

SUBCHAPTER IV—DIRECTORATE OF
BORDER AND TRANSPORTATION SECURITY

PART A—UNDER SECRETARY FOR BORDER AND
TRANSPORTATION SECURITY

§ 201. Under Secretary for Border and Transportation Security

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

(Pub. L. 107-296, title IV, § 401, Nov. 25, 2002, 116 Stat. 2177.)

§ 202. Responsibilities

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 251 of this title takes effect.

(4) Establishing and administering rules, in accordance with section 236 of this title, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in part C of this subchapter, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 231 of this title.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

(Pub. L. 107-296, title IV, § 402, Nov. 25, 2002, 116 Stat. 2177.)

REFERENCES IN TEXT

Part C of this subchapter, referred to in par. (6), was in the original “subtitle C”, meaning subtitle C (§ 421 et seq.) of title IV of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2182, which enacted part C (§ 231 et seq.) of this subchapter and amended sections 2279e and 2279f of Title 7, Agriculture, and sections 115, 44901, and 47106 of Title 49, Transportation. For complete classification of subtitle C to the Code, see Tables.

The customs laws of the United States, referred to in par. (6), are classified generally to Title 19, Customs Duties.

§ 203. Functions transferred

In accordance with subchapter XII of this chapter (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(Pub. L. 107-296, title IV, § 403, Nov. 25, 2002, 116 Stat. 2178.)

PART B—UNITED STATES CUSTOMS SERVICE

§ 211. Establishment; Commissioner of Customs

(a) Establishment

There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 215(7) of this title, and the personnel, assets, and liabilities attributable to those functions.

(b) Commissioner of Customs

(1) In general

There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Omitted

(3) Continuation in office

The individual serving as the Commissioner of Customs on the day before the effective date of this chapter may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

(Pub. L. 107-296, title IV, § 411, Nov. 25, 2002, 116 Stat. 2178.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b)(3), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of this title.

CODIFICATION

Section is comprised of section 411 of Pub. L. 107-296. Subsec. (b)(2) of section 411 of Pub. L. 107-296 amended section 5314 of Title 5, Government Organization and Employees.

CHANGE OF NAME

Customs Service, referred to in subsecs. (a) and (b)(1), changed to Bureau of Customs and Border Protection

by Reorganization Plan Modification for the Department of Homeland Security, eff. Mar. 1, 2003, H. Doc. No. 108-32, 108th Congress, 1st Session, set out as a note under section 542 of this title.

§ 212. Retention of Customs revenue functions by Secretary of the Treasury

(a) Retention of Customs revenue functions by Secretary of the Treasury

(1) Retention of authority

Notwithstanding section 203(a)(1)¹ of this title, authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this chapter under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this chapter, and on and after the effective date of this chapter, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) Statutes

The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930 [19 U.S.C. 1202 et seq.]; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974 [19 U.S.C. 2101 et seq.]; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.]; the Andean Trade Preference Act [19 U.S.C. 3201 et seq.]; the African Growth and Opportunity Act [19 U.S.C. 3701 et seq.]; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) Maintenance of Customs revenue functions

(1) Maintenance of functions

Notwithstanding any other provision of this chapter, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 211 of this title) on or after the effective date of this chapter, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) Functions

The functions referred to in paragraph (1) are those functions performed by the following

personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this chapter: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) New personnel

The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

(Pub. L. 107–296, title IV, §412, Nov. 25, 2002, 116 Stat. 2179.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (a)(1) and (b), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of this title.

This chapter, referred to in subsecs. (a)(1) and (b)(1), 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 Tariff Act of 1930, referred to in subsec. (a)(2), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§1202 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

The Foreign Trade Zones Act, referred to in subsec. (a)(2), is act June 18, 1934, ch. 590, 48 Stat. 998, as amended, which is classified generally to chapter 1A (§81a et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Tables.

The Trade Act of 1974, referred to in subsec. (a)(2), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter 12 (§2101 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of Title 19 and Tables.

The Trade Agreements Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–39, July 26, 1979, 93 Stat. 144, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19, Customs Duties, and Tables.

The North American Free Trade Area Implementation Act, referred to in subsec. (a)(2), probably means the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, Dec. 8, 1993, 107 Stat. 2057, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 19, Customs Duties, and Tables.

The Uruguay Round Agreements Act, referred to in subsec. (a)(2), is Pub. L. 103–465, Dec. 8, 1994, 108 Stat. 4809, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of Title 19, Customs Duties, and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (a)(2), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, as amended, which is classified principally to chapter 15 (§2701 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

The Andean Trade Preference Act, referred to in subsec. (a)(2), is title II of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1236, as amended, which is classified generally to chapter 20 (§3201 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 19 and Tables.

¹ So in original. Probably should be section “203(1)”.