

classified, no reasonable person with original classification authority under Executive Order 13292 (68 Fed. Reg. 15315), or any successor order, could have identified or described any damage to national security that reasonably could be expected to be caused by the unauthorized disclosure of the information.

“(f) EXTRATERRITORIAL JURISDICTION.—There is jurisdiction over an offense under this section if—

“(1) the offense occurs in whole or in part within the United States;

“(2) regardless of where the offense is committed, the alleged offender is—

“(A) a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)));

“(B) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

“(C) a stateless person whose habitual residence is in the United States;

“(3) after the offense occurs, the offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States; or

“(4) an offender aids or abets or conspires with any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (b)(1).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 93 of title 18, United States Code, is amended by adding at the end the following:

“1925. Violation of classified information nondisclosure agreement.”.

#### SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission, shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to a person convicted of an offense under section 1925 of title 18, United States Code, as added by this Act.

(b) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission shall ensure that the sentencing guidelines account for all relevant conduct, including—

(1) multiple instances of unauthorized disclosure, delivery, communication, or transmission of the classified information;

(2) the volume of the classified information that was disclosed, delivered, communicated, or transmitted;

(3) the classification level of the classified information;

(4) the harm to the national security of the United States that reasonably could be expected to be caused by the disclosure, delivery, communication, or transmission of the classified information; and

(5) the nature and manner in which the classified information was disclosed, delivered, communicated, or transmitted.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANTWELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111-5,

Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANTWELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(c) REASONABLE SERVICE CHARGES.—

“(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

“(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

“(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

“(2) LIMITATION ON ACCOUNTS.—

“(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

“(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.”.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111-5, Treaty between the United States of America

and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page \_\_\_ of the amendment, between lines \_\_\_ and \_\_\_, insert the following:

(\_\_\_) PRESIDENTIAL CERTIFICATION REJECTING INTERRELATIONSHIP BETWEEN STRATEGIC OFFENSIVE AND STRATEGIC DEFENSIVE ARMS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President rejects the following recognition stated in the preamble to the New START Treaty: “Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties”.

(\_\_\_) PRESIDENTIAL CERTIFICATION REGARDING ADDITIONAL GROUND-BASED INTERCEPTORS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President intends to continue to improve and modernize the United States ground-based midcourse defense system, including—

(A) two-stage interceptors that could be deployed in Europe if the Iranian ICBM threat emerges before Phases 3 and 4 of the Phased Adaptive Approach are ready; and

(B) three stage ground-based interceptors in the United States, including additional missiles for testing and emergency deployment, as necessary.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 2 of the amendment, beginning on line 3, strike “that—” and all that follows through line 7 and insert “that the Department of Defense will maintain not fewer than 450 deployed and non-deployed ICBM launchers silos for the duration of the treaty.”

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the resolution of ratification, add the following:

(11) RUSSIAN COOPERATION ON IRAN.—(A) In giving its advice and consent to ratification of the New START Treaty, the Senate has accepted and relied upon the representation

of President Barack Obama, including the statement on November 18, 2010, that “[t]he New START treaty is also a cornerstone of our relations with Russia” for the reason that “Russia has been fundamental to our efforts to put strong sanctions in place to put pressure on Iran to deal with its nuclear program”. Accordingly, the advice and consent of the Senate to ratification of the New START Treaty is conditioned on the expectation that the Russian Federation will cooperate fully with United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability.

(B) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the Russian Federation is in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will—

(I) transfer to Iran the S-300 air defense system or other advanced weapons systems or any parts thereof; or

(II) transfer such items to a third party which will in turn transfer such items to Iran;

(iii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran goods, services, or technology that contribute to the advancement of the nuclear or missile programs of the Government of Iran; and

(iv) the Government of the Russian Federation has assured the United States that it will support efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program.

(C) Each annual report submitted pursuant to paragraph (10) shall include a certification by the President that between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year—

(i) the Russian Federation was in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran the S-300 air defense system or other advanced weapons systems;

(iii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran goods, services, or technology that contribute to the advancement of the nuclear weapons or missile programs of Iran; and

(iv) the Russian Federation has supported efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program, and has not sought to weaken initiatives aimed at increasing such pressure.

(D) If in any annual report submitted pursuant to paragraph (10) the President fails to make the certification described in subparagraph (C), then the President shall—

(i) consult with the Senate regarding the implications of the Russian Federation’s actions for the national security interests of the United States;

(ii) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of persuading

the Russian Federation to fully support United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability; and

(iii) submit a report to the Senate promptly thereafter, detailing—

(I) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(II) how the United States will redress the impact of the actions of the Russian Federation on the national security interests of the United States.

At the end of subsection(c), add the following:

(14) **RUSSIAN COOPERATION ON IRAN.**—It is the sense of the Senate that failure by the Russian Federation to cooperate with United States and international efforts to prevent Iran from developing a nuclear weapons capability would lead to an increased threat to the United States and its allies, undermining the long-term foundation of the New START Treaty.

## AUTHORITY FOR COMMITTEES TO MEET

### SELECT COMMITTEE ON INTELLIGENCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 21, 2010 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. KERRY. Madam President, I ask unanimous consent to proceed as in legislative session and as in morning business to process some cleared legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

### FEDERAL WATER POLLUTION CONTROL ACT

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 715, S. 3481.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3481) to amend the Federal Water Pollution Control Act to clarify Federal responsibility for storm water pollution.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Madam President, I ask unanimous consent that a Cardin amendment, which is at the desk, be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4917) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

### SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(c) REASONABLE SERVICE CHARGES.—

“(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

“(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

“(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

“(2) LIMITATION ON ACCOUNTS.—

“(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

“(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.”.

The bill (S. 3481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

## APPLICATION OF CERTAIN ENERGY EFFICIENCY STANDARDS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. KERRY. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5470, received from the House and at the desk. The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5470) to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Madam President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5470) was ordered to a third reading, was read the third time, and passed.

## INDIAN PUEBLO CULTURAL CENTER CLARIFICATION ACT

Mr. KERRY. Madam President, I ask unanimous consent that the Senate