

ered program, the head of the covered element shall promptly notify congressional leadership 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) Initiation of programs

A covered program may not be initiated by a covered element until—

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

(f) Limitation on use of funds

No funds may be obligated or expended by any covered element to carry out a covered program until the head of the covered element has briefed congressional leadership on the covered program.

(g) Definitions

In this section:

(1) Covered element

The term “covered element” means any element or portion of the Federal Government that is not—

- (A) a covered department or agency as defined in section 3348(g) of this title;
- (B) the Department of Defense (which is required to submit reports on special access programs under section 119 of title 10);
- (C) the National Nuclear Security Administration (which is required to submit reports on special access programs under section 2426 of this title); or
- (D) an element of the intelligence community (as defined in section 3003 of this title).

(2) Congressional leadership

The term “congressional leadership” means—

- (A) the majority leader of the Senate;
- (B) the minority leader of the Senate;
- (C) the Speaker of the House of Representatives; and
- (D) the minority leader of the House of Representatives.

(3) Covered program

The term “covered program” means any special access program or similarly protected program established under the authority of Executive Order 12356 (50 U.S.C. 3161 note; relating to prescribing a uniform system for classifying, declassifying, and safeguarding national security information), or any successor Executive order, or any similar sensitive program established anywhere in the Federal Government, including one established at the direction of the President.

(Pub. L. 117–103, div. HH, title V, §501, Mar. 15, 2022, 136 Stat. 1114.)

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 No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, which was revoked by Ex. Ord. No. 12958, Apr. 17, 1995,

60 F.R. 19825, which was subsequently revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731. Ex. Ord. No. 13526, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information, is set out as a note under section 3161 of this title.

§ 3349. Notification regarding the authorized public disclosure of national intelligence

(a) Notification

In the event of an authorized disclosure of national intelligence or intelligence related to national security to the persons or entities described in subsection (b), the government official responsible for authorizing the disclosure shall submit to the congressional intelligence committees on a timely basis a notification of the disclosure if—

- (1) at the time of the disclosure—
 - (A) such intelligence is classified; or
 - (B) is declassified for the purpose of the disclosure; and

- (2) the disclosure will be made by an officer, employee, or contractor of the Executive branch.

(b) Persons or entities described

The persons or entities described in this subsection are as follows:

- (1) Media personnel.
- (2) Any person or entity, if the disclosure described in subsection (a) is made with the intent or knowledge that such information will be made publicly available.

(c) Content

Each notification required under subsection (a) shall—

- (1) provide the specific title and authority of the individual authorizing the disclosure;
- (2) if applicable, provide the specific title and authority of the individual who authorized the declassification of the intelligence disclosed; and
- (3) describe the intelligence disclosed, including the classification of the intelligence prior to its disclosure or declassification and the rationale for making the disclosure.

(d) Exception

The notification requirement in this section does not apply to a disclosure made—

- (1) pursuant to any statutory requirement, including to section 552 of title 5 (commonly referred to as the “Freedom of Information Act”);
- (2) in connection with a civil, criminal, or administrative proceeding;
- (3) as a result of a declassification review process under Executive Order 13526 (50 U.S.C. 435 note) [now 50 U.S.C. 3161 note] or any successor order; or
- (4) to any officer, employee, or contractor of the Federal government or member of an advisory committee to an element of the intelligence community who possesses an active security clearance and a need to know the specific national intelligence or intelligence related to national security, as defined in section 3003(5) of this title.

(Pub. L. 112–277, title V, §504, Jan. 14, 2013, 126 Stat. 2477; Pub. L. 113–126, title III, §328, July 7, 2014, 128 Stat. 1405.)

Editorial Notes

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–126 struck out subsec. (e). Text read as follows: “The notification requirements of this section shall cease to be effective for any disclosure described in subsection (a) that occurs on or after the date that is one year after January 14, 2013.”

Statutory Notes and Related Subsidiaries

DEFINITIONS

Pub. L. 112–277, § 2, Jan. 14, 2013, 126 Stat. 2469, provided that: “In this Act [see Tables for classification]:

“(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ‘congressional intelligence committees’ means—

“(A) the Select Committee on Intelligence of the Senate; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives.

“(2) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].”

§ 3350. Maximum amount charged for declassification reviews

In reviewing and processing a request by a person for the mandatory declassification of information pursuant to Executive Order No. 13526, a successor executive order, or any provision of law, the head of an element of the intelligence community—

(1) may not charge the person reproduction fees in excess of the amount of fees that the head would charge the person for reproduction required in the course of processing a request for information under section 552 of title 5 (commonly referred to as the “Freedom of Information Act”); and

(2) may waive or reduce any processing fees in the same manner as the head waives or reduces fees under such section 552.

(Pub. L. 115–31, div. N, title III, § 313, May 5, 2017, 131 Stat. 816.)

Editorial Notes

REFERENCES IN TEXT

Executive Order No. 13526, referred to in text, is Ex. Ord. No. 13526, Dec. 29, 2009, 75 F.R. 707, 1013, which is set out as a note under section 3161 of this title.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of “intelligence community” as used in this section, see section 2 of div. N of Pub. L. 115–31, set out as a note under section 3003 of this title.

§ 3350a. Promoting efficient declassification review**(a) In general**

Whenever an agency is processing a request pursuant to section 552 of title 5 (commonly known as the “Freedom of Information Act”) or the mandatory declassification review provisions of Executive Order 13526 (50 U.S.C. 3161 note; relating to classified national security information), or successor order, and identifies responsive classified records that are more than 25

years of age as of December 31 of the year in which the request is received, the head of the agency shall, in accordance with existing processes to protect national security under the Freedom of Information Act and the mandatory review provisions of Executive Order 12526,¹ review the record and process the record for declassification and release by the National Declassification Center of the National Archives and Records Administration, unless the head of agency—

(1) makes a certification to Congress, including the congressional intelligence committees, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Committee on the Judiciary of the Senate, and the Committee on Armed Services, the Committee on Oversight and Accountability, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, that the declassification of certain components within the record would be harmful to the protection of sources and methods or national security, pursuant to existing processes; and

(2) provides an explanation to Congress, including the congressional intelligence committees, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Committee on the Judiciary of the Senate, and the Committee on Armed Services, the Committee on Oversight and Accountability, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, for such certification.

(b) Application

Subsection (a) shall apply regardless of whether or not the record described in such subsection is in the legal custody of the National Archives and Records Administration.

(Pub. L. 118–31, div. G, title VI, § 7602, Dec. 22, 2023, 137 Stat. 1096.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 13526, referred to in subsec. (a), is Ex. Ord. No. 13526, Dec. 29, 2009, 75 F.R. 707, 1013, which is set out as a note under section 3161 of this title.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of “congressional intelligence committees” as used in this section, see section 7002 of Pub. L. 118–31, set out as a note under section 3003 of this title.

§ 3351. Improving quality of information in background investigation request packages**(a) Report on metrics and best practices**

Not later than 180 days after December 20, 2019, the Director of the Defense Counterintelligence and Security Agency, which serves as the primary executive branch service provider for background investigations for eligibility for

¹ So in original. Probably should be “13526.”