except section 2155(b) of this title), any determination by the Director authorized by this chapter shall be final and conclusive and shall not be subject to review by any court.

(Pub. L. 88–643, title II, § 201, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3201; amended Pub. L. 103–178, title II, § 202(a)(2), Dec. 3, 1993, 107 Stat. 2026.)

REFERENCES IN TEXT

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in subsec. (a)(1), is Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended, which was formerly set out as a note under section 403 of this title. Pub. L. 88–643 was revised generally by Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196, and is now known as the Central Intelligence Agency Retirement Act. As so revised, title II of Pub. L. 88–643 is classified generally to this subchapter.

PRIOR PROVISIONS

A prior section 201 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1043; Pub. L. 98–618, title III, § 302, Nov. 8,

1984, 98 Stat. 3300; Pub. L. 99–335, title V, § 501(1), June 6, 1986, 100 Stat. 622, related to rules and regulations and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–178 substituted ''section 403–3(c)(5) of this title'' for ''the proviso of section 403(d)(3) of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2155 of this title.

§ 2012. Central Intelligence Agency Retirement and Disability Fund

The Director shall maintain the fund in the Treasury known as the ''Central Intelligence Agency Retirement and Disability Fund'' (hereinafter in this chapter referred to as the ''fund''), originally created pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

(Pub. L. 88–643, title II, § 202, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3201.)

REFERENCES IN TEXT

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in text, is Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended, which was formerly set out as a note under section 403 of this title. Pub. L. 88–643 was revised generally by Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196, and is now known as the Central Intelligence Agency Retirement Act. As so revised, title II of Pub. L. 88–643 is classified generally to this subchapter.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1043, related to establishment and maintenance of the Central Intelligence Agency Retirement and Disability Fund and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403j of this title.

§ 2013. Participants in CIARDS system

(a) Designation of participants

The Director may from time to time designate employees of the Agency who shall be entitled to participate in the system. Employees so designated who elect to participate in the system are referred to in this chapter as ''participants''.

(b) Qualifying service

Designation of employees under this section may be made only from among employees of the Agency who have completed at least 5 years of qualifying service. For purposes of this chapter, qualifying service is service in the Agency performed in carrying out duties that are determined by the Director—

(1) to be in support of Agency activities abroad hazardous to life or health; or

(2) to be so specialized because of security requirements as to be clearly distinguishable from normal government employment.

(c) Election of employee to be participant

(1) Permanence of election

An employee of the Agency who elects to accept designation as a participant in the system shall remain a participant of the system for the duration of that individual's employment with the Agency.

(2) Irrevocability of election

Such an election shall be irrevocable except as and to the extent provided in section 2151(d) of this title.

(3) Election not subject to approval

An election under this section is not subject to review or approval by the Director.

(Pub. L. 88–643, title II, § 203, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3202.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1044; Pub. L. 102–88, title III, § 303, Aug. 14, 1991, 105 Stat. 431, related to participants in the system and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403p, 403r, 403s, 2001, 2002, 2151, 2152, 2154 of this title.

§ 2014. Annuitants

Persons who are annuitants under the system are—

(1) those persons who, on the basis of their service in the Agency, have met all requirements for an annuity under this subchapter or any other Act and are receiving an annuity from the fund; and

(2) those persons who, on the basis of someone else's service, meet all the requirements under this subchapter or any other Act for an annuity payable from the fund.

(Pub. L. 88–643, title II, § 204, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3202.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1044; Pub. L. 91–626, § 1, Dec. 31, 1970, 84 Stat. 1872; Pub. L. 94–552, title II, § 201, Oct. 17, 1976, 90 Stat. 2468; Pub. L. 97–269, title VI, § 602, Sept. 27, 1982, 96 Stat. 1145; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622; Pub. L. 102–88, title III, § 302, Aug. 14, 1991, 105 Stat. 431; Pub. L. 102–183, title III, §§ 302(c), 310(a), Dec. 4, 1991, 105 Stat. 1263, 1266, related to annuitants under the system and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

PART B—CONTRIBUTIONS

§ 2021. Contributions to fund

(a) In general

(1) Participant's contributions

Except as provided in subsection (d) of this section, 7 percent of the basic pay received by a participant for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

(2) Agency contributions

An equal amount shall be contributed to the fund for that pay period from the appropriation or fund which is used for payment of the participant's basic pay.

(3) Deposits to the fund

The amounts deducted and withheld from basic pay, together with the amounts so contributed from the appropriation or fund, shall be deposited by the Director to the credit of the fund.

(b) Consent of participant to deductions from pay

Each participant shall be deemed to consent and agree to such deductions from basic pay, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant is entitled under this subchapter, notwithstanding any law, rule, or regulation affecting the individual's pay.

(c) Treatment of contributions after 35 years of service

(1) Accrual of interest

Amounts deducted and withheld from the basic pay of a participant under this section for pay periods after the first day of the first pay period beginning after the day on which the participant completes 35 years of creditable service computed under sections 2081 and 2082 of this title (excluding service credit for unused sick leave under section 2031(a)(2) of this title) shall accrue interest. Such interest shall accrue at the rate of 3 percent a year through December 31, 1984, and thereafter at the rate computed under section 8334(e) of title 5, and shall be compounded annually from the date on which the amount is so deducted and withheld until the date of the participant's retirement or death.

(2) Use of amounts withheld after 35 years of service

(A) Use for deposits due under section 2082(b)

Amounts described in paragraph (1), including interest accrued on such amounts, shall be applied upon the participant's retirement or death toward any deposit due under section 2082(b) of this title.

(B) Lump-sum payment

Any balance of such amounts not so required for such a deposit shall be refunded to the participant in a lump sum after the participant's separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection[1] 2071(c) of this title), subject to prior notification of a current spouse, if any, unless the participant establishes to the satisfaction of the Director, in accordance with regulations which the Director may prescribe, that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(C) Purchases of additional elective benefits

In lieu of such a lump-sum payment, the participant may use such amounts—

(i) to purchase an additional annuity in accordance with section 2121 of this title; or

(ii) provide any additional survivor benefit for a current or former spouse or spouses.

(d) Offset for social security taxes

(1) Persons covered

In the case of a participant who was a participant subject to this subchapter before January 1, 1984, and whose service—

(A) is employment for the purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, and

(B) is not creditable service for any purpose under subchapter III of this chapter or chapter 84 of title 5,

there shall be deducted and withheld from the basic pay of the participant under this section during any pay period only the amount computed under paragraph (2).

(2) Reduction in contribution

The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—

(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) of this section by the basic pay payable to the participant for that pay period, over

(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of title 26 (relating to old-age, survivors, and disability insurance) for that pay period.

(Pub. L. 88–643, title II, § 211, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3202; amended Pub. L. 103–178, title II, § 202(a)(3), Dec. 3, 1993, 107 Stat. 2026.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(1)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 211 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1045; Pub. L. 91–185, § 1, Dec. 30, 1969, 83 Stat. 847; Pub. L. 97–269, title VI, § 611, Sept. 27, 1982, 96 Stat. 1153; Pub. L. 99–335, title V, §§ 501(2), 502, June 6, 1986, 100 Stat. 622, 623; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, related to compulsory contributions to the fund and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (c)(2)(B). Pub. L. 103–178 substituted "prior notification of a current spouse, if any, unless the participant establishes to the satisfaction of the

[1] So in original. Probably should be "section".

Director, in accordance with regulations which the Director may prescribe, that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse'' for ''the requirement under section 2071(b)(4) of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2031, 2091, 2111 of this title.

PART C—COMPUTATION OF ANNUITIES

§ 2031. Computation of annuities

(a) Annuity of participant

(1) Computation of annuity

The annuity of a participant is the product of—

(A) the participant's high-3 average pay (as defined in paragraph (4)); and

(B) the number of years, not exceeding 35, of service credit (determined in accordance with sections 2081 and 2082 of this title) multiplied by 2 percent.

(2) Credit for unused sick leave

The total service of a participant who retires on an immediate annuity (except under section 2051 of this title) or who dies leaving a survivor or survivors entitled to an annuity shall include (without regard to the 35-year limitation prescribed in paragraph (1)) the days of unused sick leave to the credit of the participant. Days of unused sick leave may not be counted in determining average basic pay or eligibility for an annuity under this subchapter. A deposit shall not be required for days of unused sick leave credited under this paragraph.

(3) Crediting of part-time service

(A) In general

In the case of a participant whose service includes service on a part-time basis performed after April 6, 1986, the participant's annuity shall be the sum of the amounts determined under subparagraphs (B) and (C).

(B) Computation of pre-April 7, 1986, annuity

The portion of an annuity referred to in subparagraph (A) with respect to service before April 7, 1986, shall be the amount computed under paragraph (1) using the participant's length of service before that date (increased by the unused sick leave to the credit of the participant at the time of retirement) and the participant's high-3 average pay.

(C) Computation of post-April 6, 1986, annuity

The portion of an annuity referred to in subparagraph (A) with respect to service after April 6, 1986, shall be the product of—

(i) the amount computed under paragraph (1), using the participant's length of service after that date and the participant's high-3 average pay, as determined by using the annual rate of basic pay that would be payable for full-time service; and

(ii) the ratio which the participant's actual service after April 6, 1986 (as determined by prorating the participant's total service after that date to reflect the service that was performed on a part-time basis) bears to the total service after that date that would be creditable for the participant if all the service had been performed on a full-time basis.

(D) Treatment of employment on temporary or intermittent basis

Employment on a temporary or intermittent basis shall not be considered to be service on a part-time basis for purposes of this paragraph.

(4) High-3 average pay defined

For purposes of this subsection, a participant's high-3 average pay is the amount of the participant's average basic pay for the highest 3 consecutive years of the participant's service for which full contributions have been made to the fund.

(5) Computation of service

In determining the aggregate period of service upon which an annuity is to be based, any fractional part of a month shall not be counted.

(b) Spouse or former spouse survivor annuity

(1) Reduction in participant's annuity to provide spouse or former spouse survivor annuity

(A) General rule

Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 55), the participant shall receive a reduced annuity and provide a survivor annuity for the participant's spouse under this subsection or former spouse under section 2032(b) of this title, or a combination of such annuities, as the case may be.

(B) Joint election for waiver or reduction of spouse survivor annuity

A married participant or former participant and the participant's spouse may jointly elect in writing at the time of retirement to waive a survivor annuity for that spouse under this section or to reduce such survivor annuity under this section by designating a portion of the annuity of the participant as the base for the survivor annuity. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 2032(b) of this title may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) Joint election of participant and former spouse

If a participant or former participant has a former spouse, such participant and the par-

ticipant's former spouse may jointly elect by spousal agreement under section 2094(b) of this title to waive, reduce, or increase a survivor annuity under section 2032(b) of this title for that former spouse. Any such election must be made (i) before the end of the 12-month period beginning on the date on which the divorce or annulment involving that former spouse becomes final, or (ii) at the time of retirement of the participant, whichever is later.

(D) Unilateral elections in absence of spouse or former spouse

The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) Amount of reduction in participant's annuity

The annuity of a participant or former participant providing a survivor annuity under this section (or section 2032(b) of this title), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 2032(a)(5) of this title.

(3) Amount of surviving spouse annuity

(A) In general

If a retired participant receiving a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse. The amount of the annuity shall be equal to 55 percent of (i) the full amount of the participant's annuity computed under subsection (a) of this section, or (ii) any lesser amount elected as the base for the survivor annuity under paragraph (1)(B).

(B) Limitation

Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the retired participant who qualifies for an annuity under section 2032(b) of this title may not exceed 55 percent of the portion (if any) of the base for survivor annuities which remains available under section 2032(b)(4)(B) of this title.

(C) Effective date and termination of annuity

An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the retired participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 55. If such survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

(c) 18-month open period after retirement to provide spouse coverage

(1) Survivor annuity elections

(A) Election when spouse coverage waived at time of retirement

A participant or former participant who retires after March 31, 1992 and who—

(i) is married at the time of retirement; and

(ii) elects at that time (in accordance with subsection (b) of this section) to waive a survivor annuity for the spouse,

may, during the 18-month period beginning on the date of the retirement of the participant, elect to have a reduction under subsection (b) of this section made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the participant's spouse.

(B) Election when reduced spouse annuity elected

A participant or former participant who retires after March 31, 1992, and—

(i) who, at the time of retirement, is married, and

(ii) who, at that time designates (in accordance with subsection (b) of this section) that a portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2) Deposit required

(A) Requirement

An election under paragraph (1) shall not be effective unless the amount specified in subparagraph (B) is deposited into the fund before the end of that 18-month period.

(B) Amount of deposit

The amount to be deposited with respect to an election under this subsection is the amount equal to the sum of the following:

(i) Additional cost to system

The additional cost to the system that is associated with providing a survivor annuity under subsection (b) of this section and that results from such election, taking into account—

(I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity; and

(II) the costs associated with providing for the later election.

(ii) Interest

Interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5 for the calendar year in which the amount to be deposited is determined.

(3) Voiding of previous elections

An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b) of this section.

(4) Reductions in annuity

An annuity that is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

(5) Rights and obligations resulting from reduced annuity election

Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations that would have resulted had the participant involved elected such annuity at the time of retirement.

(d) Annuities for surviving children

(1) Participants dying before April 1, 1992

In the case of a retired participant who died before April 1, 1992, and who is survived by a child or children—

(A) if the retired participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

(B) if the retired participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

(2) Participants dying on or after April 1, 1992

In the case of a retired participant who dies on or after April 1, 1992, and who is survived by a child or children—

(A) if the retired participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

(B) if the retired participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

(3) Amount of annuity

(A) The annual amount of an annuity for the surviving child of a participant covered by paragraph (1)(A) or (2)(A) of this subsection (or covered by paragraph (1)(A) or (2)(A) of section 2052(c) of this title) is the smallest of the following:

(i) 60 percent of the participant's high-3 average pay, as determined under subsection (a)(4) of this section, divided by the number of children.

