

for Infrastructure Security (in this section referred to as “the Executive Assistant Director”), who shall—

- (A) be at the level of Assistant Secretary within the Department;
- (B) be appointed by the President without the advice and consent of the Senate; and
- (C) report to the Director.

### (3) Reference

Any reference to the Assistant Secretary for Infrastructure Protection or Assistant Director for Infrastructure Security in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Executive Assistant Director for Infrastructure Security.

### (b) Functions

The Executive Assistant Director shall—

- (1) direct the critical infrastructure security efforts of the Agency;
- (2) carry out, at the direction of the Director, the Chemical Facilities Anti-Terrorism Standards Program established under subchapter XVI and the secure handling of ammonium nitrate program established under part J of subchapter VIII, or any successor programs;
- (3) fully participate in the mechanisms required under section 652(c)(7) of this title; and
- (4) carry out such other duties and powers as prescribed by the Director.

(Pub. L. 107-296, title XXII, §2204, as added Pub. L. 115-278, §2(a), Nov. 16, 2018, 132 Stat. 4174; amended Pub. L. 116-283, div. H, title XC, §9001(d)(1), Jan. 1, 2021, 134 Stat. 4767.)

### Editorial Notes

#### AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 116-283, §9001(d)(1)(A)(i), in heading, substituted “Executive Assistant Director” for “Assistant Director” and, in introductory provisions, substituted “Executive Assistant Director for Infrastructure Security” for “Assistant Director for Infrastructure Security” and “the Executive Assistant Director” for “the Assistant Director”.

Subsec. (a)(3). Pub. L. 116-283, §9001(d)(1)(A)(ii), inserted “or Assistant Director for Infrastructure Security” after “Assistant Secretary for Infrastructure Protection” and substituted “Executive Assistant Director for Infrastructure Security.” for “Assistant Director for Infrastructure Security.”

Subsec. (b). Pub. L. 116-283, §9001(d)(1)(B), substituted “Executive Assistant Director” for “Assistant Director” in introductory provisions.

### Statutory Notes and Related Subsidiaries

#### CONTINUATION IN OFFICE

Pub. L. 116-283, div. H, title XC, §9001(d)(2), Jan. 1, 2021, 134 Stat. 4767, provided that: “The individual serving as the Assistant Director for Infrastructure Security of the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security on the day before the date of enactment of this Act [Jan. 1, 2021] may serve as the Executive Assistant Director for Infrastructure Security on and after that date without the need for renomination or reappointment.”

ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION AUTHORIZED TO SERVE AS ASSISTANT DIRECTOR FOR INFRASTRUCTURE SECURITY

Pub. L. 115-278, §2(b)(4), Nov. 16, 2018, 132 Stat. 4175, provided that: “The individual serving as the Assistant

Secretary for Infrastructure Protection on the day before the date of enactment of this Act [Nov. 16, 2018] may continue to serve as the Assistant Director for Infrastructure Security on and after such date.”

### § 655. Enhancement of Federal and non-Federal cybersecurity

In carrying out the responsibilities under section 652 of this title, the Director of the Cybersecurity and Infrastructure Security Agency shall—

- (1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems;

- (2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems; and

- (3) fulfill the responsibilities of the Secretary to protect Federal information systems under subchapter II of chapter 35 of title 44.

(Pub. L. 107-296, title XXII, §2205, formerly title II, §223, Nov. 25, 2002, 116 Stat. 2156; Pub. L. 110-53, title V, §531(b)(1)(A), Aug. 3, 2007, 121 Stat. 334; Pub. L. 113-283, §2(e)(3)(A), Dec. 18, 2014, 128 Stat. 3086; renumbered title XXII, §2205, and amended Pub. L. 115-278, §2(g)(2)(I), (9)(A)(i), Nov. 16, 2018, 132 Stat. 4178, 4180; Pub. L. 117-263, div. G, title LXXI, §7143(c)(6), Dec. 23, 2022, 136 Stat. 3663.)

