(8) Significant incident

The term ''significant incident''—

(A) means an incident or a group of related incidents that results, or is likely to result, in demonstrable harm to—

(i) the national security interests, foreign relations, or economy of the United States; or

(ii) the public confidence, civil liberties, or public health and safety of the people of the United States; and

(B) does not include an incident or a portion of a group of related incidents that occurs on—

(i) a national security system (as defined in section 3552 of title 44); or

(ii) an information system described in paragraph (2) or (3) of section 3553(e) of title 44.

(Pub. L. 107–296, title XXII, § 2232, as added Pub. L. 117–58, div. G, title VI, § 70602(a), Nov. 15, 2021, 135 Stat. 1267.)

§ 677b. Declaration

(a) In general

(1) Declaration

The Secretary, in consultation with the National Cyber Director, may make a declaration of a significant incident in accordance with this section for the purpose of enabling the activities described in this part if the Secretary determines that—

(A) a specific significant incident—

(i) has occurred; or

(ii) is likely to occur imminently; and

(B) otherwise available resources, other than the Fund, are likely insufficient to respond effectively to, or to mitigate effectively, the specific significant incident described in subparagraph (A).

(2) Prohibition on delegation

The Secretary may not delegate the authority provided to the Secretary under paragraph (1).

(b) Asset response activities

Upon a declaration, the Director shall coordinate—

(1) the asset response activities of each Federal agency in response to the specific significant incident associated with the declaration; and

(2) with appropriate entities, which may include—

(A) public and private entities and State and local governments with respect to the asset response activities of those entities and governments; and

(B) Federal, State, local, and Tribal law enforcement agencies with respect to investigations and threat response activities of those law enforcement agencies; and

(3) Federal, State, local, and Tribal emergency management and response agencies.

(c) Duration

Subject to subsection (d), a declaration shall terminate upon the earlier of—

(1) a determination by the Secretary that the declaration is no longer necessary; or

(2) the expiration of the 120-day period beginning on the date on which the Secretary makes the declaration.

(d) Renewal

The Secretary, without delegation, may renew a declaration as necessary.

(e) Publication

(1) In general

Not later than 72 hours after a declaration or a renewal, the Secretary shall publish the declaration or renewal in the Federal Register.

(2) Prohibition

A declaration or renewal published under paragraph (1) may not include the name of any affected individual or private company.

(f) Advance actions

(1) In general

The Secretary—

(A) shall assess the resources available to respond to a potential declaration; and

(B) may take actions before and while a declaration is in effect to arrange or procure additional resources for asset response activities or technical assistance the Secretary determines necessary, which may include entering into standby contracts with private entities for cybersecurity services or incident responders in the event of a declaration.

(2) Expenditure of funds

Any expenditure from the Fund for the purpose of paragraph (1)(B) shall be made from amounts available in the Fund, and amounts available in the Fund shall be in addition to any other appropriations available to the Cybersecurity and Infrastructure Security Agency for such purpose.

(Pub. L. 107–296, title XXII, § 2233, as added Pub. L. 117–58, div. G, title VI, § 70602(a), Nov. 15, 2021, 135 Stat. 1268.)

§ 677c. Cyber Response and Recovery Fund

(a) In general

There is established a Cyber Response and Recovery Fund, which shall be available for—

(1) the coordination of activities described in section 677b(b) of this title;

(2) response and recovery support for the specific significant incident associated with a declaration to Federal, State, local, and Tribal, entities and public and private entities on a reimbursable or non-reimbursable basis, including through asset response activities and technical assistance, such as—

(A) vulnerability assessments and mitigation;

(B) technical incident mitigation;

(C) malware analysis;

(D) analytic support;

(E) threat detection and hunting; and

(F) network protections;

(3) as the Director determines appropriate, grants for, or cooperative agreements with,