(ii) $900, as adjusted under section 2131 of this title.

(iii) $2,700, as adjusted under section 2131 of this title, divided by the number of children.

(B) The amount of an annuity for the surviving child of a participant covered by paragraph (1)(B) or (2)(B) of this subsection (or covered by paragraph (1)(B) or (2)(B) of section 2052(c) of this title) is the smallest of the following:

(i) 75 percent of the participant's high-3 average pay, as determined under subsection (a)(4) of this section, divided by the number of children.

(ii) $1,080, as adjusted under section 2131 of this title.

(iii) $3,240, as adjusted under section 2131 of this title, divided by the number of children.

(4) Recomputation of child annuities

(A) In the case of a child annuity payable under paragraph (1), upon the death of a surviving spouse or the termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse or child had not survived the retired participant.

(B) In the case of a child annuity payable under paragraph (2), upon the death of a surviving spouse or former spouse or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the retired participant. If the annuity of a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities of all currently eligible children were then being initiated.

(5) "Former spouse" defined

For purposes of this subsection, the term ''former spouse'' includes any former wife or husband of the retired participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

(e) Commencement and termination of child annuities

(1) Commencement

An annuity payable to a child under subsection (d) of this section, or under section 2052(c) of this title, shall begin on the day after the date on which the participant or retired participant dies or, in the case of an individual over the age of 18 who is not a child within the meaning of section 2002(b) of this title, shall begin or resume on the first day of the month in which the individual later becomes or again becomes a student as described in section 2002(b) of this title. Such annuity

may not commence until any lump-sum that has been paid is returned to the fund.

(2) Termination

Such an annuity shall terminate on the last day of the month before the month in which the recipient of the annuity dies or no longer qualifies as a child (as defined in section 2002(b) of this title).

(f) Participants not married at time of retirement

(1) Designation of persons with insurable interest

(A) Authority to make designation

Subject to the rights of former spouses under subsection (b) of this section and section 2032 of this title, at the time of retirement an unmarried participant found by the Director to be in good health may elect to receive an annuity reduced in accordance with subparagraph (B) and designate in writing an individual having an insurable interest in the participant to receive an annuity under the system after the participant's death. The amount of such an annuity shall be equal to 55 percent of the participant's reduced annuity.

(B) Reduction in participant's annuity

The annuity payable to the participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) of this section and by an additional 5 percent for each full 5 years the designated individual is younger than the participant. The total reduction under this subparagraph may not exceed 40 percent.

(C) Commencement of survivor annuity

The annuity payable to the designated individual shall begin on the day after the retired participant dies and terminate on the last day of the month before the designated individual dies.

(D) Recomputation of participant's annuity on death of designated individual

An annuity which is reduced under this paragraph shall, effective the first day of the month following the death of the designated individual, be recomputed and paid as if the annuity had not been so reduced.

(2) Election of survivor annuity upon subsequent marriage

A participant who is unmarried at the time of retirement and who later marries may irrevocably elect, in a signed writing received by the Director within one year after the marriage, to receive a reduced annuity as provided in subsection (b) of this section. Such election and reduction shall be effective on the first day of the month beginning 9 months after the date of marriage. The election voids prospectively any election previously made under paragraph (1).

(g) Effect of divorce after retirement

(1) Recomputation of retired participant's annuity upon divorce

An annuity which is reduced under this section (or any similar prior provision of law) to provide a survivor annuity for a spouse shall, if the marriage of the retired participant to such spouse is dissolved, be recomputed and paid for each full month during which a retired participant is not married (or is remarried, if there is no election in effect under paragraph (2)) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor annuity under subsection (b) or (c) of section 2032 of this title or under section 2036 of this title.

(2) Election of survivor annuity upon subsequent remarriage

(A) In general

Upon remarriage, the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive a reduced annuity for the purpose of providing an annuity for the new spouse of the retired participant in the event such spouse survives the retired participant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 2032(b)(5) of this title or elected under subparagraph (B)).

(B) When annuity previously not (or not fully) reduced

(i) Election

If the retired participant's annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement, the retired participant may make an election under the first sentence of subparagraph (A) upon remarriage to a spouse other than the spouse at the time of retirement. For any remarriage that occurred before August 14, 1991, the retired participant may make such an election within 2 years after such date.

(ii) Deposit required

(I) The retired participant shall, within one year after the date of the remarriage (or by August 14, 1993 for any remarriage that occurred before August 14, 1991), deposit in the fund an amount determined by the Director, as nearly as may be administratively feasible, to reflect the amount by which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced, plus interest.

(II) The annual rate of interest for each year during which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced shall be 6 percent.

(III) If the retired participant does not make the deposit, the Director shall collect such amount by offset against the participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the retired participant, and the retired participant is deemed to consent to such offset.

(IV) The deposit required by this subparagraph may be made by the surviving spouse of the retired participant.

(C) Effects of election

An election under this paragraph and the reduction in the participant's annuity shall be effective on the first day of the month beginning 9 months after the date of remarriage. A survivor annuity elected under this paragraph shall be treated in all respects as a survivor annuity under subsection (b) of this section.

(h) Coordination of annuities

(1) Surviving spouse

A surviving spouse whose survivor annuity was terminated because of remarriage before attaining age 55 shall not be entitled under subsection (b)(3)(C) of this section to the restoration of that survivor annuity payable from the fund unless the surviving spouse elects to receive it instead of any other survivor annuity to which the surviving spouse may be entitled under the system or any other retirement system for Government employees by reason of the remarriage.

(2) Former spouse

A surviving former spouse of a participant or retired participant shall not become entitled under section 2032(b) or 2034 of this title to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the surviving former spouse elects to receive it instead of any other survivor annuity to which the surviving former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(3) Surviving spouse of post-retirement marriage

A surviving spouse who married a participant after the participant's retirement shall be entitled to a survivor annuity payable from the fund only upon electing that annuity instead of any other survivor annuity to which the surviving spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the retired participant.

(i) Supplemental survivor annuities

(1) Spouse of recalled annuitant

A married recalled annuitant who reverts to retired status with entitlement to a supplemental annuity under section 2111(b) of this title shall, unless the annuitant and the annuitant's spouse jointly elect in writing to the contrary at the time of reversion to retired status, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for the annuitant's spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant.

(2) Regulations

The Director shall prescribe regulations to provide for the application of paragraph (1) of this subsection and of subsection (b) of section 2111 of this title in any case in which an annuitant has a former spouse who was married to the recalled annuitant at any time during the period of recall service and who qualifies for an annuity under section 2032(b) of this title.

(j) Offset of annuities by amount of social security benefit

Notwithstanding any other provision of this subchapter, an annuity (including a disability annuity) payable under this subchapter to an individual described in sections 2021(d)(1) and 2151(c)(1) of this title and any survivor annuity payable under this subchapter on the basis of the service of such individual shall be reduced in a manner consistent with section 8349 of title 5, under conditions consistent with the conditions prescribed in that section.

(k) Information from other agencies

(1) Other agencies

For the purpose of ensuring the accuracy of the information used in the determination of eligibility for and the computation of annuities payable from the fund under this subchapter, at the request of the Director—

(A) the Secretary of Defense shall provide information on retired or retainer pay paid under title 10;

(B) the Secretary of Veterans Affairs shall provide information on pensions or compensation paid under title 38;

(C) the Secretary of Health and Human Services shall provide information contained in the records of the Social Security Administration; and

(D) the Secretary of Labor shall provide information on benefits paid under subchapter I of chapter 81 of title 5.

(2) Limitation on information requested

The Director shall request only such information as the Director determines is necessary.

(3) Limitation on uses of information

The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this subsection is used only for the purposes authorized.

(*l*) Information on rights under system

The Director shall, on an annual basis—

(1) inform each retired participant of the participant's right of election under subsections (c), (f)(2), and (g) of this section; and

(2) to the maximum extent practicable, inform spouses and former spouses of participants, former participants, and retired participants of their rights under this chapter.

(Pub. L. 88–643, title II, § 221, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3204; amended Pub. L. 103–178, title II, § 202(a)(4), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 221 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1045; Pub. L. 91–185, § 2, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91–626, §§ 2, 3, Dec. 31, 1970, 84 Stat. 1872; Pub. L. 94–522, title II, §§ 202–204, Oct. 17, 1976, 90 Stat. 2468, 2469; Ex. Ord. No. 12326, §§ 1, 3, 6, Sept. 30, 1981, 46 F.R. 48889, 48890; Pub. L. 97–269, title VI, §§ 603–605, 610, Sept. 27, 1982, 96 Stat. 1146, 1147, 1153; Ex. Ord. No. 12443, §§ 4, 7, 8, Sept. 27, 1983, 48 F.R. 44752; Pub. L. 99–335, title V, §§ 501(2), (3), 503, June 6, 1986, 100 Stat.

622, 623; Pub. L. 100–178, title IV, § 402(b)(1), Dec. 2, 1987, 101 Stat. 1014; Pub. L. 100–453, title III, § 302(d)(1), (2), Sept. 29, 1988, 102 Stat. 1907; Pub. L. 102–88, title III, §§ 304(a), 305(a)(1), 306, Aug. 14, 1991, 105 Stat. 431, 432; Pub. L. 102–183, title III, §§ 302(a), 303(a), Dec. 4, 1991, 105 Stat. 1262, 1263, related to computation of annuities for other than former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (a)(4). Pub. L. 103–178, § 202(a)(4)(A), struck out ''(or, in the case of an annuity computed under section 2052 of this title and based on less than 3 years, over the total service)'' after ''years of the participant's service''.

Subsec. (f)(1)(A). Pub. L. 103–178, § 202(a)(4)(B), inserted ''after the participant's death'' after ''under the system'' and struck out ''after the participant's death'' after ''participant's reduced annuity''.

Subsec. (g)(1). Pub. L. 103–178, § 202(a)(4)(C), substituted ''(or is remarried, if'' for ''(or is remarried if''.

Subsec. (j). Pub. L. 103–178, § 202(a)(4)(D), struck out ''(except as provided in paragraph (2))'' after ''individual shall be reduced''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2002, 2021, 2032, 2033, 2034, 2051, 2052, 2053, 2054, 2055, 2071, 2082, 2111, 2131 of this title.

§ 2032. Annuities for former spouses

(a) Former spouse share of participant's annuity

(1) Pro rata share

Unless otherwise expressly provided by a spousal agreement or court order under section 2094(b) of this title, a former spouse of a participant, former participant, or retired participant is entitled to an annuity—

(A) if married to the participant, former participant, or retired participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that proportion of 50 percent of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this subchapter bears to the total number of days of such creditable service.

(2) Disqualification upon remarriage before age 55

A former spouse is not qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

(3) Commencement of annuity

The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this subchapter or on the first day of the month after the divorce or annulment involved becomes final, whichever is later.

(4) Termination of annuity

The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the month in which the former spouse dies or remarries before 55 years of age; or

(B) the date on which the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(5) Treatment of participant's annuity

(A) Reduction in participant's annuity

The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this subchapter; and

(ii) any reduction in the annuity of the participant to provide survivor benefits under subsection (b) of this section or under section 2031(b) of this title.

(B) Treatment when annuitant returns to service

If an annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 2111 of this title, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 2112 and 2113 of this title, the pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

(6) Disability annuitant

Notwithstanding paragraph (3), in the case of a former spouse of a disability annuitant—

(A) the annuity of that former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this subchapter (other than a disability annuity) or the date on which the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) Election of benefits

A former spouse of a participant, former participant, or retired participant shall not become entitled under this subsection to an annuity payable from the fund unless the former spouse elects to receive it instead of any survivor annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(8) Limitation in case of multiple former spouse annuities

No spousal agreement or court order under section 2094(b) of this title involving a partici-

pant may provide for an annuity or a combination of annuities under this subsection that exceeds the annuity of the participant.

(b) Former spouse survivor annuity

(1) Pro rata share

Subject to any election under section 2031(b)(1)(B) and (C) of this title and unless otherwise expressly provided by a spousal agreement or court order under section 2094(b) of this title, if an annuitant is survived by a former spouse, the former spouse shall be entitled—

(A) if married to the annuitant throughout the creditable service of the annuitant, to a survivor annuity equal to 55 percent of the unreduced amount of the annuitant's annuity, as computed under section 2031(a) of this title; and

(B) if not married to the annuitant throughout such creditable service, to a survivor annuity equal to that proportion of 55 percent of the unreduced amount of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this subchapter bears to the total number of days of such creditable service.

(2) Disqualification upon remarriage before age 55

A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

(3) Commencement, termination, and restoration of annuity

An annuity payable from the fund under this subchapter to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

(4) Survivor annuity amount

(A) Maximum amount

The maximum survivor annuity or combination of survivor annuities under this subsection (and section 2031(b)(3) of this title) with respect to any participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 2031(a) of this title.

(B) Limitation on other survivor annuities based on service of same participant

Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 2031(b)(3) of this title) with respect to the participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) Finality of court order upon death of participant

After the death of a participant or retired participant, a court order under section 2094(b) of this title may not adjust the amount of the annuity of a former spouse of that participant or retired participant under this section.

(5) Effect of termination of former spouse entitlement

(A) Recomputation of participant's annuity

If a former spouse of a retired participant dies or remarries before attaining age 55, the annuity of the retired participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid, effective on the first day of the month beginning after such death or remarriage, as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Election of spouse annuity

Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 2031(b)(3) of this title for any spouse of the participant.

