

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 PROVISIO

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

United States Customs Service have been consolidated with other functions of the Department (including the assignment of non-customs revenue functions to personnel responsible for customs revenue collection), discontinued, or diminished following the transfer of the United States Customs Service to the Department;

(B) the extent to which staffing levels or resources attributable to customs revenue functions have decreased since the transfer of the United States Customs Service to the Department; and

(C) the extent to which the management structure created by the Department ensures effective trade facilitation and customs revenue collection.

(3) Report

Not later than 180 days after October 13, 2006, the Comptroller General shall submit to the appropriate congressional committees a report on the results of the study conducted under subsection (a).

(4) Maintenance of functions

Not later than September 30, 2007, the Secretary shall ensure that the requirements of section 212(b) of this title are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding implementation of this paragraph.

(5) Definition

In this section, the term “customs revenue functions” means the functions described in section 212(b)(2) of this title.

(c) Consultation on trade and customs revenue functions

(1) Business community consultations

The Secretary shall consult with representatives of the business community involved in international trade, including seeking the advice and recommendations of the Commercial Operations Advisory Committee, not later than 30 days after proposing, and not later than 30 days before finalizing, any Department policies, initiatives, or actions that will have a significant impact on international trade and customs revenue functions.

(2) Congressional consultation and notification

(A) In general

Subject to subparagraph (B), the Secretary shall notify the appropriate congressional committees not later than 60 days before proposing, and not later than 60 days before finalizing, any Department policies, initiatives, or actions that will have a major impact on trade and customs revenue functions. Such notifications shall include a description of the proposed policies, initiatives, or actions and any comments or recommendations provided by the Commercial Operations Advisory Committee and other relevant groups regarding the proposed policies, initiatives, or actions.

(B) Exception

If the Secretary determines that it is important to the national security interest of

the United States to finalize any Department policies, initiatives, or actions prior to the consultation described in subparagraph (A), the Secretary shall—

(i) notify and provide any recommendations of the Commercial Operations Advisory Committee received to the appropriate congressional committees not later than 45 days after the date on which the policies, initiatives, or actions are finalized; and

(ii) to the extent appropriate, modify the policies, initiatives, or actions based upon the consultations with the appropriate congressional committees.

(d) Notification of reorganization of customs revenue functions

(1) In general

Not less than 45 days prior to any change in the organization of any of the customs revenue functions of the Department, the Secretary shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred as part of such reorganization, and the reason for such transfer. The notification shall also include—

(A) an explanation of how trade enforcement functions will be impacted by the reorganization;

(B) an explanation of how the reorganization meets the requirements of section 212(b) of this title that the Department not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

(C) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

(2) Analysis

Any congressional committee referred to in paragraph (1) may request that the Commercial Operations Advisory Committee provide a report to the committee analyzing the impact of the reorganization and providing any recommendations for modifying the reorganization.

(3) Report

Not later than 1 year after any reorganization referred to in paragraph (1) takes place, the Secretary, in consultation with the Commercial Operations Advisory Committee, shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

(Pub. L. 109-347, title IV, §401, Oct. 13, 2006, 120 Stat. 1921; Pub. L. 114-125, title IX, §902, Feb. 24, 2016, 130 Stat. 223.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Security and Accountability For Every Port Act of 2006, also known as the SAFE Port Act, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

AMENDMENTS

2016—Subsec. (c)(1). Pub. L. 114-125, §902(1), substituted “not later than 30 days after proposing, and not later than 30 days before finalizing, any Department policies, initiatives, or actions that will have” for “on Department policies and actions that have”.

Subsec. (c)(2)(A). Pub. L. 114-125, §902(2), substituted “not later than 60 days before proposing, and not later than 60 days before finalizing,” for “not later than 30 days prior to the finalization of”.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of terms used in this section, see section 901 of this title.

SUBCHAPTER II—INFORMATION ANALYSIS

Editorial Notes

CODIFICATION

Pub. L. 115-278, §2(g)(2)(A), Nov. 16, 2018, 132 Stat. 4176, struck out “AND INFRASTRUCTURE PROTECTION” after “INFORMATION ANALYSIS” in subchapter heading.

PART A—INFORMATION AND ANALYSIS; ACCESS TO INFORMATION

Editorial Notes

CODIFICATION

Pub. L. 115-278, §2(g)(2)(B), Nov. 16, 2018, 132 Stat. 4177, struck out “and Infrastructure Protection” after “Information and Analysis” in part heading.

Pub. L. 110-53, title V, §531(b)(3), Aug. 3, 2007, 121 Stat. 334, substituted “Information and” for “Directorate for Information” in part heading.

§ 121. Information and Analysis**(a) Intelligence and analysis**

There shall be in the Department an Office of Intelligence and Analysis.

(b) Under Secretary for Intelligence and Analysis**(1) Office of Intelligence and Analysis**

The Office of Intelligence and Analysis shall be headed by an Under Secretary for Intelligence and Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Chief Intelligence Officer

The Under Secretary for Intelligence and Analysis shall serve as the Chief Intelligence Officer of the Department.

(c) Discharge of responsibilities

The Secretary shall ensure that the responsibilities of the Department relating to information analysis, including those described in subsection (d), are carried out through the Under Secretary for Intelligence and Analysis.

(d) Responsibilities of Secretary relating to intelligence and analysis

The responsibilities of the Secretary relating to intelligence and analysis shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information, in support of the mission responsibilities of the Department and the functions of the National Counterterrorism Center established under section 119 of the National Security Act of 1947 [50 U.S.C. 3056], in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analysis, and vulnerability assessments (regardless of whether such information, analysis or assessments are provided by or produced by the Department) in order to—

(A) identify priorities for protective and support measures regarding terrorist and other threats to homeland security by the Department, other agencies of the Federal Government, State,¹ and local government agencies and authorities, the private sector, and other entities; and

(B) prepare finished intelligence and information products in both classified and unclassified formats, as appropriate, whenever reasonably expected to be of benefit to a State, local, or tribal government (including a State, local, or tribal law enforcement agency) or a private sector entity.

(4) To ensure, pursuant to section 122 of this title, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To review, analyze, and make recommendations for improvements to the policies and procedures governing the sharing of information within the scope of the information sharing environment established under section 485 of this title, including homeland security information, terrorism information, and weapons of mass destruction information, and any policies, guidelines, procedures, instructions, or standards established under that section.

(6) To disseminate, as appropriate, information analyzed by the Department within the

¹ So in original. The comma probably should not appear.