

**Editorial Notes**

## REFERENCES IN TEXT

Sections 2 and 44 of title 14, referred to in subsec. (c), redesignated sections 102 and 302, respectively, of title 14 by Pub. L. 115-282, title I, §§ 103(b), 104(b), Dec. 4, 2018, 132 Stat. 4195, 4196, and references to sections 2 and 44 of title 14 deemed to refer to such redesignated sections, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115-282 note preceding section 101 of Title 14, Coast Guard.

This chapter, referred to in subsecs. (c) and (f), was in the original “this Act”, meaning Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

The Federal Vacancies Reform Act of 1998, referred to in subsec. (g)(3), is section 151(a) of title I of div. C of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-611, which enacted sections 3345 to 3349d of Title 5, Government Organization and Employees, repealed former sections 3345 to 3349 of Title 5, and enacted provisions set out as a note under section 3345 of Title 5. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 3301 of Title 5 and Tables.

## AMENDMENTS

2022—Subsec. (b). Pub. L. 117-286 substituted “chapter 4 of title 5.” for “the Inspector General Act of 1978 (5 U.S.C. App.).”

2018—Subsec. (a)(1)(H). Pub. L. 115-278 amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: “An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.”

Subsec. (d)(4). Pub. L. 115-387 substituted “An Assistant Secretary for the Countering Weapons of Mass Destruction Office” for “A Director for Domestic Nuclear Detection”.

2016—Subsec. (a)(1)(C). Pub. L. 114-125, § 802(g)(1)(A)(ii)(I), substituted “A Commissioner of U.S. Customs and Border Protection.” for “An Under Secretary for Border and Transportation Security.”

Subsec. (a)(1)(F). Pub. L. 114-328, § 1903(a)(1)(A), inserted “, who shall be first assistant to the Deputy Secretary of Homeland Security for purposes of subchapter III of chapter 33 of title 5” before period at end.

Subsec. (a)(1)(G). Pub. L. 114-125, § 802(g)(1)(A)(ii)(II), substituted “A Director of U.S. Immigration and Customs Enforcement.” for “A Director of the Office of Counternarcotics Enforcement.”

Subsec. (a)(1)(K). Pub. L. 114-328, § 1903(a)(1)(B), added subpar. (K).

Subsec. (d)(5). Pub. L. 114-328, § 1901(a), added par. (5).

Subsec. (g). Pub. L. 114-328, § 1903(a)(2), added subsec. (g).

2012—Subsec. (a). Pub. L. 112-166 redesignated introductory provisions as introductory provisions of par. (1), inserted par. (1) heading, substituted “Except as provided under paragraph (2), there” for “There”, redesignated pars. (1) to (10) as subpars. (A) to (J), respectively, of par. (1), and added par. (2).

2008—Subsec. (d)(3) to (5). Pub. L. 110-388 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “A Chief Human Capital Officer.”

2007—Subsec. (a)(8) to (10). Pub. L. 110-53 added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

2006—Subsec. (a)(2) to (4). Pub. L. 109-295, § 612(b)(2), (3), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: “An Under Secretary for Information Analysis and Infrastructure Protection.”

Subsec. (a)(5). Pub. L. 109-295, § 612(b)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 109-295, § 612(b)(1), added par. (5) and struck out former par. (5) which read as follows: “An Under Secretary for Emergency Preparedness and Response.”

Subsec. (a)(6) to (10). Pub. L. 109-295, § 612(b)(3), redesignated pars. (7) to (10) as (6) to (9), respectively. Former par. (6) redesignated (5).

Subsec. (d)(5). Pub. L. 109-347 added par. (5).

2004—Subsec. (a)(8) to (10). Pub. L. 108-458 added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (d)(4), (5). Pub. L. 108-330, § 3(d)(1)(A)(i), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “A Chief Financial Officer.”

Subsecs. (e), (f). Pub. L. 108-330, § 3(d)(1)(A)(ii), (iii), added subsec. (e) and redesignated former subsec. (e) as (f).

2003—Subsec. (b). Pub. L. 108-7 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.”

**Statutory Notes and Related Subsidiaries**

## CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of this title.

## EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-166, § 6(a), Aug. 10, 2012, 126 Stat. 1295, provided that: “The amendments made by section 2 [see Tables for classification] shall take effect 60 days after the date of enactment of this Act [Aug. 10, 2012] and apply to appointments made on and after that effective date, including any nomination pending in the Senate on that date.”