(c) Optional additional survivor annuities for other former spouse or surviving spouse

(1) In general

In the case of any participant providing a survivor annuity under subsection (b) of this section for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 2094(b) of this title may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

(2) Limitation

Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 2031 of this title, may exceed 55 percent of the unreduced amount of the participant's annuity, as computed under section 2031(a) of this title.

(3) Contribution for additional annuities

(A) Provision of additional survivor annuity

In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the basic pay of the participant;

(ii) by a lump-sum payment or installment payments to the fund; or

(iii) by any combination thereof.

(B) Actuarial equivalence to benefit

The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

(C) Effect of former spouse's death or disqualification

If a former spouse predeceases the participant or remarries before attaining age 55 (or, in the case of a spouse, the spouse predeceases the participant or does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or pay allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the pay allotment terminated, as the case may be; and

(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

(D) Recomputation upon death or remarriage of former spouse

Under regulations prescribed by the Director, an annuity shall be recomputed (or a pay allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 55 and an increased annuity is provided for that spouse in accordance with this section.

(4) Commencement and termination of additional survivor annuity

An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the spouse's or the former spouse's death or remarriage before attaining age 55.

(5) Nonapplicability of COLA provision

Section 2131 of this title does not apply to an annuity under this subsection, unless authorized under regulations prescribed by the Director.

(Pub. L. 88–643, title II, § 222, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3212; amended Pub. L. 103–178, title II, § 202(a)(5), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 222 of Pub. L. 88–643, as added Pub. L. 97–269, title VI, § 606, Sept. 27, 1982, 96 Stat. 1148; amended Pub. L. 99–335, title V, § 501(2), (3), June 6, 1986, 100 Stat. 622; Pub. L. 102–88, title III, § 305(a)(2), Aug. 14, 1991, 105 Stat. 432, related to computation of annuities for former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (a)(7). Pub. L. 103–178, § 202(a)(5)(A), substituted "any survivor annuity" for "any other annuity".

Subsec. (c)(3)(C). Pub. L. 103–178, § 202(a)(5)(B), inserted "the participant" before "or does not qualify".

Subsec. (c)(4). Pub. L. 103–178, § 202(a)(5)(C), substituted "before the spouse's or the former spouse's death" for "before the former spouse's death".

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SURVIVOR ANNUITY, RETIREMENT ANNUITY, AND HEALTH BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES; EFFECTIVE DATE

Section 203 of Pub. L. 103–178 provided that:

"(a) SURVIVOR ANNUITY.—

"(1) IN GENERAL.—

"(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013), shall be entitled, except to the extent such person is disqualified under paragraph (2), to a survivor annuity equal to 55 percent of the greater of—

"(i) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act [50 U.S.C. 2031(a)]; or

"(ii) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act [50 U.S.C. 2143].

"(B) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this subsection shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act [50 U.S.C. 2036].

"(2) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this subsection if—

"(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

"(B) the former wife or husband is less than 50 years of age; or

"(C) the former wife or husband meets the definition of 'former spouse' that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991 [section 204(b)(4) of Pub. L. 88–643 prior to enactment of Pub. L. 102–496, formerly set out as a note under section 403 of this title].

"(3) COMMENCEMENT AND TERMINATION OF ANNUITY.—

"(A) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection shall commence—

''(i) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1994, beginning on the later of—

''(I) the 60th day after such date; or

''(II) the date on which the former wife or husband reaches age 50; and

''(ii) in the case of any other former wife or husband, beginning on the latest of—

''(I) the date on which the participant or retired participant to whom the former wife or husband was married dies;

''(II) the 60th day after October 1, 1994; or

''(III) the date on which the former wife or husband attains age 50.

''(B) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

''(4) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

''(5) APPLICATION—

''(A) TIME LIMIT; WAIVER.—A survivor annuity under this subsection shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

''(B) RETROACTIVE BENEFITS.—Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this subsection, but in no event shall a survivor annuity be payable under this subsection with respect to any period before October 1, 1994.

''(6) RESTORATION OF ANNUITY.—Notwithstanding paragraph (5)(A), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(B).

''(7) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

''(A) ENTITLEMENT.—Except as provided in paragraph (2), this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code.

''(B) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by subparagraph (A) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 [Pub. L. 99–335, 5 U.S.C. 8331 note] and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

''(b) RETIREMENT ANNUITY.—

''(1) IN GENERAL.—

''(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in subsection (a)(1)(A) shall be entitled, except to the extent such former spouse is disqualified under paragraph (2), to an annuity—

''(i) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

''(ii) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2032 (a)(1)(B)).

''(B) REDUCTION IN RETIREMENT ANNUITIES.—

''(i) AMOUNT OF REDUCTION.—An annuity payable under this subsection shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

''(ii) DEFINITION OF TERMS.—For purposes of clause (i):

''(I) APPORTIONMENT.—The term 'apportionment' means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

''(II) COURT ORDER.—The term 'court order' means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

''(2) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this subsection if—

''(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

''(B) the former wife or husband is less than 50 years of age; or

''(C) the former wife or husband meets the definition of 'former spouse' that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991 [section 204(b)(4) of Pub. L. 88–643 prior to enactment of Pub. L. 102–496, formerly set out as a note under section 403 of this title].

''(3) COMMENCEMENT AND TERMINATION.—

''(A) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this subsection—

''(i) shall commence on the later of—

''(I) October 1, 1994;

''(II) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act [probably means Central Intelligence Agency Retirement Act, 50 U.S.C. 2001 et seq.]; or

''(III) such former wife's or husband's 50th birthday; and

''(ii) shall terminate on the earlier of—

''(I) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

''(II) the date on which the annuity of the participant terminates.

''(B) DISABILITY ANNUITIES.—Notwithstanding subparagraph (A)(i)(II), in the case of a former wife or husband of a disability annuitant—

''(i) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the partici-

pant's creditable service for an annuity under the Central Intelligence Agency Retirement Act [50 U.S.C. 2001 et seq.] (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

''(ii) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

''(C) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

''(D) APPLICATION.—

''(i) TIME LIMIT; WAIVER.—An annuity under this subsection shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

''(ii) RETROACTIVE BENEFITS.—Upon approval of an application under clause (i), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this subsection, but in no event shall an annuity be payable under this subsection with respect to any period before October 1, 1994.

''(4) RESTORATION OF ANNUITIES.—Notwithstanding paragraph (3)(D)(i), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(A)(ii).

''(5) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this paragraph, any reference in this section to a participant's annuity under the Central Intelligence Agency Retirement and Disability System shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employee's Retirement System Act of 1986 [Pub. L. 99–335, 5 U.S.C. 8331 note].

''(6) SAVINGS PROVISION.—Nothing in this subsection shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act [50 U.S.C. 2011 et seq., 2151 et seq.].

''(c) HEALTH BENEFITS.—[Amended section 403p of this title.]

''(d) SOURCE OF PAYMENT FOR ANNUITIES.—Annuities provided under subsections (a) and (b) shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained under section 202 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2012).

''(e) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall take effect as of October 1, 1994, the amendments made by subsection (c) [amending section 403p of this title] shall apply to individuals on and after October 1, 1994, and no benefits provided pursuant to those subsections shall be payable with respect to any period before October 1, 1994.

''(2) Section 16(d) of the Central Intelligence Agency Act of 1949 (as added by subsection (c) of this section) [50 U.S.C. 403p(d)] shall apply to individuals beginning on the date of enactment of this Act [Dec. 3, 1993].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2031, 2033, 2052, 2094 of this title.

§ 2033. Election of survivor benefits for certain former spouses divorced as of November 15, 1982

(a) Former spouses as of November 15, 1982

A participant, former participant, or retired participant in the system who on November 15, 1982, had a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 2032(b) of this title.

(b) Time for making election

(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

(3) For the purposes of applying this subchapter, any such election shall be treated in the same manner as if it were a spousal agreement under section 2094(b) of this title.

(c) Base for annuity

An election under this section may provide for a survivor annuity based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for a survivor annuity for a spouse or any other former spouse of the participant. The participant and the participant's spouse may make an election under section 2031(b)(1)(B) of this title before the time of retirement for the purpose of allowing an election to be made under this section.

(d) Reduction in participant's annuity

(1) Computation

The amount of the reduction in the participant's annuity shall be determined in accordance with section 2031(b)(2) of this title.

(2) Effective date of reduction

Such reduction shall be effective as of—

(A) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1) of this section; or

(B) November 15, 1982, in the case of an election under subsection (b)(2) of this section.

(Pub. L. 88–643, title II, § 223, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3216.)

PRIOR PROVISIONS

A prior section 223 of Pub. L. 88–643, as added Pub. L. 97–269, title VI, § 607, Sept. 27, 1982, 96 Stat. 1151; amended Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to election of survivor benefits for certain

former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2034 of this title.

§ 2034. Survivor annuity for certain other former spouses

(a) Survivor annuity

(1) In general

An individual who was a former spouse of a participant or retired participant on November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b) of this section, to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's or retired participant's annuity, as computed under section 2031(a) of this title; or

(B) the unreduced amount of what such annuity as so computed would be if the participant, former participant, or retired participant had not elected payment of the lump-sum credit under section 2143 of this title.

(2) Reduction in survivor annuity

A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former spouse under section 2033 of this title.

(b) Limitations

A former spouse is not entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(2) the former spouse is less than 50 years of age.

(c) Commencement and termination of annuity

(1) Commencement of annuity

The entitlement of a former spouse to a survivor annuity under this section shall commence—

(A) in the case of a former spouse of a participant or retired participant who is deceased as of October 1, 1986, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former spouse reaches age 50; and

(B) in the case of any other former spouse, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former spouse was married dies;

(ii) the 60th day after October 1, 1986; or

(iii) the date on which the former spouse attains age 50.

(2) Termination of annuity

The entitlement of a former spouse to a survivor annuity under this section terminates on the last day of the month before the former spouse's death or remarriage before attaining age 55. The entitlement of a former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) Application

(1) Time limit; waiver

A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than April 1, 1989. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) Retroactive benefits

Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1986.

(e) Restoration of annuity

Notwithstanding subsection (d)(1) of this section, the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(2) of this section.

(Pub. L. 88–643, title II, § 224, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3217; amended Pub. L. 103–178, title II, § 202(a)(6), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 224 of Pub. L. 88–643, as added Pub. L. 99–569, title III, § 302(a), Oct. 27, 1986, 100 Stat. 3192; amended Pub. L. 100–453, title III, § 302(b)(1), Sept. 29, 1988, 102 Stat. 1907; Pub. L. 101–193, title III, § 304(a), Nov. 30, 1989, 103 Stat. 1703; Pub. L. 102–88, title III, § 307(a), Aug. 14, 1991, 105 Stat. 432; Pub. L. 102–183, title III, § 304, Dec. 4, 1991, 105 Stat. 1264, related to survivor annuities for certain other former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (c)(1)(B)(i). Pub. L. 103–178 substituted ''retired participant'' for ''former participant''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2031, 2052, 2154 of this title.

§ 2035. Retirement annuity for certain former spouses

(a) Retirement annuity

An individual who was a former spouse of a participant, former participant, or retired par-

ticipant on November 15, 1982, and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b) of this section, to an annuity—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

(b) Limitations

A former spouse is not entitled to an annuity under this section if—

(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(2) the former spouse is less than 50 years of age.

(c) Commencement and termination

(1) Retirement annuities

The entitlement of a former spouse to an annuity under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under this subchapter;

(ii) the first day of the month in which the divorce or annulment involved becomes final; or

(iii) such former spouse's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

(2) Disability annuities

Notwithstanding paragraph (1)(A)(i), in the case of a former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this subchapter (other than disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(3) Election of benefits

A former spouse of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity payable from the fund unless the former spouse elects to receive it instead of any survivor annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(4) Application

(A) Time limit; waiver

An annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, not later than June 2, 1990. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) Retroactive benefits

Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before December 2, 1987.

(d) Restoration of annuities

Notwithstanding subsection (c)(4)(A) of this section, the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored under subsection (b)(1) or (c)(1)(B) of this section.

(e) Savings provision

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 88–643, title II, § 225, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3218; amended Pub. L. 103–178, title II, § 202(a)(7), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 225 of Pub. L. 88–643, as added Pub. L. 100–178, title IV, § 401(a), Dec. 2, 1987, 101 Stat. 1012; amended Pub. L. 100–453, title III, § 302(c)(1), Sept. 29, 1988, 102 Stat. 1907; Pub. L. 102–88, title III, § 307(b), Aug. 14, 1991, 105 Stat. 433, related to retirement benefits for certain other former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 103–178, § 202(a)(7)(A), substituted ''any survivor annuity'' for ''any other annuity''.

Subsec. (c)(4)(A). Pub. L. 103–178, § 202(a)(7)(B), substituted ''June 2, 1990'' for ''June 2, 1991''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2154 of this title.

§ 2036. Survivor annuities for previous spouses

The Director shall prescribe regulations under which a previous spouse who is divorced after September 29, 1988, from a participant, former participant, or retired participant shall be eligible for a survivor annuity to the same extent and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to former spouses (as defined in section 8331(23) of title 5) of participants in the Civil Service Retirement and Disability System (CSRS) as prescribed by the Civil Service Retirement Spouse Equity Act of 1984.

(Pub. L. 88–643, title II, § 226, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3220.)

REFERENCES IN TEXT

The Civil Service Retirement Spouse Equity Act of 1984, referred to in text, is Pub. L. 98–615, Nov. 8, 1984, 98 Stat. 3195, as amended. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 8331 of Title 5, Government Organization and Employees, and Tables.

