

1921, ch. 18, title III, 42 Stat. 26, which was classified to section 54 of former Title 31, and which was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as section 716 of Title 31, Money and Finance.

#### PRIOR PROVISIONS

A prior section 2411, Pub. L. 91-184, §12, Dec. 30, 1969, 83 Stat. 846, relating to the effect on the Act of Feb. 15, 1936 (49 Stat. 1140) and section 414 of the Mutual Security Act of 1934 (22 U.S.C. 1934) provisions of the Export Administration Act of 1969, expired on Sept. 30, 1979.

#### AMENDMENTS

1988—Subsec. (a)(2)(B). Pub. L. 100-418 inserted at end “The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.”

1986—Subsec. (c)(3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1985—Subsec. (a)(1). Pub. L. 99-64, §113(a), designated existing provisions of subsec. (a) as par. (1), substituted “such investigations within the United States, and the Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may” for “such investigations and”, and “a district court of the United States,” for “the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and”, and inserted sentence providing that in addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act.

Subsec. (a)(2) to (8). Pub. L. 99-64, §113(a)(5), added pars. (2) to (8).

Subsec. (c)(3). Pub. L. 99-64, §113, substituted “Any department or agency which obtains information which is relevant to the enforcement of this Act, including information pertaining to any investigation, shall furnish such information to each department or agency” for “Departments or agencies which obtain information which is relevant to the enforcement of this Act shall furnish such information to the department or agency”, and inserted sentences providing that the Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions and that the Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.

1981—Subsec. (c)(2). Pub. L. 97-145, §5, substantially reenacted existing provisions, inserted provisions that the information may not be withheld from the General Accounting Office, and that the information be made available to the Comptroller General of the United States or to any officer or employee of the General Accounting Office who is authorized to have access to

such information which is submitted on a confidential basis and from which any individual can be identified, consistent with the protection of intelligence, counter-intelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with section 54 of title 31, be made available only by that agency.

Subsec. (c)(3). Pub. L. 97-145, §3, added par. (3).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2403, 2404, 2405, 2412, 2413 of this Appendix; title 22 sections 2776, 2778, 2779a, 2780, 3281; title 42 section 6274.

#### § 2411a. Omitted

#### CODIFICATION

A prior section 2411a, Pub. L. 91-184, §13, as added Pub. L. 95-52, title I, §102, June 22, 1977, 91 Stat. 235, authorizing appropriations to carry out purposes of provisions of Export Administration Act of 1969, expired on Sept. 30, 1979.

#### § 2412. Administrative procedure and judicial review

##### (a) Exemption

Except as provided in section 11(c)(2) [section 2410(c)(2) of this Appendix] and subsection (c) of this section, the functions exercised under this Act [sections 2401 to 2420 of this Appendix] are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

##### (b) Public participation

It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act [sections 2401 to 2420 of this Appendix] be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act [sections 2401 to 2420 of this Appendix] is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

##### (c) Procedures relating to civil penalties and sanctions

(1) In any case in which a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8 [section 2407 of this Appendix]) is sought under section 11 of this Act [section 2410 of this Appendix], the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Subject to the provisions of this subsection, any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his or her representative. After the hearing, the administrative law judge shall make findings of fact and conclusions of law in a written decision, which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision