

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2075. Appropriations authorization

(a) In general

(1) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

(2) The authorization of the appropriations for the United States Customs Service for each fiscal year after fiscal year 1987 shall specify—

(A) the amount authorized for the fiscal year for the salaries and expenses of the Service in conducting commercial operations; and

(B) the amount authorized for the fiscal year for the salaries and expenses of the Service for other than commercial operations.

(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b) of this section.

(b) Authorization of appropriations

(1) For noncommercial operations

There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

(A) \$1,365,456,000 for fiscal year 2003.

(B) \$1,399,592,400 for fiscal year 2004.

(2) For commercial operations

(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

(i) \$1,642,602,000 for fiscal year 2003.

(ii) \$1,683,667,050 for fiscal year 2004.

(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 58c(a)(9) and (10) of this title, shall be appropriated from the Customs User Fee Account.

(3) For air interdiction

There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

(A) \$170,829,000 for fiscal year 2003.

(B) \$175,099,725 for fiscal year 2004.

(c) Mandatory 10-day deferment

No part of any sum that is appropriated under the authority of subsection (b) of this section may be used to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981.

(d) Overtime pay limitations; waiver

No part of any sum that is appropriated under subsection (b) of this section for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding \$25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.

(e) Pay comparability authorization

For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for salaries of the United States Customs Service such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.

(f) Use of savings resulting from administrative consolidations

If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

(g) Allocation of resources; notice to Congressional committees

(1) The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before April 7, 1986. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.

(2) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

(A) result in any significant reduction in force of employees other than by means of attrition;

(B) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry;

(C) eliminate or relocate any office of the United States Customs Service;

(D) eliminate any port of entry; or

(E) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

(3) The total number of employees of the United States Customs Service shall be equivalent to at least 17,174 full-time employees.

(h) Resource Allocation Model

(1) Resource Allocation Model

Not later than June 30, 2007, and every 2 years thereafter, the Commissioner shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a Resource Allocation Model to determine the optimal staffing levels required to carry out the commercial operations of United States Customs and Border Protection, including commercial inspection and release of cargo and the revenue functions described in section 212(b)(2) of title 6. The Model shall comply with the requirements of section 212(b)(1) of such title and shall take into account previous staffing models, historic and projected trade volumes, and trends. The Resource Allocation Model shall apply both risk-based and random sampling approaches for determining adequate staffing needs for priority trade functions, including—

- (A) performing revenue functions;
- (B) enforcing antidumping and countervailing duty laws;
- (C) protecting intellectual property rights;
- (D) enforcing provisions of law relating to trade in textiles and apparel;
- (E) conducting agricultural inspections;
- (F) enforcing fines, penalties, and forfeitures; and
- (G) facilitating trade.

(2) Personnel

(A) In general

Not later than September 30, 2007, the Commissioner shall ensure that the requirements of section 212(b) of title 6 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 the implementation of this subparagraph.

(B) Customs and Border Protection Officers

The initial Resource Allocation Model required pursuant to paragraph (1) shall provide for the hiring of a minimum of 200 additional Customs and Border Protection Officers per year for each of the fiscal years 2008 through 2012. The Commissioner shall hire such additional Officers subject to the appropriation of funds to pay for the salaries and expenses of such Officers. In assigning the 1,000 additional Officers authorized by this subparagraph, the Commissioner shall—

- (i) consider the volume of trade and the incidence of nonvoluntarily disclosed cus-

toms and trade law violations in addition to security priorities among United States ports of entry; and

(ii) before October 1, 2010, assign at least 10 additional Officers among each service port and the ports of entry serviced by such service port, except as provided in subparagraph (C).

(C) Assignment

In assigning such Officers pursuant to subparagraph (B), the Commissioner shall consult with the port directors of each service port and the other ports of entry serviced by such service port. The Commissioner shall not assign an Officer to a port of entry pursuant to subparagraph (B)(ii) if the port director of the service port that services such port of entry certifies to the Commissioner that an additional Officer is not needed at such port of entry.

(D) Report

Not later than 60 days after the beginning of each of the fiscal years 2008 through 2012, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives, that describes how the additional Officers authorized under subparagraph (B) will be allocated among the ports of entry in the United States in accordance with subparagraph (C).

(3) Authorization of appropriations

In addition to any monies hereafter appropriated to United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the requirements of paragraph (2)(B), to remain available until expended—

- (A) \$36,000,000 for fiscal year 2008;
- (B) \$75,000,000 for fiscal year 2009;
- (C) \$118,000,000 for fiscal year 2010;
- (D) \$165,000,000 for fiscal year 2011; and
- (E) \$217,000,000 for fiscal year 2012.

(4) Report

Not later than 30 days after the end of each fiscal year, the Commissioner shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources directed to commercial and trade facilitation functions within the Office of Field Operations for the preceding fiscal year. Such information shall be reported for each category of personnel within the Office of Field Operations.