PRIOR PROVISIONS

A prior section 226 of Pub. L. 88–643, as added Pub. L. 100–453, title III, § 302(a), Sept. 29, 1988, 102 Stat. 1906; amended Pub. L. 102–88, title III, § 304(b), (c), Aug. 14, 1991, 105 Stat. 431, 432; Pub. L. 102–183, title III, § 306(a), (b), Dec. 4, 1991, 105 Stat. 1265, related to survivor annuities for previous spouses and second chance to elect survivor annuity for certain spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2031, 2071 of this title.

PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

§ 2051. Retirement for disability or incapacity; medical examination; recovery

(a) Disability retirement

(1) Eligibility

A participant who has become disabled shall, upon the participant's own application or upon order of the Director, be retired on an annuity computed under subsection (b) of this section.

(2) Standard for disability determination

A participant shall be considered to be disabled only if the participant—

(A) is found by the Director to be unable, because of disease or injury, to render useful and efficient service in the participant's position; and

(B) is not qualified for reassignment, under procedures prescribed by the Director, to a vacant position in the Agency at the same grade or level and in which the participant would be able to render useful and efficient service.

(3) Time limit for application

(A) One year requirement

A claim may be allowed under this section only if the application is submitted before the participant is separated from the Agency or within one year thereafter.

(B) Waiver for mentally incompetent participant

The time limitation may be waived by the Director for a participant who, at the date of separation from the Agency or within one year thereafter, is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

(b) Computation of disability annuity

(1) In general

Except as provided in paragraph (2), an annuity payable under subsection (a) of this section shall be computed under section 2031(a) of this title. However, if the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the system at the time of retirement, the annuity shall be computed on the assumption that the participant has had 20 years of service, but the additional service credit that may accrue to a participant under this paragraph may not exceed the difference between the participant's age at the time of retirement and age 60.

(2) Coordination with military retired pay and veterans' compensation and pension

If a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in section 2082(e)(3) of this title) or Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, the annuity of that participant shall be computed under section 2031(a) of this title, excluding credit for such military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of title 5, or the Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, is less than the annuity that would be payable under this section in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity payable under section 2031(a) of this title.

(c) Medical examinations

(1) Medical examination required for determination of disability

In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons.

(2) Annual reexaminations until age 60

Unless the disability is permanent, like examinations shall be made annually until the

annuitant becomes age 60. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that the annuitant can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date the annuitant's recovery is determined.

(3) Reinstatement

Upon application, the Director may reinstate any such recovered disability annuitant in the grade held at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of the annuitant's contemporaries in the Agency, appoint the annuitant to a grade higher than the one held before retirement.

(4) Termination of disability annuity

Payment of the annuity shall continue until a date one year after the date of examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier.

(5) Payment of fees

Fees for examinations under this subsection, together with reasonable traveling and other expenses incurred in order to submit to examination, may be paid out of the fund.

(6) Suspension of annuity pending required examination

If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(7) Termination of annuity upon restoration of earning capacity

If the annuitant receiving a disability retirement annuity is restored to earning capacity before becoming age 60, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity shall be considered to be restored if in any calendar year the income of the annuitant from wages or self-employment, or both, equals at least 80 percent of the current rate of pay for the grade and step the annuitant held at the time of retirement.

(d) Treatment of recovered disability annuitant who is not reinstated

(1) Separation

If a recovered or restored disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, the annuitant shall be considered, except for service credit, to have been separated within the meaning of section 2054 of this title as of the date of termination of the disability annuity.

(2) Retirement

After such termination, the recovered or restored annuitant shall be entitled to the benefits of section 2054 or 2071(a) of this title, except that the annuitant may elect voluntary retirement under section 2053 of this title, if qualified thereunder, or may be placed by the Director in an involuntary retirement status under section 2055(a) of this title, if qualified thereunder. Retirement rights under this paragraph shall be based on the provisions of this subchapter in effect as of the date on which the disability annuity is discontinued.

(3) Further disability before age 62

If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age 62, again become totally disabled due to recurrence of the disability for which the annuitant was originally retired, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that the annuitant's income from wages and self-employment in any calendar year before reaching age 62 was less than 80 percent of the rate of pay for the grade and step the annuitant held at the time of retirement, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the first of the next following year. If the annuitant has been allowed an involuntary or voluntary retirement annuity in the meantime, the annuitant's reinstated disability annuity shall be substituted for it unless the annuitant elects to retain the former benefit.

(e) Coordination of benefits

(1) Workers' compensation

A participant is not entitled to receive for the same period of time—

(A) an annuity under this subchapter, and

(B) compensation for injury to, or disability of, such participant under subchapter I of chapter 81 of title 5, other than compensation payable under section 8107 of such title.

(2) Survivor annuities

An individual is not entitled to receive an annuity under this subchapter and a concurrent benefit under subchapter I of chapter 81 of title 5 on account of the death of the same person.

(3) Greater benefit

Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this subchapter or subchapter I of chapter 81 of title 5.

(f) Offset from survivor annuity for workers' compensation payment

(1) Refund to Department of Labor

If an individual is entitled to an annuity under this subchapter and the individual receives a lump-sum payment for compensation under section 8135 of title 5 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the

Secretary of Labor, shall be refunded to the Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

(A) refund to the Secretary of Labor the amount representing the commuted compensation payments for the extended period; or

(B) authorize the deduction of the amount from the annuity.

(2) Source of deduction

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Secretary for reimbursement to the Employees' Compensation Fund.

(3) Prorating deduction

If the Secretary finds that the financial circumstances of an individual entitled to an annuity under this subchapter warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Secretary determines appropriate.

(Pub. L. 88–643, title II, § 231, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3220; amended Pub. L. 103–178, title II, § 202(a)(8), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 231 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1046; Ex. Ord. No. 12326, § 2, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 94–522, title II, §§ 205–207, Oct. 17, 1976, 90 Stat. 2470; Ex. Ord. No. 12443, § 1, Sept. 27, 1983, 48 F.R. 44751; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622; Pub. L. 102–183, title III, § 305, Dec. 4, 1991, 105 Stat. 1265, related to retirement for disability or incapacity, medical examination, and recovery and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (d)(2). Pub. L. 103–178 substituted ''2071(a) of this title'' for ''2071(b) of this title''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403s, 2031, 2093, 2111, 2143 of this title.

§ 2052. Death in service

(a) Return of contributions when no annuity payable

If a participant dies and no claim for an annuity is payable under this subchapter, the participant's lump-sum credit and any voluntary contributions made under section 2121 of this title, with interest, shall be paid in the order of precedence shown in section 2071(c) of this title.

(b) Survivor annuity for surviving spouse or former spouse

(1) In general

If a participant dies before separation or retirement from the Agency and is survived by a spouse or by a former spouse qualifying for a survivor annuity under section 2032(b) of this title, such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with paragraphs (2) and (3) of this subsection and section 2031(a) of this title, and any such surviving former spouse shall be entitled to an annuity computed in accordance with section 2032(b) of this title and paragraph (2) of this subsection as if the participant died after being entitled to an annuity under this subchapter. The annuity of such surviving spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the death or remarriage before attaining age 55 of the surviving spouse or former spouse (subject to the payment and restoration provisions of sections 2031(b)(3)(C), 2031(h), and 2032(b)(3) of this title).

(2) Computation

The annuity payable under paragraph (1) shall be computed in accordance with section 2031(a) of this title, except that the computation of the annuity of the participant under such section shall be at least the smaller of (A) 40 percent of the participant's high-3 average pay, or (B) the sum obtained under such section after increasing the participant's length of service by the difference between the participant's age at the time of death and age 60.

(3) Limitation

Notwithstanding paragraph (1), if the participant had a former spouse qualifying for an annuity under section 2032(b) of this title, the annuity of a surviving spouse under this section shall be subject to the limitation of section 2031(b)(3)(B) of this title, and the annuity of a former spouse under this section shall be subject to the limitation of section 2032(b)(4)(B) of this title.

(4) Precedence of section 2034 survivor annuity over death-in-service annuity

If a former spouse who is eligible for a death-in-service annuity under this section is or becomes eligible for an annuity under section 2034 of this title, the annuity provided under this section shall not be payable and shall be superseded by the annuity under section 2034 of this title.

(c) Annuities for surviving children

(1) Participants dying before April 1, 1992

In the case of a participant who before April 1, 1992, died before separation or retirement from the Agency and who was survived by a child or children—

(A) if the participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 2031(d)(3)(A) of this title; and

(B) if the participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 2031(d)(3)(B) of this title.

(2) Participants dying on or after April 1, 1992

In the case of a participant who on or after April 1, 1992, dies before separation or retirement from the Agency and who is survived by a child or children—

(A) if the participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 2031(d)(3)(A) of this title; and

(B) if the participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under section 2031(d)(3)(B) of this title.

(3) "Former spouse" defined

For purposes of this subsection, the term ''former spouse'' includes any former wife or husband of a participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

(Pub. L. 88–643, title II, § 232, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3223; amended Pub. L. 103–178, title II, § 202(a)(9), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 232 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1048; Pub. L. 91–185, § 4, Dec. 30, 1969, 83 Stat. 848; Pub. L. 94–522, title II, § 208, Oct. 17, 1976, 90 Stat. 2471; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622; Pub. L. 100–178, title IV, § 402(a), Dec. 2, 1987, 101 Stat. 1013; Pub. L. 101–193, title III, § 303, Nov. 30, 1989, 103 Stat. 1703; Pub. L. 102–88, title III, § 305(a)(3), Aug. 14, 1991, 105 Stat. 432; Pub. L. 102–183, title III, § 302(b), (c), Dec. 4, 1991, 105 Stat. 1262, 1263; Pub. L. 102–496, title III, § 304(b), Oct. 24, 1992, 106 Stat. 3183, related to death in service and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (b)(4). Pub. L. 103–178 substituted ''eligible for an annuity under section 2034'' for ''eligible for an annuity under section 2032''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 403s, 2002, 2031 of this title.

§ 2053. Voluntary retirement

(a) A participant who is at least 50 years of age and has completed 20 years of service may, on the participant's application and with the consent of the Director, be retired from the Agency and receive benefits in accordance with the provisions of section 2031 of this title if the participant has not less than 10 years of service with the Agency.

(b) A participant who has at least 25 years of service, ten years of which are with the Agency, may retire, with the consent of the Director, at any age and receive benefits in accordance with the provisions of section 2031 of this title if the Office of Personnel Management has authorized separation from service voluntarily for Agency employees under section 8336(d)(2) of title 5 with respect to the Civil Service Retirement System or section 8414(b)(1)(B) of such title with respect to the Federal Employees' Retirement System.

(Pub. L. 88–643, title II, § 233, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3225; amended Pub. L. 103–36, § 3, June 8, 1993, 107 Stat. 106.)

PRIOR PROVISIONS

A prior section 233 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1048, related to voluntary retirement and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Pub. L. 103–36 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2051, 2152 of this title.

§ 2054. Discontinued service benefits

(a) Deferred annuity

A participant who separates from the Agency may, upon separation or at any time before the commencement of an annuity under this subchapter, elect—

(1) to have the participant's contributions to the fund returned to the participant in accordance with section 2071(a) of this title; or

(2) except in a case in which the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States, to leave the contributions in the fund and receive an annuity, computed as prescribed in section 2031 of this title, commencing at age 62.

(b) Refund of contributions if former participant dies before age 62

If a participant who qualifies under subsection (a) of this section to receive a deferred annuity commencing at age 62 dies before reaching age 62, the participant's contributions to the fund, with interest, shall be paid in accordance with the provisions of section 2071 of this title.

(Pub. L. 88–643, title II, § 234, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3225; amended Pub. L. 103–178, title II, § 202(a)(10), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 234 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1048; Pub. L. 97–269, title VI, § 608, Sept. 27, 1982, 96 Stat. 1152; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to discontinued service benefits and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–178 substituted ''section 2071'' for ''sections 2071 and 2121''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2051, 2071 of this title.

§ 2055. Mandatory retirement

(a) Involuntary retirement

(1) AUTHORITY OF DIRECTOR.—The Director may, in the Director's discretion, place in a retired status any participant in the system described in paragraph (2).

(2) Paragraph (1) applies with respect to any participant who has not less than 10 years of service with the Agency and who—

(A) has completed at least 25 years of service; or

(B) is at least 50 years of age and has completed at least 20 years of service.

(b) Mandatory retirement for age

(1) In general

A participant in the system shall be automatically retired from the Agency—

(A) upon reaching age 65, in the case of a participant in the system receiving compensation under the Senior Intelligence Service pay schedule at the rate of level 4 or above; and

(B) upon reaching age 60, in the case of any other participant in the system.

(2) Effective date of retirement

Retirement under paragraph (1) shall be effective on the last day of the month in which the participant reaches the age applicable to that participant under that paragraph.

(3) Authority for extension

In any case in which the Director determines it to be in the public interest, the Director may extend the mandatory retirement date for a participant under this subsection by a period of not to exceed 5 years.

(c) Retirement benefits

A participant retired under this section shall receive retirement benefits in accordance with section 2031 of this title.

(Pub. L. 88–643, title II, § 235, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3225.)

PRIOR PROVISIONS

A prior section 235 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1049; Ex. Ord. No. 12443, § 13, Sept. 27, 1983, 48 F.R. 44754; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622; Pub. L. 102–183, title III, § 307, Dec. 4, 1991, 105 Stat. 1265, related to mandatory retirement and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2051, 2152 of this title.

§ 2056. Eligibility for annuity

(a) One-out-of-two requirement

A participant must complete, within the last two years before any separation from service (except a separation because of death or disability) at least one year of creditable civilian service during which the participant is subject to this subchapter and in a pay status before the participant or the participant's survivors are eligible for an annuity under this subchapter based on that separation.

