may, notwithstanding section 552 of title 5, authorize to be withheld from disclosure to the public personally identifying information regarding—

(1) any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit; and

(2) any employee of the Department of Defense or of the Coast Guard whose duty station is with any such unit.

(b) EXCEPTIONS.—(1) The authority in subsection (a) is subject to such exceptions as the President may direct.

(2) Subsection (a) does not authorize any official to withhold, or to authorize the withholding of, information from Congress.

(c) DEFINITIONS.—In this section:

(1) The term "personally identifying information", with respect to any person, means the person's name, rank, duty address, and official title and information regarding the person's pay.

(2) The term "unit" means a military organization of the armed forces designated as a unit by competent authority.

(3) The term "overseas unit" means a unit that is located outside the United States and its territories.

(4) The term "sensitive unit" means a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including—

(A) a unit involved in collecting, handling, disposing, or storing of classified information and materials;

(B) a unit engaged in training—

(i) special operations units;

(ii) security group commands weapons stations; or

(iii) communications stations; and

(C) any other unit that is designated as a sensitive unit by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(5) The term "routinely deployable unit" means a unit that normally deploys from its permanent home station on a periodic or rotating basis to meet peacetime operational requirements that, or to participate in scheduled training exercises that, routinely require deployments outside the United States and its territories. Such term includes a unit that is alerted for deployment outside the United States and its territories during an actual execution of a contingency plan or in support of a crisis operation.


AMENDMENTS


Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

§130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations

(a) EXEMPTION FROM DISCLOSURE.—The national security official concerned (as defined in subsection (h)) may withhold from public disclosure otherwise required by law sensitive information of foreign governments in accordance with this section.

(b) INFORMATION ELIGIBLE FOR EXEMPTION.—For the purposes of this section, information is sensitive information of a foreign government only if the national security official concerned makes each of the following determinations with respect to the information:

(1) That the information was provided by, otherwise made available by, or produced in cooperation with, a foreign government or international organization.

(2) That the foreign government or international organization is withholding the information from public disclosure (relying for that determination on the written representation of the foreign government or international organization to that effect).

(3) That any of the following conditions are met:

(A) The foreign government or international organization requests, in writing, that the information be withheld.

(B) The information was provided or made available to the United States Government on the condition that it not be released to the public.

(C) The information is an item of information, or is in a category of information, that the national security official concerned has specified in regulations prescribed under subsection (g) as being information the release of which would have an adverse effect on the ability of the United States Government to obtain the same or similar information in the future.

(c) INFORMATION OF OTHER AGENCIES.—If the national security official concerned provides to the head of another agency sensitive information of a foreign government, as determined by that national security official under subsection (b), and informs the head of the other agency of that determination, then the head of the other agency shall withhold the information from any public disclosure unless that national security official specifically authorizes the disclosure.

(d) LIMITATIONS.—(1) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government before October 30, 2000, and more than 25 years before the request is received by an agency, the information may be withheld only as set forth in paragraph (3).

(2)(A) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government on or after the date referred
to in paragraph (1), the authority to withhold
the information under this section is subject to
the provisions of subparagraphs (B) and (C).

(B) Information referred to in subparagraph
(A) may not be withheld under this section after
(i) the date that is specified by a foreign gov-
ernment or international organization in a re-
quest or expression of a condition described in
paragraph (1) or (2) of subsection (b) that is
made by the foreign government or inter-
national organization concerning the informa-
tion; or
(ii) if there are more than one such foreign
governments or international organizations,
the latest date so specified by any of them.

(C) If no date is applicable under subparagraph
(B) to a request referred to in subparagraph (A)
and the information referred to in that subpara-
graph came into possession or under the control
of the United States more than 10 years before
the date on which the request is received by an
agency, the information may be withheld under
this section only as set forth in paragraph (3).

(3) Information referred to in paragraph (1) or
(2)(C) may be withheld under this section in the
case of a request for disclosure only if, upon the
notification of each foreign government and
international organization concerned in accord-
ance with the regulations prescribed under sub-
section (g)(2), any such government or organiza-
tion requests in writing that the information
not be disclosed for an additional period stated
in the request of that government or organiza-
tion. After the national security official con-
cerned considers the request of the foreign gov-
ernment or international organization, the offi-
cial shall designate a later date as the date after
which the information is not to be withheld under
this section. The later date may be ex-
tended in accordance with a later request of any
such foreign government or international organ-
ization under this paragraph.

(e) INFORMATION PROTECTED UNDER OTHER AU-
THORITY.—This section does not apply to infor-
mation or matters that are specifically required in
the interest of national defense or foreign pol-
icy to be protected against unauthorized disclo-
sure under criteria established by an Executive
order and are classified, properly, at the confi-
dential, secret, or top secret level pursuant to
such Executive order.