**UNDER SECRETARY RESPONSIBLE FOR OVERSEEING CRITICAL INFRASTRUCTURE PROTECTION, CYBERSECURITY AND RELATED PROGRAMS AUTHORIZED TO SERVE AS DIRECTOR OF CYBERSECURITY AND INFRASTRUCTURE SECURITY**

For authorization of individual serving as Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity and related programs on the day before Nov. 16, 2018, to continue to serve as Director of Cybersecurity and Infrastructure Security on and after such date, see section 2(b)(1) of Pub. L. 115-278, Nov. 16, 2018, 132 Stat. 4175, set out as a note under section 652 of this title.

**§ 114. Sensitive Security Information**

Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: *Provided*, That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coor-

dinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: *Provided further*, That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are designated as SSI in their entirety during the period October 1, 2005, through December 31, 2005: *Provided further*, That not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees on Appropriations of the Senate and the House of Representatives on the titles of all DHS documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year: *Provided further*, That the Secretary shall promulgate guidance that includes common but extensive examples of SSI that further define the individual categories of information cited under 49 CFR 1520(b)(1) through (16) and eliminates judgment by covered persons in the application of the SSI marking: *Provided further*, That such guidance shall serve as the primary basis and authority for the marking of DHS information as SSI by covered persons.

(Pub. L. 109–90, title V, §537, Oct. 18, 2005, 119 Stat. 2088.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 109–90, Oct. 18, 2005, 119 Stat. 2064, known as the Department of Homeland Security Appropriations Act, 2006. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2006, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

#### Statutory Notes and Related Subsidiaries

##### APPLICABILITY OF THIRD PROVISO

Pub. L. 114–113, div. F, title V, §510(b), Dec. 18, 2015, 129 Stat. 2514, provided that: “The third proviso of section 537 of the Department of Homeland Security Appropriations Act, 2006 (6 U.S.C. 114), shall hereafter not apply with respect to funds made available in this or any other Act.”

##### TSA SENSITIVE SECURITY INFORMATION

Pub. L. 117–81, div. F, title LXIV, §6423(a), Dec. 27, 2021, 135 Stat. 2419, provided that:

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Administrator of the Transportation Security Administration (TSA) shall—

“(A) ensure clear and consistent designation of ‘Sensitive Security Information’, including reasonable security justifications for such designation;

“(B) develop and implement a schedule to regularly review and update, as necessary, TSA Sensitive Security Information identification guidelines;

“(C) develop a tracking mechanism for all Sensitive Security Information redaction and designation challenges;

“(D) document justifications for changes in position regarding Sensitive Security Information redactions and designations, and make such changes

accessible to TSA personnel for use with relevant stakeholders, including air carriers, airport operators, surface transportation operators, and State and local law enforcement, as necessary; and

“(E) ensure that TSA personnel are adequately trained on appropriate designation policies.

“(2) STAKEHOLDER OUTREACH.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration (TSA) shall conduct outreach to relevant stakeholders described in paragraph (1)(D) that regularly are granted access to Sensitive Security Information to raise awareness of the TSA’s policies and guidelines governing the designation and use of Sensitive Security Information.”

#### § 115. Trade and customs revenue functions of the Department

##### (a) Trade and customs revenue functions

###### (1) Designation of appropriate official

The Secretary shall designate an appropriate senior official in the office of the Secretary who shall—

(A) ensure that the trade and customs revenue functions of the Department are coordinated within the Department and with other Federal departments and agencies, and that the impact on legitimate trade is taken into account in any action impacting the functions; and

(B) monitor and report to Congress on the Department’s mandate to ensure that the trade and customs revenue functions of the Department are not diminished, including how spending, operations, and personnel related to these functions have kept pace with the level of trade entering the United States.

###### (2) Director of Trade Policy

There shall be a Director of Trade Policy (in this subsection referred to as the “Director”), who shall be subject to the direction and control of the official designated pursuant to paragraph (1). The Director shall—

(A) advise the official designated pursuant to paragraph (1) regarding all aspects of Department policies relating to the trade and customs revenue functions of the Department;

(B) coordinate the development of Department-wide policies regarding trade and customs revenue functions and trade facilitation; and

(C) coordinate the trade and customs revenue-related policies of the Department with the policies of other Federal departments and agencies.

##### (b) Study; report

###### (1) In general

The Comptroller General of the United States shall conduct a study evaluating the extent to which the Department of Homeland Security is meeting its obligations under section 212(b) of this title with respect to the maintenance of customs revenue functions.

###### (2) Analysis

The study shall include an analysis of—

(A) the extent to which the customs revenue functions carried out by the former