

- (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, Federal, State, local, and Tribal public and private entities to respond to, and recover from, the specific significant incident associated with a declaration, such as—

- (A) hardware or software to replace, update, improve, harden, or enhance the functionality of existing hardware, software, or systems; and

- (B) technical contract personnel support; and

- (4) advance actions taken by the Secretary under section 677b(f)(1)(B) of this title.

### **(b) Deposits and expenditures**

#### **(1) In general**

Amounts shall be deposited into the Fund from—

- (A) appropriations to the Fund for activities of the Fund; and

- (B) reimbursement from Federal agencies for the activities described in paragraphs (1),

(2), and (4) of subsection (a), which shall only be from amounts made available in advance in appropriations Acts for such reimbursement.

**(2) Expenditures**

Any expenditure from the Fund for the purposes of this part shall be made from amounts available in the Fund from a deposit described in paragraph (1), and amounts available in the Fund shall be in addition to any other appropriations available to the Cybersecurity and Infrastructure Security Agency for such purposes.

**(c) Supplement not supplant**

Amounts in the Fund shall be used to supplement, not supplant, other Federal, State, local, or Tribal funding for activities in response to a declaration.

**(d) Reporting**

The Secretary shall require an entity that receives amounts from the Fund to submit a report to the Secretary that details the specific use of the amounts.

(Pub. L. 107–296, title XXII, § 2234, as added Pub. L. 117–58, div. G, title VI, § 70602(a), Nov. 15, 2021, 135 Stat. 1270.)

**§ 677d. Notification and reporting**

**(a) Notification**

Upon a declaration or renewal, the Secretary shall immediately notify the National Cyber Director and appropriate congressional committees and include in the notification—

(1) an estimation of the planned duration of the declaration;

(2) with respect to a notification of a declaration, the reason for the declaration, including information relating to the specific significant incident or imminent specific significant incident, including—

(A) the operational or mission impact or anticipated impact of the specific significant incident on Federal and non-Federal entities;

(B) if known, the perpetrator of the specific significant incident; and

(C) the scope of the Federal and non-Federal entities impacted or anticipated to be impacted by the specific significant incident;

(3) with respect to a notification of a renewal, the reason for the renewal;

(4) justification as to why available resources, other than the Fund, are insufficient to respond to or mitigate the specific significant incident; and

(5) a description of the coordination activities described in section 677b(b) of this title that the Secretary anticipates the Director to perform.

**(b) Report to Congress**

Not later than 180 days after the date of a declaration or renewal, the Secretary shall submit to the appropriate congressional committees a report that includes—

(1) the reason for the declaration or renewal, including information and intelligence relat-

ing to the specific significant incident that led to the declaration or renewal;

(2) the use of any funds from the Fund for the purpose of responding to the incident or threat described in paragraph (1);

(3) a description of the actions, initiatives, and projects undertaken by the Department and State and local governments and public and private entities in responding to and recovering from the specific significant incident described in paragraph (1);

(4) an accounting of the specific obligations and outlays of the Fund; and

(5) an analysis of—

(A) the impact of the specific significant incident described in paragraph (1) on Federal and non-Federal entities;

(B) the impact of the declaration or renewal on the response to, and recovery from, the specific significant incident described in paragraph (1); and

(C) the impact of the funds made available from the Fund as a result of the declaration or renewal on the recovery from, and response to, the specific significant incident described in paragraph (1).

**(c) Classification**

Each notification made under subsection (a) and each report submitted under subsection (b)—

(1) shall be in an unclassified form with appropriate markings to indicate information that is exempt from disclosure under section 552 of title 5 (commonly known as the “Freedom of Information Act”); and

(2) may include a classified annex.

**(d) Consolidated report**

The Secretary shall not be required to submit multiple reports under subsection (b) for multiple declarations or renewals if the Secretary determines that the declarations or renewals substantively relate to the same specific significant incident.

**(e) Exemption**

The requirements of subchapter I of chapter 35 of title 44 (commonly known as the “Paperwork Reduction Act”) shall not apply to the voluntary collection of information by the Department during an investigation of, a response to, or an immediate post-response review of, the specific significant incident leading to a declaration or renewal.

(Pub. L. 107–296, title XXII, § 2235, as added Pub. L. 117–58, div. G, title VI, § 70602(a), Nov. 15, 2021, 135 Stat. 1270.)

**§ 677e. Rule of construction**

Nothing in this part shall be construed to impair or limit the ability of the Director to carry out the authorized activities of the Cybersecurity and Infrastructure Security Agency.

(Pub. L. 107–296, title XXII, § 2236, as added Pub. L. 117–58, div. G, title VI, § 70602(a), Nov. 15, 2021, 135 Stat. 1272.)

**§ 677f. Authorization of appropriations**

There are authorized to be appropriated to the Fund \$20,000,000 for fiscal year 2022 and each fis-