

fairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

**§ 3346. Compilation and organization of previously declassified records**

**(a), (b) Omitted**

**(c) Compilation and organization of records**

The Department of Defense may not be required, when conducting a special search, to compile or organize records that have already been declassified and placed into the public domain.

**(d) Special searches**

For the purpose of this section, the term “special search” means the response of the Department of Defense to any of the following:

(1) A statutory requirement to conduct a declassification review on a specified set of agency records.

(2) An Executive order to conduct a declassification review on a specified set of agency records.

(3) An order from the President or an official with delegated authority from the President to conduct a declassification review on a specified set of agency records.

(Pub. L. 106-398, §1 [[div. A], title X, §1075], Oct. 30, 2000, 114 Stat. 1654, 1654A-280.)

**Editorial Notes**

REFERENCES IN TEXT

This section, referred to in subsec. (d), is section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. See Codification note below.

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

Section is comprised of section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. Subsec. (a) of section 1075 amended former section 230 of Title 10, Armed Forces and subsec. (b) of section 1075 was not classified to the Code.

**§ 3347. Secrecy agreements used in intelligence activities**

Notwithstanding any other provision of law not specifically referencing this section, a non-disclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum—

(1) require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government; and

(2) provide that the form or agreement does not bar—

(A) disclosures to Congress; or

(B) disclosures to an authorized official of an executive agency that are deemed essen-

tial to reporting a violation of United States law.

(Pub. L. 104-93, title III, §306, Jan. 6, 1996, 109 Stat. 966.)

**Editorial Notes**

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

**§ 3348. Reports relating to certain special access programs and similar programs**

**(a) In general**

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to the congressional oversight committees a report on each special access program carried out in the department or agency.

(2) Each such report shall set forth—

(A) the total amount requested by the department or agency for special access programs within the budget submitted under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted; and

(B) for each program in such budget that is a special access program—

(i) a brief description of the program;

(ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

**(b) Newly designated programs**

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to the congressional oversight committees a report that, with respect to each new special access program of that department or agency, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term “new special access program” means a special access program that has not previously been covered in a notice and justification under this subsection.

**(c) Revision in classification of programs**

(1) Whenever a change in the classification of a special access program of a covered depart-

ment or agency is planned to be made or whenever classified information concerning a special access program of a covered department or agency is to be declassified and made public, the head of the department or agency shall submit to the congressional oversight committees a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

(2) Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

(3) If the head of the department or agency determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change, declassification, or public announcement concerning a special access program of the department or agency, the head of the department or agency may submit the report required by paragraph (1) regarding the proposed change, declassification, or public announcement at any time before the proposed change, declassification, or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

**(d) Revision of criteria for designating programs**

Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered department or agency as a special access program, the head of the department or agency shall promptly notify the congressional oversight committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

**(e) Waiver of reporting requirement**

(1) The head of a covered department or agency may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the head of the department or agency determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the head of a department or agency exercises the authority provided under paragraph (1), the head of the department or agency shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, to the congressional oversight committees.

**(f) Initiation of programs**

A special access program may not be initiated by a covered department or agency until—

- (1) the congressional oversight committees are notified of the program; and
- (2) a period of 30 days elapses after such notification is received.

**(g) Definitions**

For purposes of this section:

**(1) Congressional oversight committees**

The term “congressional oversight committees” means—

- (A) congressional leadership and authorizing and appropriations congressional committees with jurisdiction or shared jurisdiction over a department or agency;
- (B) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (C) the Committee on Oversight and Government Reform of the House of Representatives.

**(2) Covered department or agency**

(A) Except as provided in subparagraph (B), the term “covered department or agency” means any department or agency of the Federal Government that carries out a special access program.

(B) Such term does not include—

- (i) the Department of Defense (which is required to submit reports on special access programs under section 119 of title 10);
- (ii) the National Nuclear Security Administration (which is required to submit reports on special access programs under section 2426 of this title); or
- (iii) an agency in the Intelligence Community (as defined in section 3003(4) of this title).

**(3) Special access program**

The term “special access program” means any program that, under the authority of Executive Order 12356 (or any successor Executive order), is established by the head of a department or agency whom the President has designated in the Federal Register as an original “secret” or “top secret” classification authority that imposes “need-to-know” controls or access controls beyond those controls normally required (by regulations applicable to such department or agency) for access to information classified as “confidential”, “secret”, or “top secret”.

(Pub. L. 103-160, div. A, title XI, §1152, Nov. 30, 1993, 107 Stat. 1758; Pub. L. 106-65, div. C, title XXXII, §3294(e)(2), Oct. 5, 1999, 113 Stat. 970; Pub. L. 115-390, title I, §103, Dec. 21, 2018, 132 Stat. 5177.)

**Editorial Notes**

REFERENCES IN TEXT

Executive Order 12356, referred to in subsec. (g)(3), is Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, which prescribed a uniform system for classifying, declassifying, and safeguarding national security information, and which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 12958, §6.1(d), Apr. 17, 1995, 60 F.R. 19843.

CODIFICATION

Section 103 of Pub. L. 115-390, which directed amendment of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 3348), was executed to this section, which is section 1152 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160), to reflect the probable intent of Congress. See 2018 Amendment notes below.

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

## AMENDMENTS

2018—Subsecs. (a) to (e). Pub. L. 115-390, § 103(1), substituted “the congressional oversight committees” for “Congress” wherever appearing. See Codification note above.

Subsec. (f)(1). Pub. L. 115-390, § 103(2), substituted “congressional oversight committees” for “appropriate oversight committees”. See Codification note above.

Subsec. (g). Pub. L. 115-390, § 103(3), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively. See Codification note above.

1999—Subsec. (g)(1)(B)(ii). Pub. L. 106-65 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the Department of Energy, with respect to special access programs carried out under the atomic energy defense activities of that department (for which the Secretary of Energy is required to submit reports under section 2122a of title 42); or”.

**Statutory Notes and Related Subsidiaries**

## CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

## EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of this title.

**§ 3348a. Congressional oversight of sensitive programs not covered by other provisions of law****(a) Reports required****(1) In general**

Not later than February 1 of each year, the head of each covered element shall submit to congressional leadership a report on each covered program carried out by that covered element.

**(2) Contents**

Each such report shall set forth—

(A) the total amount requested by the covered element for covered programs within the budget submitted under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted; and

(B) for each program in such budget that is a covered program—

(i) a brief description of the program;

(ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for—

(I) the current fiscal year;

(II) the fiscal year for which the budget is submitted; and

(III) each of the four succeeding fiscal years during which the program is expected to be conducted.

**(b) Newly designated programs****(1) In general**

Not later than February 1 of each year, the head of each covered element shall submit to congressional leadership a report that, with respect to each new covered program of that covered element, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

**(2) Contents**

A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

**(3) New covered program defined**

In this subsection, the term “new covered program” means a covered program that has not previously been covered in a notice and justification under this subsection.

**(c) Revision in classification of programs****(1) In general**

Whenever a change in the classification of a covered program of a covered element is planned to be made or whenever classified information concerning a covered program of a covered element is to be declassified and made public, the head of the covered element shall submit to congressional leadership a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

**(2) Period for submittal**

Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

**(3) Exception**

If the head of the covered element determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change, declassification, or public announcement concerning a covered program of the covered element, the head of the department or agency may submit the report required by paragraph (1) regarding the proposed change, declassification, or public announcement at any time before the proposed change, declassification, or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

**(d) Revision of criteria for designating programs**

Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered element as a cov-