

should be consistent with the procedures relating to export license applications described in Executive Order 12981 (1995).

(Pub. L. 115–232, div. A, title XVII, § 1755, Aug. 13, 2018, 132 Stat. 2216.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b)(1), (2) and (c), was in the original “this part”, meaning part I (§§ 1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115–232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115–232, set out as a Short Title note under section 4801 of this title and Tables.

Executive Order 12981, referred to in subsec. (c), is Ex. Ord. No. 12981, Dec. 5, 1995, 60 F.R. 62981, which is set out as a note under former section 4603 of this title.

### § 4815. Licensing

#### (a) In general

The Secretary shall, consistent with delegations as described in section 4814 of this title, establish a procedure to license or otherwise authorize the export, reexport, and in-country transfer of items controlled under this subchapter in order to carry out the policy set forth in section 4811 of this title and the requirements set forth in section 4812(b) of this title. The procedure shall ensure that—

(1) license applications and other requests for authorization are considered and decisions made with the participation of appropriate Federal agencies, as appropriate; and

(2) licensing decisions are made in an expeditious manner, with transparency to applicants on the status of license and other authorization processing and the reason for denying any license or request for authorization.

#### (b) Sense of Congress

It is the sense of Congress that the Secretary should make best efforts to ensure that an accurate, consistent, and timely evaluation and processing of licenses or other requests for authorization to export, reexport, or in-country transfer items controlled under this subchapter is generally accomplished within 30 days from the date of such license request.

#### (c) Fees

No fee may be charged in connection with the submission, processing, or consideration of any application for a license or other authorization or other request made in connection with any regulation in effect under the authority of this subchapter.

#### (d) Additional procedural requirements

##### (1) In general

The procedure required under subsection (a) shall provide for the assessment of the impact of a proposed export of an item on the United States defense industrial base and the denial of an application for a license or a request for an authorization of any export that would have a significant negative impact on such defense industrial base, as described in paragraph (3).

##### (2) Information from applicant

The procedure required under subsection (a) shall also require an applicant for a license to

provide the information necessary to make the assessment provided under paragraph (1), including whether the purpose or effect of the export is to allow for the significant production of items relevant for the defense industrial base outside the United States.

### (3) Significantly negative impact defined

A significant negative impact on the United States defense industrial base is the following:

(A) A reduction in the availability of an item produced in the United States that is likely to be acquired by the Department of Defense or other Federal department or agency for the advancement of the national security of the United States, or for the production of an item in the United States for the Department of Defense or other agency for the advancement of the national security of the United States.

(B) A reduction in the production in the United States of an item that is the result of research and development carried out, or funded by, the Department of Defense or other Federal department or agency to advance the national security of the United States, or a federally funded research and development center.

(C) A reduction in the employment of United States persons whose knowledge and skills are necessary for the continued production in the United States of an item that is likely to be acquired by the Department of Defense or other Federal department or agency for the advancement of the national security of the United States.

(Pub. L. 115–232, div. A, title XVII, § 1756, Aug. 13, 2018, 132 Stat. 2217.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) to (c), was in the original “this part”, meaning part I (§§ 1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115–232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115–232, set out as a Short Title note under section 4801 of this title and Tables.

### § 4816. Compliance assistance

#### (a) System for seeking assistance

The President may authorize the Secretary to establish a system to provide United States persons with assistance in complying with this subchapter, which may include a mechanism for providing information, in classified form as appropriate, to persons who are potential customers, suppliers, or business partners with respect to items controlled under this subchapter, in order to further ensure the prevention of the export, reexport, or in-country transfer of items that may pose a threat to the national security or foreign policy of the United States.

#### (b) Security clearances

In order to carry out subsection (a), the President may issue appropriate security clearances to persons described in that subsection who are responsible for complying with this subchapter.

**(c) Assistance for certain businesses****(1) In general**

Not later than 120 days after August 13, 2018, the President shall develop and submit to Congress a plan to assist small- and medium-sized United States businesses in export licensing and other processes under this subchapter.

**(2) Contents**

The plan shall include, among other things, arrangements for the Department of Commerce to provide counseling to businesses described in paragraph (1) on filing applications and identifying items controlled under this subchapter, as well as proposals for seminars and conferences to educate such businesses on export controls, licensing procedures, and related obligations.

(Pub. L. 115-232, div. A, title XVII, § 1757, Aug. 13, 2018, 132 Stat. 2218; Pub. L. 116-283, div. A, title X, § 1081(d)(7), Jan. 1, 2021, 134 Stat. 3874.)

**Editorial Notes****REFERENCES IN TEXT**

This subchapter, referred to in text, was in the original “this part”, meaning part I (§§ 1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to this subchapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

**AMENDMENTS**

2021—Subsec. (a). Pub. L. 116-283 inserted “to persons” before “who are potential”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 116-283, div. A, title X, § 1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(7) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115-232.

**Executive Documents****DELEGATION OF AUTHORITIES UNDER SECTION 1757 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2019**

Memorandum of President of the United States, Nov. 26, 2018, 83 F.R. 61503, provided:

Memorandum for the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of Commerce the functions and authorities vested in the President by section 1757 of the [John S. McCain] National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) [50 U.S.C. 4816].

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as the provision referenced in this memorandum.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

**§ 4817. Requirements to identify and control the export of emerging and foundational technologies****(a) Identification of technologies****(1) In general**

The President shall establish and, in coordination with the Secretary, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the heads of other Federal agencies as appropriate, lead, a regular, ongoing interagency process to identify emerging and foundational technologies that—

(A) are essential to the national security of the United States; and

(B) are not critical technologies described in clauses (i) through (v) of section 4565(a)(6)(A) of this title.

**(2) Process**

The interagency process established under subsection (a) shall—

(A) be informed by multiple sources of information, including—

(i) publicly available information;

(ii) classified information, including relevant information provided by the Director of National Intelligence;

(iii) information relating to reviews and investigations of transactions by the Committee on Foreign Investment in the United States under section 4565 of this title; and

(iv) information provided by the advisory committees established by the Secretary to advise the Under Secretary of Commerce for Industry and Security on controls under the Export Administration Regulations, including the Emerging Technology and Research Advisory Committee;

(B) take into account—

(i) the development of emerging and foundational technologies in foreign countries;

(ii) the effect export controls imposed pursuant to this section may have on the development of such technologies in the United States; and

(iii) the effectiveness of export controls imposed pursuant to this section on limiting the proliferation of emerging and foundational technologies to foreign countries; and

(C) include a notice and comment period.

**(b) Commerce controls****(1) In general**

Except to the extent inconsistent with the authorities described in subsection (a)(1)(B), the Secretary shall establish appropriate controls under the Export Administration Regulations on the export, reexport, or in-country transfer of technology identified pursuant to subsection (a), including through interim controls (such as by informing a person that a license is required for export), as appropriate, or by publishing additional regulations.

**(2) Levels of control****(A) In general**

The Secretary may, in coordination with the Secretary of Defense, the Secretary of