(b) Refund of contributions for time not allowed for credit

If a participant (other than a participant separated from the service because of death or disability) fails to meet the service and pay status requirement of subsection (a) of this section, any amounts deducted from the participant's pay during the period for which no eligibility is established based on the separation shall be returned to the participant on the separation.

(c) Exception

Failure to meet the service and pay status requirement of subsection (a) of this section shall not deprive the participant or the participant's survivors of any annuity to which they may be entitled under this subchapter based on a previous separation.

(Pub. L. 88–643, title II, § 236, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3226.)

PRIOR PROVISIONS

A prior section 236 of Pub. L. 88–643, as added Pub. L. 101–193, title III, § 302(2), Nov. 30, 1989, 103 Stat. 1703, related to eligibility for annuity and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

A prior section 237 of Pub. L. 88–643, title II, formerly § 236, Oct. 13, 1964, 78 Stat. 1049; Pub. L. 91–626, § 4, Dec. 31, 1970, 84 Stat. 1873; Pub. L. 93–31, May 8, 1973, 87 Stat. 65; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, renumbered § 237, Pub. L. 101–193, title III, § 302(1), Nov. 30, 1989, 103 Stat. 1703, related to limitation on number of retirements and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

PART E—LUMP-SUM PAYMENTS

§ 2071. Lump-sum payments

(a) Entitlement to lump-sum credit

Subject to section 2082(d) of this title and subsection (b) of this section, a participant who—

(1) is separated from the Agency for at least 31 consecutive days and is not transferred to employment covered by another retirement system for Government employees;

(2) files an application with the Director for payment of the lump-sum credit;

(3) is not reemployed in a position in which the participant is subject to this subchapter at the time the participant files the application; and

(4) will not become eligible to receive an annuity under this subchapter within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Receipt of the payment of the lump-sum credit by the former participant voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, until the former participant is reemployed in service subject to this subchapter.

(b) Conditions for payment of lump-sum credit

(1) In general

Whenever a former participant becomes entitled to receive payment of the lump-sum credit under subsection (a) of this section, such lump-sum credit shall be paid to the former participant and to any former spouse or former wife or husband of the former participant in accordance with paragraphs (2) through (4). The former participant's lump-sum credit shall be reduced by the amount of the lump-sum credit payable to any former spouse or former wife or husband.

(2) Pro rata share for former spouse

Unless otherwise expressly provided by any spousal agreement or court order under section 2094(b) of this title, a former spouse of the former participant shall be entitled to receive a share of such participant's lump-sum credit—

(A) if married to the participant throughout the period of creditable service of the participant, equal to 50 percent of such lump-sum credit; or

(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant bears to the total number of days of such creditable service.

(3) Share for former wife or husband

Payment of the former participant's lump-sum credit shall be subject to the terms of a court order under section 2094(c) of this title concerning any former wife or husband of the former participant if—

(A) the court order expressly relates to any portion of such lump-sum credit; and

(B) payment of the lump-sum credit would extinguish entitlement of such former wife or husband to a survivor annuity under section 2036 of this title or to any portion of the participant's annuity under section 2094(c) of this title.

(4) Notification

A lump-sum credit may be paid to or for the benefit of a former participant—

(A) only upon written notification to (i) the current spouse, if any, (ii) any former spouse, and (iii) any former wife or husband who has a court order covered by paragraph (3); and

(B) only if the express written concurrence of the current spouse has been received by the Director.

This paragraph may be waived under circumstances described in section 2031(b)(1)(D) of this title.

(c) Order of precedence of payment

A lump-sum payment authorized by subsection (d) or (e) of this section 2121(d)[1] of this title and a payment of any accrued and unpaid annuity authorized by subsection (f) of this section shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon establishment of a valid claim therefor, and such payment bars recovery by any other individual:

(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Director before the participant's death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed with the Director shall have no force or effect.

(2) If there is no designated beneficiary, to the surviving wife or husband of such participant.

(3) If none of the above, to the child or children of such participant and descendent of deceased children by representation.

(4) If none of the above, to the parents of such participant or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant.

(6) If none of the above, to such other next of kin of such participant as the Director determines to be legally entitled to such payment.

(d) Death of former participant before retirement

(1) In general

Except as provided in paragraph (2), if a former participant eligible for a deferred annuity under section 2054 of this title dies before reaching age 62, such former participant's lump-sum credit shall be paid in accordance with subsection (c) of this section.

(2) Limitation

In any case where there is a surviving former spouse or surviving former wife or husband of such participant who is entitled to a share of such participant's lump-sum credit under paragraphs (2) and (3) of subsection (b) of this section, the lump-sum credit payable under paragraph (1) shall be reduced by the lump-sum credit payable to such former spouse or former wife or husband.

(e) Termination of all annuity rights

If all annuity rights under this subchapter based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in accordance with subsection (c) of this section.

(f) Payment of accrued and unpaid annuity when retired participant dies

If a retired participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (c) of this section.

(g) Termination of survivor annuity

An annuity accrued and unpaid on the termination, except by death, of the annuity of a survivor annuitant shall be paid to that individual. An annuity accrued and unpaid on the death of

[1] So in original. The words "of this section 2121(d)" probably should be "of this section or by section 2121(d)".

a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other individual:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no executor or administrator, to such next of kin of the survivor annuitant as the Director determines to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days from the date of death of the survivor annuitant.

(Pub. L. 88–643, title II, § 241, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3226; amended Pub. L. 103–178, title II, § 202(a)(11), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 241 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1049; Pub. L. 94–522, title II, § 209, Oct. 17, 1976, 90 Stat. 2471; Ex. Ord. No. 12443, § 5, Sept. 27, 1983, 48 F.R. 44752; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to disposition of contributions and interest in excess of benefits received and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–178, § 202(a)(11)(A), substituted ''A lump-sum payment authorized by subsection (d) or (e) of this section 2121(d) of this title and a payment of any accrued and unpaid annuity authorized by subsection (f) of this section'' for ''A lump-sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 2054(b) or 2121(d) of this title''.

Subsecs. (f), (g). Pub. L. 103–178, § 202(a)(11)(B), added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2002, 2021, 2051, 2052, 2054, 2094, 2121 of this title.

PART F—PERIOD OF SERVICE FOR ANNUITIES

§ 2081. Computation of length of service

(a) In general

(1) Crediting service as participant

For the purposes of this subchapter, the period of service of a participant shall be computed from the date on which the participant becomes a participant under this subchapter.

(2) Exclusion of certain periods

In computing the period of service of a participant, all periods of separation from the Agency and so much of any leave of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under chapter 81 of title 5 and leaves of absence granted participants while performing active and honorable service in the Armed Forces.

(3) Crediting certain periods of separation

A participant or former participant who returns to Government duty after a period of separation shall have included in the participant or former participant's period of service that part of the period of separation in which the participant or former participant was receiving benefits under chapter 81 of title 5.

(b) Extra credit for periods served at unhealthful posts overseas

(1) Classification of certain posts as unhealthful

The Director may from time to time establish a list of places outside the United States that, by reason of climatic or other extreme conditions, are to be classed as unhealthful posts. Such list shall be established in consultation with the Secretary of State.

(2) Extra credit

Each year of duty at a post on the list established under paragraph (1), inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this subchapter for the purpose of retirement. In computing such service, any fractional month shall be treated as a full month.

(3) Coordination with benefits under title 5

Extra credit for service at an unhealthful post may not be credited to a participant who is paid a differential under section 5925 or 5928 of title 5 for the same service.

(Pub. L. 88–643, title II, § 251, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3228.)

PRIOR PROVISIONS

A prior section 251 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1050; Pub. L. 94–522, title II, § 210, Oct. 17, 1976, 90 Stat. 2471; Pub. L. 99–169, title VII, § 702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to computation of length of service and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2002, 2021, 2031 of this title.

§ 2082. Prior service credit

(a) In general

A participant may, subject to the provisions of this section, include in the participant's period of service—

(1) civilian service in the Government before becoming a participant that would be creditable toward retirement under subchapter III of chapter 83 of title 5 (as determined under section 8332(b) of such title); and

(2) honorable active service in the Armed Forces before the date of the separation upon which eligibility for an annuity is based, or honorable active service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.

(b) Limitations

(1) In general

Except as provided in paragraphs (2) and (3), the total service of any participant shall exclude—

(A) any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made,

(B) any period of service for which a refund of contributions has been made, or

(C) any period of service for which contributions were not transferred pursuant to subsection (c)(1) of this section;

unless the participant makes a deposit to the fund in an amount equal to the percentages of basic pay received for such service as specified in the table contained in section 8334(c) of title 5, together with interest computed in accordance with section 8334(e) of such title. The deposit may be made in one or more installments (including by allotment from pay), as determined by the Director.

(2) Effect of retirement deductions not made

If a participant has not paid a deposit for civilian service performed before October 1, 1982, for which retirement deductions were not made, such participant's annuity shall be reduced by 10 percent of the deposit described in paragraph (1) remaining unpaid, unless the participant elects to eliminate the service involved for the purpose of the annuity computation.

(3) Effect of refund of retirement contributions

A participant who received a refund of retirement contributions under this or any other retirement system for Government employees covering service for which the participant may be allowed credit under this subchapter may deposit the amount received, with interest computed under paragraph (1). Credit may not be allowed for the service covered by the refund until the deposit is made, except that a participant who—

(A) separated from Government service before October 1, 1990, and received a refund of the participant's retirement contributions covering a period of service ending before October 1, 1990;

(B) is entitled to an annuity under this subchapter (other than a disability annuity) which commences after December 1, 1992; and

(C) does not make the deposit required to receive credit for the service covered by the refund;

shall be entitled to an annuity actuarially reduced in accordance with section 8334(d)(2)(B) of title 5.

(4) Entitlement under another system

Credit toward retirement under the system shall not be allowed for any period of civilian service on the basis of which the participant is receiving (or will in the future be entitled to receive) an annuity under another retirement system for Government employees, unless the right to such annuity is waived and a deposit is made under paragraph (1) covering that period of service, or a transfer is made pursuant to subsection (c) of this section.

(c) Transfer from other Government retirement systems

(1) In general

If an employee who is under another retirement system for Government employees becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5) under such retirement system on behalf of the employee as well as such employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the employee's credit in the fund effective as of the date such employee becomes a participant in the system.

(2) Consent of employee

Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered before becoming a participant in the system.

(3) Additional contributions; refunds

A participant whose contributions are transferred pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 8334(c) of title 5 for contributions to the fund.

(d) Transfer to other Government retirement systems

(1) In general

If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5) to the fund on the participant's behalf as well as the participant's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the participant's credit in the fund of such other retirement system effective as of the date on which the participant becomes eligible to participate in such other retirement system.

(2) Consent of employee

Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered before the participant's becoming eligible for participation in that other system.

(e) Prior military service credit

(1) Application to obtain credit

If a deposit required to obtain credit for prior military service described in subsection (a)(2) of this section was not made to another Government retirement fund and transferred under subsection (c)(1) of this section, the participant may obtain credit for such military service, subject to the provisions of this subsection and subsections (f) through (h) of this

section, by applying for it to the Director before retirement or separation from the Agency.

(2) Employment starting before, on, or after October 1, 1982

Except as provided in paragraph (3)—

(A) the service of a participant who first became a Federal employee before October 1, 1982, shall include credit for each period of military service performed before the date of separation on which entitlement to an annuity under this subchapter is based, subject to subsection (f) of this section; and

(B) the service of a participant who first becomes a Federal employee on or after October 1, 1982, shall include credit for—

(i) each period of military service performed before January 1, 1957, and

(ii) each period of military service performed after December 31, 1956, and before the separation on which entitlement to an annuity under this subchapter is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in subsection (h) of this section.

(3) Effect of receipt of military retired pay

In the case of a participant who is entitled to retired pay based on a period of military service, the participant's service may not include credit for such period of military service unless the retired pay is paid—

(A) on account of a service-connected disability—

(i) incurred in combat with an enemy of the United States; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in section 1101 of title 38); or

(B) under chapter 67[1] of title 10.

(4) Survivor annuity

Notwithstanding paragraph (3), the survivor annuity of a survivor of a participant—

(A) who was awarded retired pay based on any period of military service, and

(B) whose death occurs before separation from the Agency,

shall be computed in accordance with section 8332(c)(3) of title 5.

(f) Effect of entitlement to social security benefits

(1) In general

Notwithstanding any other provision of this section (except paragraph (3) of this subsection) or section 2083 of this title, any military service (other than military service covered by military leave with pay from a civilian position) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to such participant or to the participant's spouse, former spouse, previous spouse, or child is based, if such participant, spouse, former spouse, previous spouse, or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors' insurance benefits under section 402 of title 42, based on such participant's wages and self-employment income. If the military service is not excluded under the preceding sentence, but upon attaining age 62, the participant or spouse, former spouse, or previous spouse becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service on which the annuity is based shall be redetermined, effective as of the first day of the month in which the participant or spouse, former spouse, or previous spouse attains age 62, so as to exclude such service.

(2) Limitation

The provisions of paragraph (1) relating to credit for military service do not apply to—

(A) any period of military service of a participant with respect to which the participant has made a deposit with interest, if any, under subsection (h) of this section; or

(B) the military service of any participant described in subsection (e)(2)(B) of this section.

(3) Effect of entitlement before September 8, 1982

(A) The annuity recomputation required by paragraph (1) shall not apply to any participant who was entitled to an annuity under this subchapter on or before September 8, 1982, or who is entitled to a deferred annuity based on separation from the Agency occurring on or before such date. Instead of an annuity recomputation, the annuity of such participant shall be reduced at age 62 by an amount equal to a fraction of the participant's old-age or survivors' insurance benefits under section 402 of title 42. The reduction shall be determined by multiplying the participant's monthly Social Security benefit by a fraction, the numerator of which is the participant's total military wages and deemed additional wages (within the meaning of section 429 of title 42) that were subject to Social Security deductions and the denominator of which is the total of all the participant's wages, including military wages, and all self-employment income that were subject to Social Security deductions before the calendar year in which the determination month occurs.

