

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.)

#### 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.

### § 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 cus-

tom 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, on Department policies and actions that 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 30 days prior to the finalization of 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.)

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.

DEFINITIONS

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

SUBCHAPTER II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

PART A—INFORMATION AND ANALYSIS AND INFRASTRUCTURE PROTECTION; ACCESS TO INFORMATION

AMENDMENTS

2007—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 and Infrastructure Protection**

**(a) Intelligence and analysis and infrastructure protection**

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

**(b) Under Secretary for Intelligence and Analysis and Assistant Secretary for Infrastructure Protection**

**(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.

**(3) Office of Infrastructure Protection**

The Office of Infrastructure Protection shall be headed by an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

**(c) Discharge of responsibilities**

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