### Editorial Notes

#### CODIFICATION

Section was formerly classified to section 143 of this title prior to renumbering by Pub. L. 115-278.

#### AMENDMENTS

2022—Pub. L. 117-263 substituted “Director of the Cybersecurity and Infrastructure Security Agency” for “Director of Cybersecurity and Infrastructure Security” in introductory provisions.

2018—Pub. L. 115-278, §2(g)(9)(A)(i)(I), substituted “section 652 of this title” for “section 121 of this title” and “Director of Cybersecurity and Infrastructure Security” for “Under Secretary appointed under section 113(a)(1)(H) of this title” in introductory provisions.

Par. (1)(B). Pub. L. 115-278, §2(g)(9)(A)(i)(II), struck out “and” at end.

2014—Pub. L. 113-283, §2(e)(3)(A)(i), (ii), inserted “Federal and” before “non-Federal” in section catchline and substituted “the Under Secretary appointed under section 113(a)(1)(H) of this title” for “the Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection” in introductory provisions.

Par. (3). Pub. L. 113-283, §2(e)(3)(A)(iii), (iv), added par. (3).

2007—Pub. L. 110-53 substituted “Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection” for

“Under Secretary for Information Analysis and Infrastructure Protection” in introductory provisions.

#### Statutory Notes and Related Subsidiaries

##### RULE OF CONSTRUCTION

Nothing in amendment made by Pub. L. 117-263 to be construed to alter the authorities, responsibilities, functions, or activities of any agency (as such term is defined in 44 U.S.C. 3502) or officer or employee of the United States on or before Dec. 23, 2022, see section 7143(f)(1) of Pub. L. 117-263, set out as a note under section 650 of this title.

#### § 656. NET Guard

The Director of the Cybersecurity and Infrastructure Security Agency may establish a national technology guard, to be known as “NET Guard”, comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

(Pub. L. 107-296, title XXII, §2206, formerly title II, §224, Nov. 25, 2002, 116 Stat. 2156; Pub. L. 110-53, title V, §531(b)(1)(B), Aug. 3, 2007, 121 Stat. 334; renumbered title XXII, §2206, and amended Pub. L. 115-278, §2(g)(2)(I), (9)(A)(ii), Nov. 16, 2018, 132 Stat. 4178, 4180; Pub. L. 117-263, div. G, title LXXI, §7143(c)(7), Dec. 23, 2022, 136 Stat. 3663.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 144 of this title prior to renumbering by Pub. L. 115-278.

##### AMENDMENTS

2022—Pub. L. 117-263 substituted “Director of the Cybersecurity and Infrastructure Security Agency” for “Director of Cybersecurity and Infrastructure Security”.

2018—Pub. L. 115-278, §2(g)(9)(A)(ii), substituted “Director of Cybersecurity and Infrastructure Security” for “Assistant Secretary for Infrastructure Protection”.

2007—Pub. L. 110-53 substituted “Assistant Secretary for Infrastructure Protection” for “Under Secretary for Information Analysis and Infrastructure Protection”.

#### Statutory Notes and Related Subsidiaries

##### RULE OF CONSTRUCTION

Nothing in amendment made by Pub. L. 117-263 to be construed to alter the authorities, responsibilities, functions, or activities of any agency (as such term is defined in 44 U.S.C. 3502) or officer or employee of the United States on or before Dec. 23, 2022, see section 7143(f)(1) of Pub. L. 117-263, set out as a note under section 650 of this title.

#### § 657. Cyber Security Enhancement Act of 2002

##### (a) Short title

This section may be cited as the “Cyber Security Enhancement Act of 2002”.

##### (b) Amendment of sentencing guidelines relating to certain computer crimes

###### (1) Directive to the United States Sentencing Commission

Pursuant to its authority under section 994(p) of title 28 and in accordance with this

subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18.

##### (2) Requirements

In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18.

##### (c) Study and report on computer crimes

Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18.

##### (d) Emergency disclosure exception

###### (1) Omitted

###### (2) Reporting of disclosures

A government entity that receives a disclosure under section 2702(b) of title 18 shall file,