(B) The reduction determined in accordance with subparagraph (A) shall not be greater than the reduction that would be required under paragraph (1) if such paragraph applied to the participant. The new formula shall be applicable to any annuity payment payable after October 1, 1982, including annuity payments to participants who had previously reached age 62 and whose annuities had already been recomputed.

(C) For purposes of this paragraph, the term ''determination month'' means—

(i) the first month for which the participant is entitled to old-age or survivors' insurance benefits (or would be entitled to such benefits upon application therefor); or

(ii) October 1982, in the case of any participant entitled to such benefits for that month.

[1] See References in Text note below.

(g) Deposits paid by survivors

For the purpose of survivor annuities, deposits authorized by subsections (b) and (h) of this section may also be made by the survivor of a participant.

(h) Deposits for periods of military service

(1) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this subchapter is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37 to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).

(2) Any deposit made under paragraph (1) more than two years after the later of—

(A) October 1, 1983, or

(B) the date on which the participant making the deposit first becomes an employee of the Federal Government,

shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e) of title 5.

(3) Any payment received by the Director under this subsection shall be deposited in the Treasury of the United States to the credit of the fund.

(4) The provisions of section 2031(k) of this title shall apply with respect to such information as the Director determines to be necessary for the administration of this subsection in the same manner that such section applies concerning information described in that section.

(Pub. L. 88–643, title II, § 252, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3229.)

REFERENCES IN TEXT

Chapter 67 of title 10, referred to in subsec. (e)(3)(B), was transferred to part II of subtitle E of Title 10, Armed Forces, renumbered as chapter 1223, and amended generally by Pub. L. 103–337, div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998. A new chapter 67 (§ 1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103–337.

PRIOR PROVISIONS

A prior section 252 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1050; Pub. L. 91–626, §§ 5, 6, Dec. 31, 1970, 84 Stat. 1872; Pub. L. 94–522, title II, § 211, Oct. 17, 1976, 90 Stat. 2471; Ex. Ord. No. 12443, §§ 9–11, 15, Sept. 27, 1983, 48 F.R. 44753, 44755; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to prior service credit and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2001, 2002, 2021, 2031, 2051, 2071, 2083, 2091 of this title.

§ 2083. Credit for service while on military leave

(a) General rule

A participant who, during the period of any war or of any national emergency as proclaimed by the President or declared by the Congress, leaves the participant's position in the Agency to enter military service shall not be considered, for purposes of this subchapter, as separated from the participant's position in the Agency by reason of such military service, unless the participant applies for and receives a refund of contributions under this subchapter. Such a participant may not be considered as retaining such position in the Agency after December 31, 1956, or upon the expiration of five years of such military service, whichever is later.

(b) Waiver of contributions

Except to the extent provided under section 2082(e) or 2082(h) of this title, contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active service in the Armed Forces.

(Pub. L. 88–643, title II, § 253, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3234.)

PRIOR PROVISIONS

A prior section 253 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1052; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to credit for service while on military leave and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2002, 2082 of this title.

PART G—MONEYS

§ 2091. Estimate of appropriations needed

(a) Estimates of annual appropriations

The Director shall prepare the estimates of the annual appropriations required to be made to the fund.

(b) Actuarial valuations

The Director shall cause to be made actuarial valuations of the fund at such intervals as the Director determines to be necessary, but not less often than every five years.

(c) Changes in law affecting actuarial status of fund

Any statute which authorizes—

(1) new or increased benefits payable from the fund under this subchapter, including annuity increases other than under section 2131 of this title;

(2) extension of the coverage of this subchapter to new groups of employees; or

(3) increases in pay on which benefits are computed;

is deemed to authorize appropriations to the fund in order to provide funding for the un-

funded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the system and with the first payment thereof due as of the end of the fiscal year in which such new or liberalized benefit, extension of coverage, or increase in pay is effective.

(d) Authorization

There is hereby authorized to be appropriated to the fund for each fiscal year such amounts as may be necessary to meet the amount of normal cost for each year that is not met by contributions under section 2021(a) of this title.

(e) Unfunded liability; credit allowed for military service

There is hereby authorized to be appropriated to the fund for each fiscal year such sums as may be necessary to provide the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the system; and

(2) that portion of disbursement for annuities for that year that the Director estimates is attributable to credit allowed for military service,

less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the fund under section 2082(h) of this title.

(Pub. L. 88–643, title II, § 261, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3234.)

PRIOR PROVISIONS

A prior section 261 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1052; Pub. L. 94–522, title I, § 102, Oct. 17, 1976, 90 Stat. 2467; Ex. Ord. No. 12443, § 12, Sept. 27, 1983, 48 F.R. 44754; Pub. L. 99–335, title V, § 501(2), (3), June 6, 1986, 100 Stat. 622, related to estimate of appropriations needed and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2001 of this title.

§ 2092. Investment of moneys in fund

The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in the Director's judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances from the fund. The income derived from such investments shall be credited to and constitute a part of the fund.

(Pub. L. 88–643, title II, § 262, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3235.)

PRIOR PROVISIONS

A prior section 262 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1052, related to investment of moneys in the fund and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

§ 2093. Payment of benefits

(a) Annuities stated as annual amounts

Each annuity is stated as an annual amount, 1/12 of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

(b) Commencement of annuity

(1) Commencement of annuity for participants generally

Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after separation from the Agency or after pay ceases and the service and age requirements for title to an annuity are met.

(2) Exceptions

The annuity of—

(A) a participant involuntarily separated from the Agency;

(B) a participant retiring under section 2051 of this title due to a disability; and

(C) a participant who serves 3 days or less in the month of retirement;

shall commence on the day after separation from the Agency or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(3) Other annuities

Any other annuity payable from the fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

(c) Termination of annuity

An annuity payable from the fund shall terminate—

(1) in the case of a retired participant, on the day death or any other terminating event provided by this subchapter occurs; or

(2) in the case of a former spouse or a survivor, on the last day of the month before death or any other terminating event occurs.

(d) Application for survivor annuities

The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Director may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to the individual's estate.

(e) Waiver of annuity

An individual entitled to an annuity from the fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Director. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

(f) Limitations

(1) Application before 115th anniversary

No payment shall be made from the fund unless an application for benefits based on the

service of the participant is received by the Director before the 115th anniversary of the participant's birth.

(2) Application within 30 years

Notwithstanding paragraph (1), after the death of a participant or retired participant, no benefit based on that participant's service may be paid from the fund unless an application for the benefit is received by the Director within 30 years after the death or other event which gives rise to eligibility for the benefit.

(g) Withholding of State income tax from annuities

(1) Agreements with States

The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund[1] and disbursed to the States during the month following that calendar quarter.

(2) Limitation on multiple requests

An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests during any one calendar year.

(3) Change in State designation

Subject to paragraph (2), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Director.

(4) General provisions

This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements of the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Director shall be repaid by the State in accordance with regulations prescribed by the Director.

(5) "State" defined

For the purpose of this subsection, the term ''State'' includes the District of Columbia and any territory or possession of the United States.

[1] So in original. Probably should not be capitalized.

(Pub. L. 88–643, title II, § 263, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3235.)

PRIOR PROVISIONS

A prior section 263 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1052; Pub. L. 97–269, title VI, § 609, Sept. 27, 1982, 96 Stat. 1153; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to attachment of moneys and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

§ 2094. Attachment of moneys

(a) Exemption from legal process

Except as provided in subsections (b), (c), and (e) of this section, none of the moneys mentioned in this subchapter shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) Payment to former spouses under court order or spousal agreement

In the case of any participant, former participant, or retired participant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(1) any right of the former spouse to any annuity under section 2032(a) of this title in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(2) any right of the former spouse of a participant or retired participant to a survivor annuity under section 2032(b) or 2032(c) of this title, and the amount of any such annuity; and

(3) any right of the former spouse of a former participant to any payment of a lump-sum credit under section 2071(b) of this title, and the amount of any such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this subchapter.

(c) Other payments under court orders

Payments under this subchapter that would otherwise be made to a participant, former participant, or retired participant based upon that participant's service shall be paid, in whole or in part, by the Director to another individual if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

(d) Prospective payments; bar to recovery

(1) Subsections (b) and (c) of this section apply only to payments made under this subchapter for periods beginning after the date of receipt by the Director of written notice of such decree, order, or agreement and such additional information and documentation as the Director may require.

(2) Any payment under subsection (b) or (c) of this section to an individual bars recovery by any other individual.

(e) Allotments

An individual entitled to an annuity from the fund may make allotments or assignments of amounts from such annuity for such purposes as the Director considers appropriate.

(Pub. L. 88–643, title II, § 264, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3237; amended Pub. L. 103–178, title II, § 202(a)(12), Dec. 3, 1993, 107 Stat. 2027.)

PRIOR PROVISIONS

A prior section 264 of Pub. L. 88–643, as added Pub. L. 94–522, title II, § 212, Oct. 17, 1976, 90 Stat. 2471, related to recovery of payments and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496. See section 2095 of this title.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–178, § 202(a)(12)(A), inserted ''and'' at end.

Subsec. (b)(3). Pub. L. 103–178, § 202(a)(12)(B), substituted '', and the amount of any such payment;'' for ''and to any payment of a return of contributions under section 2054(a) of this title; and''.

Subsec. (b)(4). Pub. L. 103–178, § 202(a)(12)(C), struck out par. (4) which read as follows: ''any right of the former spouse of a participant or former participant to a lump-sum payment or additional annuity payable from a voluntary contribution account under section 2121 of this title;''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403n, 2031, 2032, 2033, 2071 of this title.

§ 2095. Recovery of payments

Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money payable pursuant to this subchapter on account of a certification or payment made by a former employee of the Agency in the discharge of the former employee's official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

(Pub. L. 88–643, title II, § 265, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3237; amended Pub. L. 103–178, title II, § 202(a)(13), Dec. 3, 1993, 107 Stat. 2027.)

AMENDMENTS

1993—Pub. L. 103–178 substituted ''subchapter'' for ''chapter'' in two places.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

PART H—RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN AGENCY OR REEMPLOYED IN GOVERNMENT

§ 2111. Recall

(a) Authority to recall

The Director may, with the consent of a retired participant, recall that participant to service in the Agency whenever the Director determines that such recall is in the public interest.

(b) Pay of retired participant while serving

A retired participant recalled to duty in the Agency under subsection (a) of this section or reinstated or reappointed in accordance with section 2051(b)[1] of this title shall, while so serving, be entitled, in lieu of the retired participant's annuity, to the full basic pay of the grade in which the retired participant is serving. During such service, the retired participant shall make contributions to the fund in accordance with section 2021 of this title.

(c) Recomputation of annuity

When the retired participant reverts to retired status, the annuity of the retired participant shall be redetermined in accordance with section 2031 of this title.

(Pub. L. 88–643, title II, § 271, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3238.)

PRIOR PROVISIONS

A prior section 271 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1052, related to recalled participants and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2031, 2032, 2152 of this title.

§ 2112. Reemployment

A participant retired under this subchapter shall not, by reason of that retired status, be barred from employment in Federal Government service in any appointive position for which the participant is qualified.

(Pub. L. 88–643, title II, § 272, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3238.)

PRIOR PROVISIONS

A prior section 272 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1053; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to reemployed participants and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2032 of this title.

§ 2113. Reemployment compensation

(a) Deduction from basic pay

An annuitant who has retired under this subchapter and who is reemployed in the Federal Government service in any appointive position

[1] So in original. Probably should be section ''2051(c)''.

(either on a part-time or full-time basis) shall be entitled to receive the annuity payable under this subchapter, but there shall be deducted from the annuitant's basic pay a sum equal to the annuity allocable to the period of actual employment.

(b) Recovery of overpayments

In the event of an overpayment under this section, the amount of the overpayment shall be recovered by withholding the amount involved from the basic pay payable to such reemployed annuitant or from any other moneys, including the annuitant's annuity, payable in accordance with this subchapter.

(c) Deposit in fund

Sums deducted from the basic pay of a reemployed annuitant under this section shall be deposited in the Treasury of the United States to the credit of the fund.

(Pub. L. 88–643, title II, § 273, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3238.)

PRIOR PROVISIONS

A prior section 273 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1053; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to reemployment compensation and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2032 of this title.

PART I—VOLUNTARY CONTRIBUTIONS

§ 2121. Voluntary contributions

(a) Authority for voluntary contributions

(1) In general

Under such regulations as may be prescribed by the Director, a participant may voluntarily contribute additional sums in multiples of one percent of the participant's basic pay, but not in excess of 10 percent of such basic pay.

(2) Interest

The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest—

(A) for periods before January 1, 1985, at 3 percent a year; and

(B) for periods on or after January 1, 1985, at the rate computed under section 8334(e) of title 5,

compounded annually to the date of election under subsection (b) of this section or the date of payment under subsection (d) of this section.

(b) Treatment of voluntary contributions

Effective on the date of retirement and at the election of the participant, the participant's account shall be—

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on the participant's death to a beneficiary; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on the participant's death payable to a beneficiary, with a guaranteed return to the beneficiary or the beneficiary's legal representative of an amount equal to the cash payment referred to in paragraph (3).

In the case of a benefit provided under paragraph (3) or (4), the participant shall notify the Director in writing of the name of the beneficiary of the cash payment or life annuity to be paid upon the participant's death.

(c) Value of benefits

The benefits provided by subsection (b)(2), (3), or (4) of this section shall be actuarially equivalent in value to the payment provided for in subsection (b)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

(d) Lump-sum payment

A voluntary contribution account shall be paid in a lump sum at such time as the participant dies or separates from the Agency without entitlement to an annuity. In the case of death, the account shall be paid in the order of precedence specified in section 2071(c) of this title.

(e) Benefits in addition to other benefits

Any benefit payable to a participant or to the participant's beneficiary with respect to the additional contributions provided under this section shall be in addition to benefits otherwise provided under this subchapter.

(Pub. L. 88–643, title II, § 281, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3239.)

PRIOR PROVISIONS

A prior section 281 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1053; Ex. Ord. No. 12443, § 3, Sept. 27, 1983, 48 F.R. 44751; Pub. L. 99–335, title V, § 501(2), June 6, 1986, 100 Stat. 622, related to voluntary contributions and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2052, 2071 of this title.

PART J—COST-OF-LIVING ADJUSTMENT OF ANNUITIES

§ 2131. Cost-of-living adjustment of annuities

(a) In general

Each annuity payable from the fund shall be adjusted as follows:

(1) Each cost-of-living annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5.

(2) A cost-of-living increase made under paragraph (1) shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5. Except as provided in subsection (b) of this section, each such increase shall be applied to each annuity payable from the fund which has a commencing date not later than the effective date of the increase.

(b) Eligibility

Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) The first cost-of-living increase (if any) made under subsection (a) of this section to an annuity which is payable from the fund to a participant who retires, to the surviving spouse, former spouse, or previous spouse of a participant who dies in service, or to the surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been increased under this subsection or subsection (a) of this section, shall be equal to the product (adjusted to the nearest 1/10 of one percent) of—

(A) 1/12 of the applicable percent change computed under subsection (a) of this section, multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

(i) for which the annuity was payable from the fund before the effective date of the increase, or

(ii) in the case of a surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled to an annuity under section 2031(d) of this title) shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing the annuity of a child under section 2031(d) of this title that commences after October 31, 1969, the dollar amounts specified in section 2031(d)(3) of this title shall each be increased by the total percentage increases allowed and in force under this section on or after such day and, in the case of a deceased annuitant, the percentages specified in that section shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

(c) Limitation

An annuity increase provided by this section may not be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) Rounding to next lower dollar

The monthly annuity installment, after adjustment under this section, shall be rounded to the next lowest dollar, except that such installment shall, after adjustment, reflect an increase of at least $1.

(e) Limitation on maximum amount of annuity

(1) In general

An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay payable for GS–15 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in the rates of pay of the General Schedule under subchapter I of chapter 53 of title 5 during the period—

(i) beginning on the date on which the annuity commenced (or, in the case of a survivor of the retired participant, the date on which the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) "Pay" defined

For purposes of paragraph (1), the term "pay" means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.

(Pub. L. 88–643, title II, §291, as added Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3240; amended Pub. L. 103–178, title II, §202(a)(14), Dec. 3, 1993, 107 Stat. 2027.)

REFERENCES IN TEXT

GS–15, referred to in subsec. (e)(1)(A), probably means GS–15 of the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 291 of Pub. L. 88–643, title II, Oct. 13, 1964, 78 Stat. 1054; Pub. L. 90–539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91–185, §5, Dec. 30, 1969, 83 Stat. 849; Pub. L. 93–210, §1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94–361, title VIII, §801(b), July 14, 1976, 90 Stat. 929; Ex. Ord. No. 12326, §4, Sept. 30, 1981, 46 F.R. 48889; Ex. Ord. No. 12443, §§6, 14, Sept. 27, 1983, 48 F.R. 44752, 44754; Pub. L. 99–335, title V, §501(3), June 6, 1986, 100 Stat. 622, related to cost-of-living adjustment of annuities and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–178 struck out "or section 2052(c) of this title" after "section 2031(d) of this title".

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103–66, set out as a note under section 8340 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2031, 2032, 2091 of this title.

PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

§ 2141. Authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems

(a) Presidential authority

(1) Conformity to CSRS by Executive order

Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, the President may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which—

(A) amends subchapter III of chapter 83 of title 5 and is applicable to civil service employees generally; or

(B) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.

(2) Extension to CIARDS

Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors.

(3) Legal status

Any such order shall have the force and effect of law.

(4) Effective date

Any such order may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

(b) Effect of Executive order

Provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) provisions of law enacted before the effective date of the Executive order; and

(2) any prior provision of an Executive order issued under this section.

(Pub. L. 88–643, title II, § 292, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3241.)

PRIOR PROVISIONS

A prior section 292 of Pub. L. 88–643, as added Pub. L. 94–522, title II, § 213, Oct. 17, 1976, 90 Stat. 2471, 2472, related to authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

§ 2142. Thrift Savings Plan participation

(a) Eligibility for Thrift Savings Plan

Participants in the system shall be deemed to be employees for the purposes of section 8351 of title 5.

(b) Management of Thrift Savings Plan accounts by Director

Subsections (k) and (m) of section 8461 of title 5 shall apply with respect to contributions made by participants to the Thrift Savings Fund under section 8351 of such title and to earnings attributable to the investment of such contributions.

(Pub. L. 88–643, title II, § 293, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3242.)

PRIOR PROVISIONS

A prior section 293 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 504, June 6, 1986, 100 Stat. 623, related to Thrift Savings Fund participation by participants in the Central Intelligence Agency Retirement and Disability System and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

§ 2143. Alternative forms of annuities

(a) Authority for alternative form of annuity

The Director shall prescribe regulations under which any participant who has a life-threatening affliction or other critical medical condition may, at the time of retiring under this subchapter (other than under section 2051 of this title), elect annuity benefits under this section instead of any other benefits under this subchapter (including any survivor benefits under this subchapter) based on the service of the participant creditable under this subchapter.

(b) Basis for alternative forms of annuity

The regulations and alternative forms of annuity shall, to the maximum extent practicable, meet the requirements prescribed in section 8343a of title 5.

(c) Lump-sum credit

Any lump-sum credit provided pursuant to an election under subsection (a) of this section shall not preclude an individual from receiving other benefits provided under that subsection.

(d) Submission of regulations to congressional intelligence committees

The Director shall submit the regulations prescribed under subsection (a) of this section to the congressional intelligence committees before the regulations take effect.

(Pub. L. 88–643, title II, § 294, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3242; amended Pub. L. 103–66, title XI, § 11002(c), Aug. 10, 1993, 107 Stat. 409.)

PRIOR PROVISIONS

A prior section 294 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 505, June 6, 1986, 100 Stat. 624, related to alternative forms of annuities and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–66 substituted ''any participant who has a life-threatening affliction or other critical medical condition'' for ''a participant''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Oct. 1, 1994, and applicable with respect to any annuity commenc-

ing on or after that date, see section 11002(d) of Pub. L. 103–66, set out as a note under section 8343a of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2034 of this title.

§ 2144. Payments from CIARDS fund for portions of certain Civil Service Retirement System annuities

The amount of the increase in any annuity that results from the application of section 403r of this title, if and when such increase is based on an individual's overseas service as an employee of the Central Intelligence Agency, shall be paid from the fund.

(Pub. L. 88–643, title II, § 295, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3242.)

PRIOR PROVISIONS

A prior section 295 of Pub. L. 88–643, as added Pub. L. 101–193, title III, § 307(b), Nov. 30, 1989, 103 Stat. 1707, related to payments from CIARDS fund for portions of certain Civil Service Retirement System annuities and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SUBCHAPTER III—PARTICIPATION IN FEDERAL EMPLOYEES' RETIREMENT SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2021 of this title; title 22 section 4071c.

§ 2151. Application of Federal Employees' Retirement System to Agency employees

(a) General rule

Except as provided in subsections (b) and (c) of this section, all employees of the Agency, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, shall be subject to chapter 84 of title 5.

(b) Exception for pre-1984 employees

Participants in the Central Intelligence Agency Retirement and Disability System who were participants in such system on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not subject to chapter 84 of title 5 without regard to whether they are subject to title II of the Social Security Act [42 U.S.C. 401 et seq.].

(c) Nonapplicability of FERS to certain employees

(1) The provisions of chapter 84 of title 5 shall not apply with respect to—

(A) any individual who separates, or who has separated, from Federal Government service after having been an employee of the Agency subject to subchapter II of this chapter; and

(B) any employee of the Agency having at least 5 years of civilian service which was performed before January 1, 1987, and is creditable under subchapter II of this chapter (determined without regard to any deposit or redeposit requirement under subchapter III of chapter 83 of title 5, or under subchapter II of this chapter, or any requirement that the individual become subject to such subchapter or to subchapter II of this chapter after performing the service involved).

(2) Paragraph (1) shall not apply with respect to an individual who has elected under regulations prescribed under section 2157 of this title to become subject to chapter 84 of title 5 to the extent provided in such regulations.

(3) An individual described in paragraph (1) shall be deemed to be an individual excluded under section 8402(b)(2) of title 5.

(d) Election to become subject to FERS

An employee who is designated as a participant in the Central Intelligence Agency Retirement and Disability System after December 31, 1987, pursuant to section 2013 of this title may elect to become subject to chapter 84 of title 5. Such election—

(1) shall not be effective unless it is made during the six-month period beginning on the date on which the employee is so designated;

(2) shall take effect beginning with the first pay period beginning after the date of the election; and

(3) shall be irrevocable.

(e) Special rules

The application of the provisions of chapter 84 of title 5 to an employee referred to in subsection (a) of this section shall be subject to the exceptions and special rules provided in this subchapter. Any provision of that chapter which is inconsistent with a special rule provided in this subchapter shall not apply to such employees.

(Pub. L. 88–643, title III, § 301, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3243.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 301 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 624; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–453, title V, § 502, Sept. 29, 1988, 102 Stat. 1909, related to application of Federal Employees' Retirement System to Agency employees and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2013, 2031 of this title.

§ 2152. Special rules relating to section 2013 criteria employees

(a) In general

Except as otherwise provided in this section, in the application of chapter 84 of title 5 to an employee of the Agency who is subject to such

chapter and is designated by the Director under the criteria prescribed in section 2013 of this title, such employee shall be treated for purposes of determining such employee's retirement benefits and obligations under such chapter as if the employee were a law enforcement officer (as defined in section 8401(17) of title 5).

(b) Voluntary and mandatory retirement

The provisions of sections 2053 and 2055 of this title shall apply to employees referred to in subsection (a) of this section, except that the retirement benefits shall be determined under chapter 84 of title 5.

(c) Recall

(1) Except as provided in paragraph (2), section 2111 of this title shall apply to an employee referred to in subsection (a) of this section.

(2) Contributions during recall service shall be made as provided in section 8422 of title 5.

(3) When an employee recalled under this subsection reverts to a retired status, the annuity of such employee shall be redetermined under the provisions of chapter 84 of title 5.

(Pub. L. 88–643, title III, § 302, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3244.)

PRIOR PROVISIONS

A prior section 302 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 625, related to special rules relating to employees designated under criteria of former section 203 of Pub. L. 88–643 and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2153, 2154, 2155 of this title; title 22 section 4071d.

§ 2153. Special rules for other employees for service abroad

(a) Special computation rule

Notwithstanding any provision of chapter 84 of title 5, the annuity under subchapter II of such chapter of a retired employee of the Agency who is not designated under section 2152(a) of this title and who has served abroad as an employee of the Agency after December 31, 1986, shall be computed as provided in subsection (b) of this section.

(b) Computation

(1) Service abroad

The portion of the annuity relating to such service abroad shall be computed as provided in section 8415(d) of title 5.

(2) Other service

The portions of the annuity relating to other creditable service shall be computed as provided in section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

(Pub. L. 88–643, title III, § 303, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3244.)

PRIOR PROVISIONS

A prior section 303 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 626, related to special rules for other employees for service abroad and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403r–1 of this title; title 10 section 1605; title 22 section 4071d.

§ 2154. Special rules for former spouses

(a) General rule

Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5 shall apply in the case of an employee of the Agency who is subject to chapter 84 of title 5 and who has a former spouse (as defined in section 8401(12) of title 5) or a qualified former spouse.

(b) Definitions

For purposes of this section:

(1) Employee

The term ''employee'' means an employee of the Agency who is subject to chapter 84 of title 5, including an employee referred to in section 2152(a) of this title.

(2) Qualified former spouse

The term ''qualified former spouse'' means a former spouse of an employee or retired employee who—

(A) in the case of a former spouse whose divorce from such employee became final on or before December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, at least 5 years of which were spent outside the United States by both the employee and the former spouse during the employee's service with the Agency; and

(B) in the case of a former spouse whose divorce from such employee becomes final after December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, at least 5 years of which were spent by the employee outside the United States during the employee's service with the Agency or otherwise in a position the duties of which qualified the employee for designation by the Director under the criteria prescribed in section 2013 of this title.

(3) Pro rata share

The term ''pro rata share'' means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee's periods of creditable service under chapter 84 of title 5, divided by (B) the total number of days of the employee's creditable service.

(4) Spousal agreement

The term ''spousal agreement'' means an agreement between an employee, former employee, or retired employee and such employee's spouse or qualified former spouse that—

(A) is in writing, is signed by the parties, and is notarized;

(B) has not been modified by court order; and

(C) has been authenticated by the Director.

(5) Court order

The term ''court order'' means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

(c) Entitlement of qualified former spouse to retirement benefits

(1) Entitlement

(A) In general

Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits payable under subchapter II or V of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or V of chapter 84 of title 5.

(B) Amount of share

The share referred to in subparagraph (A) equals—

(i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 50;[1] or

(ii) a pro rata share of 50 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

(2) Annuity supplement

The benefits payable to an employee under subchapter II of chapter 84 of title 5 shall include, for purposes of this subsection, any annuity supplement payable to such employee under sections 8421 and 8421a of such title.