(f) DISCLOSURES NOT AFFECTED.—Nothing in
this section shall be construed to authorize any
official to withhold, or to authorize the with-
holding of, information from the following:

(1) Congress.

(2) The Comptroller General, unless the infor-
mation relates to activities that the Presi-
dent designates as foreign intelligence or
counterintelligence activities.

(g) REGULATIONS.—(1) The national security offi-
cials referred to in subsection (h)(1) shall each
prescribe regulations to carry out this section.
The regulations shall include criteria for mak-
ing the determinations required under sub-
section (b). The regulations may provide for con-
trols on access to and use of, and special mark-
ings and specific safeguards for, a category or
categories of information subject to this sec-
tion.

(2) The regulations shall include procedures
for notifying and consulting with each foreign
government or international organization con-
cerned about requests for disclosure of informa-
tion to which this section applies.

(h) DEFINITIONS.—In this section:

(1) The term "national security official con-
cerned" means the following:

(A) The Secretary of Defense, with respect
to information of concern to the Department
of Defense, as determined by the Secretary.

(B) The Secretary of Homeland Security,
with respect to information of concern to
the Coast Guard, as determined by the Sec-
retary, but only while the Coast Guard is
not operating as a service in the Navy.

(C) The Secretary of Energy, with respect
to information concerning the national secu-
ritv programs of the Department of Energy,
as determined by the Secretary.

(2) The term "agency" has the meaning
given that term in section 552(f) of title 5.

(3) The term "international organization" means the following:

(A) A public international organization
designated pursuant to section 1 of the
International Organizations Immunities Act
(59 Stat. 669; 22 U.S.C. 288) as being entitled
to enjoy the privileges, exemptions, and immu-
nomies provided in such Act.

(B) A public international organization
created pursuant to a treaty or other inter-
national agreement as an instrument
through or by which two or more foreign
governments engage in some aspect of their
conduct of international affairs.

(C) An official mission, except a United
States mission, to a public international or-
ganization referred to in subparagraph (A) or
(B).

(Added Pub. L. 106–298, § 1 [[div. A], title X,
§ 1073(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–277;
amended Pub. L. 107–107, div. A, title X,
§ 1048(a)(3), (c)(1), Dec. 28, 2001, 115 Stat. 1222,
1226; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov.

REFERENCES IN TEXT
The International Organizations Immunities Act, re-
furred to in subsec. (h)(3)(A), is title I of act Dec. 29,
1945, ch. 652, 59 Stat. 669, as amended, which is classified
principal to subchapter XVIII (§ 288 et seq.) of chapter
7 of Title 22, Foreign Relations and Intercourse. For
complete classification of this Act to the Code, see
Short Title note set out under section 268 of Title 22
and Tables.

AMENDMENTS
Homeland Security" for "of Transportation".

substituted "subsection (g)" for "subsection (f)".

Subsec. (d)(1). Pub. L. 107–107, § 1048(c)(1), substituted
"October 30, 2000," for "the date of the enactment of the
Floyd D. Spence National Defense Authorization Act
for Fiscal Year 2001".

EFFECTIVE DATE OF 2002 AMENDMENT
Amendment by Pub. L. 107–296 effective on the date of
transfer of the Coast Guard to the Department of
Homeland Security, see section 1704(g) of Pub. L.
107–296, set out as a note under section 101 of this title.
§ 130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel

Confidential business information and other sensitive but unclassified homeland security information in the possession of the Department of Defense that is shared, pursuant to section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482), with State and local personnel (as defined in such section) shall not be subject to disclosure under section 552 of title 5 by virtue of the sharing of such information with such personnel.


§ 130e. Treatment under Freedom of Information Act of certain critical infrastructure security information

(a) EXEMPTION.—The Secretary of Defense may exempt Department of Defense critical infrastructure security information from disclosure pursuant to section 552(b)(3) of title 5, upon a written determination that—

(1) the information is Department of Defense critical infrastructure security information; and

(2) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(b) DESIGNATION OF DEPARTMENT OF DEFENSE CRITICAL INFRASTRUCTURE SECURITY INFORMATION.—In addition to any other authority or requirement regarding protection from dissemination of information, the Secretary may designate information as being Department of Defense critical infrastructure security information, including during the course of creating such information, to ensure that such information is not disseminated without authorization. Information so designated is subject to the determination process under subsection (a) to determine whether to exempt such information from disclosure described in such subsection.

AMENDMENTS

2016—Subsecs. (b), (c), (f). Pub. L. 114–328 added subsec. (b), redesignated former subsec. (c) as (f), and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “Department of Defense critical infrastructure security information covered by a written determination under subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense.”


§ 130f. Notification requirements for sensitive military operations

(a) IN GENERAL.—The Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to