(5) Regulations to implement trade agreements

Not later than 30 days after October 13, 2006, the Commissioner shall designate and maintain not less than 5 attorneys within the Office of International Trade established pursuant to section 2072 of this title, with responsibility for the prompt development and promulgation of regulations necessary to implement any trade agreement entered into by the

United States, in addition to any other responsibilities assigned by the Commissioner.

(6) Definition

In this subsection, the term “Commissioner” means the Commissioner responsible for United States Customs and Border Protection in the Department of Homeland Security.

(Pub. L. 95-410, title III, §301, Oct. 3, 1978, 92 Stat. 905; Pub. L. 97-456, §2, Jan. 12, 1983, 96 Stat. 2503; Pub. L. 98-573, title VII, §702, Oct. 30, 1984, 98 Stat. 3043; Pub. L. 99-272, title XIII, §13022(a), Apr. 7, 1986, 100 Stat. 305; Pub. L. 99-509, title VIII, §8102, Oct. 21, 1986, 100 Stat. 1967; Pub. L. 100-203, title IX, §9503(a), (b), Dec. 22, 1987, 101 Stat. 1330-380, 1330-381; Pub. L. 100-690, title VII, §7361(a), (b), Nov. 18, 1988, 102 Stat. 4474; Pub. L. 101-207, §3(a), Dec. 7, 1989, 103 Stat. 1833; Pub. L. 101-382, title I, §102, Aug. 20, 1990, 104 Stat. 634; Pub. L. 107-210, div. A, title III, §311(a), (b)(1), (c), (d), Aug. 6, 2002, 116 Stat. 973; Pub. L. 109-347, title IV, §403, Oct. 13, 2006, 120 Stat. 1926.)

REFERENCES IN TEXT

The Federal Pay Comparability Act of 1970, referred to in subsec. (e), is Pub. L. 91-656, Jan. 8, 1971, 84 Stat. 1946, as amended, which enacted sections 5305 to 5308 and 5947 of Title 5, Government Organization and Employees, amended sections 5108, 5301, and 5942 of Title 5 and section 410 of Title 39, Postal Service, repealed section 5302 of Title 5, and enacted provisions set out as notes under sections 5303 and 5942 of Title 5, section 60a of Title 2, The Congress, and section 410 of Title 39. For complete classification of the Act to the Code see Short Title note set out under section 5301 of Title 5 and Tables.

Hereafter, referred to in subsec. (h)(3), probably means on and after the date of enactment of Pub. L. 109-347 which enacted subsec. (h) and was approved Oct. 13, 2006.

AMENDMENTS

2006—Subsec. (h). Pub. L. 109-347 added subsec. (h).
 2002—Subsec. (a)(3). Pub. L. 107-210, §311(d), added par. (3).
 Subsec. (b)(1)(A). Pub. L. 107-210, §311(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “\$516,217,000 for fiscal year 1991.”
 Subsec. (b)(1)(B). Pub. L. 107-210, §311(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “\$542,091,000 for fiscal year 1992.”
 Subsec. (b)(2)(A)(i). Pub. L. 107-210, §311(b)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: “\$672,021,000 for fiscal year 1991.”
 Subsec. (b)(2)(A)(ii). Pub. L. 107-210, §311(b)(1)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: “\$705,793,000 for fiscal year 1992.”
 Subsec. (b)(3)(A). Pub. L. 107-210, §311(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “\$143,047,000 for fiscal year 1991.”
 Subsec. (b)(3)(B). Pub. L. 107-210, §311(c)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “\$150,199,000 for fiscal year 1992.”
 1990—Subsec. (b). Pub. L. 101-382, amended subsec. (b) generally, in par. (1), substituting provisions authorizing \$516,217,000 and \$542,091,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$418,822,000 for fiscal year 1990, of which at least \$26,240,000 was to be used to hire at least 435 additional inspectors and other drug interdiction personnel, in par. (2), designating existing provisions as subpar. (A) and substituting provisions authorizing \$672,021,000 and \$705,793,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$656,468,000 for fiscal year 1990, striking out provisions relating to Customs User Fee Account, and adding subpar. (B), and in par. (3), substituting provi-

sions authorizing \$143,047,000 and \$150,199,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$128,128,000 for fiscal year 1990.

1989—Subsec. (b)(1). Pub. L. 101-207, §3(a)(1), (2), substituted “1990” for “1989” and “\$418,822,000” for “\$440,504,000”.

Subsec. (b)(2). Pub. L. 101-207, §3(a)(1), (3), substituted “1990” for “1989” and “\$656,468,000” for “\$615,247,000”.

Subsec. (b)(3). Pub. L. 101-207, §3(a)(1), (4), substituted “1990” for “1989” and “\$128,128,000” for “\$142,262,000”.

