

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Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.)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 Sections 10, 11, 13, and 14 of the Act were repealed and restated as sections 1009, 1010, 1012, and 1013, respectively, of Title 5.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 Control 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 coun-

tries 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).

(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 commit, or aids and abets in the commission of, an unlawful act described in subsection (a)—

(1) shall be fined not more than \$1,000,000; and

(2) in the case of the individual, shall be imprisoned for not more than 20 years, or both.

(c) Civil penalties

(1) Authority

The Secretary may impose the following civil penalties on a person for each violation by that person of this subchapter or any regulation, order, or license issued under this subchapter, for each violation:

(A) A fine of not more than \$300,000 or an amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed, whichever is greater.

(B) Revocation of a license issued under this subchapter to the person.

(C) A prohibition on the person's ability to export, reexport, or in-country transfer any items controlled under this subchapter.

(2) Procedures

Any civil penalty under this subsection may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5.

(3) Standards for levels of civil penalty

The Secretary may by regulation provide standards for establishing levels of civil penalty under this subsection based upon factors such as the seriousness of the violation, the culpability of the violator, and such mitigating factors as the violator's record of cooperation with the Government in disclosing the violation.

(d) Criminal forfeiture

(1) In general

Any person who is convicted under subsection (b) of a violation of a control imposed under section 4812 of this title (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States any of the person's property—

(A) used or intended to be used, in any manner, to commit or facilitate the violation;

(B) constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the violation; or

(C) constituting an item or technology that is exported or intended to be exported in violation of this subchapter.¹

(2) Procedures

The procedures in any forfeiture under this subsection shall be governed by the procedures established under section 853 of title 21, other than subsection (d) of such section.

(e) Prior convictions

(1) License bar

(A) In general

The Secretary may—

(i) deny the eligibility of any person convicted of a criminal violation described in subparagraph (B) to export, reexport, or in-country transfer outside the United States any item, whether or not subject to controls under this subchapter, for a period of up to 10 years beginning on the date of the conviction; and

(ii) revoke any license or other authorization to export, reexport, or in-country transfer items that was issued under this subchapter and in which such person has an interest at the time of the conviction.

(B) Violations

The violations referred to in subparagraph (A) are any criminal violations of, or criminal attempt or conspiracy to violate—

(i) this subchapter (or any regulation, license, or order issued under this subchapter);

(ii) any regulation, license, or order issued under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.];

(iii) section 371, 554, 793, 794, or 798 of title 18;

(iv) section 1001 of title 18;

(v) section 783(b) of this title; or

(vi) section 2778 of title 22.

(2) Application to other parties

The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or business, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in subsection (c)(2).

(f) Other authorities

Nothing in subsection (c), (d), or (e) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this subchapter, or any regulation, order, license or other authorization issued under this subchapter;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this subchapter, or any regulation, order, license, or other authorization issued under this subchapter; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 401(b) of title 22.

(Pub. L. 115–232, div. A, title XVII, §1760, Aug. 13, 2018, 132 Stat. 2223.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (c)(1), (e)(1), and (f)(1), (2), 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.

This subchapter, referred to in subsec. (d)(1)(C), was in the original “this title”, and was translated as meaning part I (§§1751–1768) of subtitle B of title XVII of div. A of Pub. L. 115–232, which is classified principally to this subchapter, to reflect the probable intent of Congress. 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.

The International Emergency Economic Powers Act, referred to in subsec. (e)(1)(B)(ii), 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.

§ 4820. Enforcement

(a) Authorities

In order to enforce this subchapter, the Secretary, on behalf of the President, may exercise, in addition to relevant enforcement authorities of other Federal agencies, the authority to—

(1) issue orders and guidelines;

(2) require, inspect, and obtain books, records, and any other information from any person subject to the provisions of this subchapter;

(3) administer oaths or affirmations and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both;

(4) conduct investigations within the United States and outside the United States consistent with applicable law;

(5) inspect, search, detain, seize, or issue temporary denial orders with respect to items, in any form, that are subject to controls under this subchapter, or conveyances on which it is believed that there are items that have been, are being, or are about to be exported, reexported, or in-country transferred in violation of this subchapter, or any regulations, order, license, or other authorization issued thereunder;

(6) carry firearms;

(7) conduct prelicense inspections and post-shipment verifications; and

(8) execute warrants and make arrests.

(b) Undercover investigations

(1) In general

Amounts made available to carry out this subchapter may be used by the Secretary to carry out undercover investigations that are necessary for detection and prosecution of violations of this subchapter, including to—

(A) purchase property, buildings, and other facilities, and to lease space, within the

¹ See References in Text note below.