(3) Disqualification upon remarriage before age 55

A qualified former spouse shall not be entitled to any benefit under this subsection if, before the commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

(4) Commencement and termination

(A) Commencement

The benefits of a qualified former spouse under this subsection commence on the later of—

(i) the day on which the employee upon whose service the benefits are based becomes entitled to the benefits; or

(ii) the first day of the second month beginning after the date on which the Director receives written notice of the court order or spousal agreement, together with such additional information or documentation as the Director may prescribe.

(B) Termination

The benefits of the qualified former spouse and the right thereto terminate on—

(i) the last day of the month before the qualified former spouse remarries before 55 years of age or dies; or

(ii) the date on which the retired employee's benefits terminate (except in the case of benefits subject to paragraph (5)(B)).

(5) Payments to retired employees

(A) Calculation of survivor annuity

Any reduction in payments to a retired employee as a result of payments to a qualified former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse (qualified or otherwise), or other survivor under chapter 84 of title 5, and

(ii) any reduction in the annuity of the retired employee to provide survivor benefits under subsection (d) of this section or under sections[2] 8442 or 8445 of title 5.

(B) Reduction in basic pay upon recall to service

If a retired employee whose annuity is reduced under paragraph (1) is recalled to service under section 2152(c) of this title, the basic pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

(6) Special rules for disability annuitants

Notwithstanding paragraphs (1) and (4), in the case of any qualified former spouse of a disability annuitant—

(A) the annuity of such former spouse shall commence on the date on which the employee would qualify, on the basis of the employee's creditable service, for benefits under subchapter II of chapter 84 of title 5 or on the date on which the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the qualified former spouse shall be calculated on the basis of the benefits for which the employee would otherwise qualify under subchapter II of chapter 84 of such title.

(7) Pro rata share in case of employees transferred to FERS

Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, the share of such employee's qualified former spouse shall equal the sum of—

(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5 or under subchapter II of this chapter (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the ef-

[1] So in original. Probably should be title ''5''.

[2] So in original. Probably should be ''section''.

fective date of the election to transfer bears to the employee's total creditable service before such effective date; and

(B) if applicable, 50 percent of the employee's benefits under chapter 84 of title 5 or section 2152(a) of this title (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

(8) Treatment of pro rata share under title 26

For purposes of title 26, payments to a qualified former spouse under this subsection shall be treated as income to the qualified former spouse and not to the employee.

(d) Qualified former spouse survivor benefits

(1) Entitlement

(A) In general

Subject to an election under section 8416(a) of title 5, and unless otherwise expressly provided by any spousal agreement or court order governing survivor benefits payable under this subsection to a qualified former spouse, such former spouse is entitled to a share, determined under subparagraph (B), of all survivor benefits that would otherwise be payable under subchapter IV of chapter 84 of title 5 to an eligible surviving spouse of the employee.

(B) Amount of share

The share referred to in subparagraph (A) equals—

(i) 100 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5; or

(ii) a pro rata share of 100 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

(2) Survivor benefits

(A) The survivor benefits payable under this subsection to a qualified former spouse shall include the amount payable under section 8442(b)(1)(A) of title 5 and any supplementary annuity under section 8442(f) of such title that would be payable if such former spouse were a widow or widower entitled to an annuity under such section.

(B) Any calculation under section 8442(f) of title 5 of the supplementary annuity payable to a widow or widower of an employee referred to in section 2152(a) of this title shall be based on an ''assumed CIARDS annuity'' rather than an ''assumed CSRS annuity'' as stated in section 8442(f) of such title. For the purpose of this subparagraph, the term ''assumed CIARDS annuity'' means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter II of this chapter based on the service of the deceased annuitant determined under section 8442(f)(5) of such title.

(3) Disqualification upon remarriage before age 55

A qualified former spouse shall not be entitled to any benefit under this subsection if, before commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

(4) Restoration

If the survivor annuity payable under this subsection to a surviving qualified former spouse is terminated because of remarriage before becoming age 55, the annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, divorce, or annulment, if—

(A) such former spouse elects to receive this survivor annuity instead of any other survivor benefit to which such former spouse may be entitled under subchapter IV of chapter 84 of title 5, or under another retirement system for Government employees by reason of the remarriage; and

(B) any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.

(5) Modification of court order or spousal agreement

A modification in a court order or spousal agreement to adjust a qualified former spouse's share of the survivor benefits shall not be effective if issued after the retirement or death of the employee, former employee, or annuitant, whichever occurs first.

(6) Effect of termination of qualified former spouse's entitlement

After a qualified former spouse of a retired employee remarries before becoming age 55 or dies, the reduction in the retired employee's annuity for the purpose of providing a survivor annuity for such former spouse shall be terminated. The annuitant may elect, in a signed writing received by the Director within 2 years after the qualified former spouse's remarriage or death, to continue the reduction in order to provide or increase the survivor annuity for such annuitant's spouse. The annuitant making such election shall pay a deposit in accordance with the provisions of section 8418 of title 5.

(7) Pro rata share in case of employees transferred to FERS

Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, the share of such employee's qualified former spouse to survivor benefits shall equal the sum of—

(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5 or under subchapter II of this chapter (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

(B) if applicable—

(i) 50 percent of the employee's annuity under chapter 84 of title 5 or section 2152(a) of this title (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), plus

(ii) the survivor benefits referred to in subsection (d)(2)(A) of this section,

multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

(e) Qualified former spouse Thrift Savings Plan benefit

(1) Entitlement

(A) In general

Unless otherwise expressly provided by a spousal agreement or court order governing disposition of the balance of an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of the balance in the employee's account in the Thrift Savings Fund on the date the divorce of the qualified former spouse and employee becomes final.

(B) Amount of share

The share referred to in subparagraph (A) equals 50 percent of the employee's account balance in the Thrift Savings Fund that accrued during the period of marriage. For purposes of this subsection, the employee's account balance shall not include the amount of any outstanding loan.

(2) Payment of benefit

(A) Time of payment

The entitlement of a qualified former spouse under paragraph (1) shall be effective on the date the divorce of the qualified former spouse and employee becomes final. The qualified former spouse's benefit shall be payable after the date on which the Director receives the divorce decree or any applicable court order or spousal agreement, together with such additional information or documentation as the Director may require.

(B) Method of payment

The qualified former spouse's benefit under this subsection shall be paid in a lump sum.

(C) Limitation

A spousal agreement or court order may not provide for payment to a qualified former spouse under this subsection of an amount that exceeds the employee's account balance in the Thrift Savings Fund.

(D) Death of qualified former spouse

If the qualified former spouse dies before payment of the benefit provided under this subsection, such payment shall be made to the estate of the qualified former spouse.

(E) Bar to recovery

Any payment under this subsection to an individual bars recovery by any other individual.

(3) Closed account

No payment under this subsection may be made by the Director if the date on which the divorce becomes final is after the date on which the total amount of the employee's account balance has been withdrawn or transferred, or the date on which an annuity contract has been purchased, in accordance with section 8433 of title 5.

(f) Preservation of rights of qualified former spouses

An employee may not make an election or modification of election under section 8417 or 8418 of title 5, or other section relating to the employee's annuity under subchapter II of chapter 84 of title 5, that would diminish the entitlement of a qualified former spouse to any benefit granted to such former spouse by this section or by court order or spousal agreement.

(g) Payment of share of lump-sum credit

Whenever an employee or former employee becomes entitled to receive the lump-sum credit under section 8424(a) of title 5, a share (determined under subsection (c)(1)(B) of this section) of that lump-sum credit shall be paid to any qualified former spouse of such employee, unless otherwise expressly provided by any spousal agreement or court order governing disposition of the lump-sum credit involved.

(h) Payment to qualified former spouses under court order or spousal agreement

In the case of any employee or retired employee who has a qualified former spouse who is covered by a court order or who is a party to a spousal agreement—

(1) any right of the qualified former spouse to any retirement benefits under subsection (c) of this section and to any survivor benefits under subsection (d) of this section, and the amount of any such benefits;

(2) any right of the qualified former spouse to any Thrift Savings Plan benefit under subsection (e) of this section, and the amount of any such benefit; and

(3) any right of the qualified former spouse to any payment of a lump-sum credit under subsection (g) of this section, and the amount of any such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this section.

(i) Applicability of CIARDS former spouse benefits

(1) Except as provided in paragraph (2), in the case of an employee who has elected to become subject to chapter 84 of title 5, the provisions of sections 2034 and 2035 of this title shall apply to such employee's former spouse (as defined in section 2002(a)(4) of this title) who would otherwise be eligible for benefits under sections 2034

and 2035 of this title but for the employee having elected to become subject to such chapter.

(2) For the purposes of computing such former spouse's benefits under sections 2034 and 2035 of this title—

(A) the retirement benefits shall be equal to the amount determined under subsection (c)(7)(A) of this section; and

(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or regulations prescribed under section 2157 of this title.

(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.

(Pub. L. 88–643, title III, § 304, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3244; amended Pub. L. 103–178, title II, § 202(a)(15), Dec. 3, 1993, 107 Stat. 2027.)

REFERENCES IN TEXT

Section 302(a) of the Federal Employees' Retirement System Act of 1986, referred to in subsecs. (c)(7)(A), (B), (d)(7)(A), (B)(i), and (i)(2)(B), is section 302(a) of Pub. L. 99–335, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 626; amended Pub. L. 100–178, title IV, § 402(b)(2), Dec. 2, 1987, 101 Stat. 1014; Pub. L. 102–183, title III, § 309(a), Dec. 4, 1991, 105 Stat. 1266, related to special rules for former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

AMENDMENTS

1993—Subsec. (i)(1). Pub. L. 103–178 substituted ''section 2002(a)(4)'' for ''section 2002(a)(3)''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103–178, set out as a note under section 2001 of this title.

§ 2155. Administrative provisions

(a) Finality of decisions of Director

Section 2011(c) of this title shall apply in the administration of chapter 84 of title 5 with respect to employees of the Agency.

(b) Exception

Notwithstanding subsection (a) of this section, section 8461(e) of title 5 shall apply with respect to employees of the Agency who are not participants in the Central Intelligence Agency Retirement and Disability System and are not designated under section 2152(a) of this title.

(Pub. L. 88–643, title III, § 305, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3251.)

PRIOR PROVISIONS

A prior section 305 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 627, related to administrative provisions and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2011 of this title.

§ 2156. Regulations

(a) Requirement

The Director shall prescribe in regulations appropriate procedures to carry out this subchapter. Such regulations shall be prescribed in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board.

(b) Congressional review

The Director shall submit regulations prescribed under subsection (a) of this section to the congressional intelligence committees before they take effect.

(Pub. L. 88–643, title III, § 306, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3251.)

PRIOR PROVISIONS

A prior section 306 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 628, related to regulations and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

§ 2157. Transition regulations

(a) Regulations

The Director shall prescribe regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Federal Employees' Retirement System provided in chapter 84 of title 5 in a manner consistent with sections 301 through 304 of the Federal Employees' Retirement System Act of 1986.

(b) Congressional review

The Director shall submit regulations prescribed under subsection (a) of this section to the congressional intelligence committees before they take effect.

(Pub. L. 88–643, title III, § 307, as added Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3251.)

REFERENCES IN TEXT

Sections 301 through 304 of the Federal Employees' Retirement System Act of 1986, referred to in subsec. (a), are sections 301 to 304 of Pub. L. 99–335, which amended section 3121 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 8331 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 307 of Pub. L. 88–643, as added Pub. L. 99–335, title V, § 506, June 6, 1986, 100 Stat. 628, related to transition provisions and regulations and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88–643 by section 802 of Pub. L. 102–496.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2151, 2154 of this title; title 26 section 3121; title 42 section 410.

CHAPTER 39—SPOILS OF WAR

Sec.
2201. Transfers of spoils of war.

Sec.
(a) Eligibility for transfer.
(b) Terms and conditions.
2202. Prohibition on transfers to countries which support terrorism.
2203. Report on previous transfers.
2204. Definitions.
2205. Construction.

§ 2201. Transfers of spoils of war

(a) Eligibility for transfer

Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) Terms and conditions

Any transfer pursuant to subsection (a) of this section shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

(Pub. L. 103–236, title V, § 552, Apr. 30, 1994, 108 Stat. 482.)

SHORT TITLE

Section 551 of Pub. L. 103–236 provided that: ''This part [part B (§§ 551–556) of title V of Pub. L. 103–236, enacting this chapter] may be cited as the 'Spoils of War Act of 1994'.''

§ 2202. Prohibition on transfers to countries which support terrorism

Spoils of war in the possession, custody, or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 2780 of title 22, to be a nation whose government has repeatedly provided support for acts of international terrorism.

(Pub. L. 103–236, title V, § 553, Apr. 30, 1994, 108 Stat. 482.)

§ 2203. Report on previous transfers

Not later than 90 days after April 30, 1994, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before April 30, 1994. Such report shall be submitted in unclassified form to the extent possible.

(Pub. L. 103–236, title V, § 554, Apr. 30, 1994, 108 Stat. 482.)

§ 2204. Definitions

As used in this chapter—

(1) the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select[1] Committee on Intelligence of the House of Representatives;

(2) the term ''enemy'' means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term ''person'' means—

(A) any natural person;

(B) any corporation, partnership, or other legal entity; and

(C) any organization, association, or group; and

(4) the term ''spoils of war'' means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

(Pub. L. 103–236, title V, § 555, Apr. 30, 1994, 108 Stat. 482.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 2205. Construction

Nothing in this chapter shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

(Pub. L. 103–236, title V, § 556, Apr. 30, 1994, 108 Stat. 483.)

[1] So in original. Probably should be preceded by ''Permanent''.