Subsec. (b)(4). Pub. L. 101-207, §3(a)(5), struck out par. (4) which read as follows: “There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 1989, \$1,600,000 for payment to the Customs Cooperation Council.”

1988—Subsec. (b)(1). Pub. L. 100-690, §7361(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “There are authorized to be appropriated for fiscal year 1988 not to exceed \$348,192,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which \$171,857.06 shall be available only for concluding Contract TC-82-54 that was awarded for the development and testing of an automatic license plate reader.”

Subsec. (b)(2). Pub. L. 100-690, §7361(a)(2)(A), (B), substituted authorization of appropriation of \$615,247,000 for fiscal year 1989 for authorization of appropriation of \$615,000,000 for fiscal year 1988.

Subsec. (b)(3). Pub. L. 100-690, §7361(a)(2)(A), (C), substituted authorization of appropriation of \$142,262,000 for fiscal year 1989 for authorization of appropriation of \$118,309,000 for fiscal year 1988.

Subsec. (b)(4). Pub. L. 100-690, §7361(a)(2)(D), added par. (4).

Subsec. (g)(3). Pub. L. 100-690, §7361(b), added par. (3).
 1987—Subsec. (b). Pub. L. 100-203, §9503(a), amended subsec. (b) generally, revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (f). Pub. L. 100-203, §9503(b)(1), struck out heading which is now editorially supplied.

Subsec. (g). Pub. L. 100-203, §9503(b)(2), (3), struck out heading which is now editorially supplied, designated existing provisions as par. (1), and added par. (2).

1986—Subsec. (a). Pub. L. 99-509, §8102(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 99-570, title III, §314(a), Oct. 27, 1986, 100 Stat. 3207-92, which directed an amendment to subsec. (b) of this section did not become effective pursuant to Pub. L. 99-570, title III, §314(b), which provided that the amendment made by section 314(a) would not be effective if H.R. 5300 was enacted with an identical amendment. H.R. 5300 was enacted as Pub. L. 99-509 with an identical amendment in section 8102(2). See below.

Pub. L. 99-509, §8102(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) There are authorized to be appropriated to the Department of the Treasury not to exceed \$772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

“(A) \$27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

“(B) \$53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

“(C) not to exceed \$14,000,000 is for the implementation of the ‘Operation EXODUS’ program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.].

“(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

“(A) not less than 2,500 merchandise entries (including informal entries) were made; and

“(B) not less than \$1,500,000 in customs revenues were assessed.

“(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further

research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

“(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal ‘request for proposal’ process.

“(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

“(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed \$8,000,000 from the Customs Forfeiture Fund for the making of payments under section 1613b of this title, of which not to exceed \$5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

“(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated \$27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

“(7) As soon as possible after April 7, 1986, but not later than 12 months after April 7, 1986, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study.”

Pub. L. 99-272, § 13022(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated to the Department of the Treasury not to exceed \$686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) \$28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed \$15,000,000 is for the implementation of the ‘Operation EXODUS’ program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.]”

Subsecs. (f), (g). Pub. L. 99-272, § 13022(a)(2), added subsecs. (f) and (g).

1984—Subsec. (b). Pub. L. 98-573, § 702(1), amended subsec. (b) generally, which prior to amendment read as follows: “There are authorized to be appropriated to the Department of the Treasury not to exceed \$564,224,000 for the salaries and expenses of the United States Customs Service for fiscal year 1983, of which not to exceed \$31,464,000 is for salary and expenses for the enforcement of the alcohol and tobacco revenue laws.”

Subsecs. (d), (e). Pub. L. 98-573, § 702(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

1983—Pub. L. 97-456 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM

Pub. L. 107-210, div. A, title III, § 311(b)(2), (3), Aug. 6, 2002, 116 Stat. 973, as amended by Pub. L. 107-296, title IV, § 419(b), Nov. 25, 2002, 116 Stat. 2182, provided that: “[(2) Repealed. Pub. L. 107-296, title IV, § 419(b), Nov. 25, 2002, 116 Stat. 2182.]

“(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act [Aug. 6, 2002], and not later than the end of each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act [Pub. L. 103-182, see Tables for classification].”

§ 2076. Advances in foreign countries

Section 3324(a) and (b) of title 31 shall not apply to payments made for the United States Customs Service in foreign countries.

(May 6, 1939, ch. 115, title I, § 1, 53 Stat. 660.)

CODIFICATION

“Section 3324(a) and (b) of title 31” substituted in text for “Section 3648 of the Revised Statutes [31 U.S.C. 5291]” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 529b of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section is from Treasury Department Appropriation Act, 1940, act May 6, 1939. Similar provisions were contained in the following prior appropriation acts:

Mar. 28, 1938, ch. 55, 52 Stat. 126.
May 14, 1937, ch. 180, title I, 50 Stat. 142.
June 23, 1936, ch. 725, 49 Stat. 1832.
May 14, 1935, ch. 110, 49 Stat. 222.

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the