

(4) Classified information

Not fewer than half of the members of the Emerging Technology and Research Advisory Committee should hold sufficient security clearances such that classified information, including classified information described in clauses (ii) and (iii) of subsection (a)(2)(A), from the interagency process established under subsection (a) can be shared with those members to inform the advice provided by the Advisory Committee.

(5) Applicability of Federal Advisory Committee Act

Subsections (a)(1), (a)(3), and (b) of section 10 and sections 11, 13, and 14 of the Federal Advisory Committee Act (5 U.S.C. App.)¹ shall not apply to the Emerging Technology and Research Advisory Committee.

(6) Report

The Emerging Technology and Research Advisory Committee shall include the findings of the Advisory Committee under this subsection in the annual report to Congress required by section 4824 of this title.

(g) Rule of Construction

Nothing in this chapter shall be construed to alter or limit—

(1) the authority of the President or the Secretary of State to designate items as defense articles and defense services for the purposes of the Arms Export Control Act (22 U.S.C. 2751 et seq.) or to otherwise regulate such items; or

(2) the authority of the President under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), or the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) or any other provision of law relating to the control of exports.

(Pub. L. 115–232, div. A, title XVII, §1758, Aug. 13, 2018, 132 Stat. 2218.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 12981, referred to in subsec. (b)(3)(A), 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.

The Federal Advisory Committee Act, referred to in subsec. (f)(5), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. Sections 10, 11, 13, and 14 of the Act were repealed and restated as sections 1009, 1010, 1012, and 1013, respectively, of Title 5. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

This chapter, referred to in subsec. (g), was in the original “this subtitle”, meaning subtitle B (§§1741–1781) of title XVII of div. A of Pub. L. 115–232, Aug. 13, 2018, 132 Stat. 2208, known as the Export Con-

trol Reform Act of 2018, which is classified principally to this chapter. For complete classification of subtitle B to the Code, see section 1741 of Pub. L. 115–232, set out as a Short Title note under section 4801 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (g)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (g)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Nuclear Non-Proliferation Act of 1978, referred to in subsec. (g)(2), is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (g)(2), is Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

The Export Administration Act of 1979, referred to in subsec. (g)(2), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§4601 et seq.) of this title and was substantially repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in subsec. (g)(2), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

§ 4818. Review relating to countries subject to comprehensive United States arms embargo**(a) In general**

The Secretary, the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the heads of other Federal agencies as appropriate, shall conduct a review of license requirements for exports, reexports, or in-country transfers of items to countries subject to a comprehensive United States arms embargo, including, as appropriate—

(1) the scope of controls under title 15, Code of Federal Regulations, that apply to exports, reexports, and in-country transfers for military end uses and military end users in countries that are subject to a comprehensive United States arms embargo and countries that are subject to a United Nations arms embargo; and

(2) entries on the Commerce Control List maintained under title 15, Code of Federal Regulations, that are not subject to a license requirement for the export, reexport, or in-country transfer of items to countries subject to a comprehensive United States arms embargo.

(b) Implementation of results of review

Not later than 270 days after August 13, 2018, the Secretary shall implement the results of the review conducted under subsection (a).

¹ See References in Text note below.

(Pub. L. 115-232, div. A, title XVII, §1759, Aug. 13, 2018, 132 Stat. 2223; Pub. L. 116-283, div. A, title X, §1081(d)(8), Jan. 1, 2021, 134 Stat. 3874.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 116-283 substituted period for semicolon at end.

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)(8) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115-232.

§ 4819. Penalties

(a) Unlawful acts

(1) In general

It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of this subchapter or of any regulation, order, license, or other authorization issued under this subchapter, including any of the unlawful acts described in paragraph (2).

(2) Specific unlawful acts

The unlawful acts described in this paragraph are the following:

(A) No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(B) No person may cause or aid, abet, counsel, command, induce, procure, permit, or approve the doing of any act prohibited, or the omission of any act required by this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(C) No person may solicit or attempt a violation of this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(D) No person may conspire or act in concert with one or more other persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(E) No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, or conduct negotiations to facilitate such activities for, any item exported or to be exported from the United States, or that is otherwise subject to the Export Administration Regulations, with knowledge that a violation of this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item unless valid authorization is obtained therefor.

(F) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to the Department of Commerce, or an official of any other United States agency, including the Department of Homeland Security and the Department of Justice, or indirectly through any other person—

(i) in the course of an investigation or other action subject to the Export Administration Regulations;

(ii) in connection with the preparation, submission, issuance, use, or maintenance of any export control document or any report filed or required to be filed pursuant to the Export Administration Regulations; or

(iii) for the purpose of or in connection with effecting any export, reexport, or in-country transfer of an item subject to the Export Administration Regulations or a service or other activity of a United States person described in section 4813 of this title.

(G) No person may engage in any transaction or take any other action with intent to evade the provisions of this subchapter, the Export Administration Regulations, or any order, license, or authorization issued thereunder.

(H) No person may fail or refuse to comply with any reporting or recordkeeping requirements of the Export Administration Regulations or of any order, license, or authorization issued thereunder.

(I) Except as specifically authorized in the Export Administration Regulations or in writing by the Department of Commerce, no person may alter any license, authorization, export control document, or order issued under the Export Administration Regulations.

(J) No person may take any action that is prohibited by a denial order or a temporary denial order issued by the Department of Commerce to prevent imminent violations of this subchapter, the Export Administration Regulations, or any order, license or authorization issued thereunder.

(3) Additional requirements

For purposes of paragraph (2)(F), any representation, statement, or certification made by any person shall be deemed to be continuing in effect. Each person who has made a representation, statement, or certification to the Department of Commerce relating to any order, license, or other authorization issued under this subchapter shall notify the Department of Commerce, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention had occurred or may occur in the future.

(b) Criminal penalty

A person who willfully commits, willfully attempts to commit, or willfully conspires to com-