

§ 4617. Administrative and regulatory authority**(a) Under Secretary of Commerce**

The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary under this chapter and such other statutes that relate to national security which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration before July 12, 1985, and such other functions under this chapter which were delegated to such office before such date, as the Secretary may delegate. The President shall appoint, by and with the advice and consent of the Senate, two Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.

(b) Issuance of regulations

The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this chapter. Any such regulations issued to carry out the provisions of section 4604(a), 4605(a), 4606(a), or 4607(b) of this title may apply to the financing, transporting, or other servicing of exports and the participation therein by any person. Any such regulations the purpose of which is to carry out the provisions of section 4604 of this title, or of section 4603(a) of this title for the purpose of administering the provisions of section 4604 of this title, may be issued only after the regulations are submitted for review to the Secretary of Defense, the Secretary of State, such other departments and agencies as the Secretary considers appropriate, and the appropriate technical advisory committee. The preceding sentence does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(c) Amendments to regulations

If the Secretary proposes to amend regulations issued under this chapter, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the technical advisory committees authorized under section 4604(h) of this title in formulating or amending regulations issued under this chapter. The procedures defined by regulations in effect on January 1, 1984, with respect to sections 4603 and 4604 of this title, shall remain in effect unless the Secretary determines, on the basis of substantial and reliable evidence, that specific change is necessary to enhance the prevention of diversions of exports which would prove detrimental to the national security of the United States or to reduce the licensing and paperwork burden on exporters and their distributors.

(Pub. L. 96-72, §15, Sept. 29, 1979, 93 Stat. 533; Pub. L. 99-64, title I, §116(a), July 12, 1985, 99 Stat. 152; Pub. L. 100-418, title II, §§2420(b), 2429, Aug. 23, 1988, 102 Stat. 1358, 1362.)

TERMINATION DATE

For termination of authority granted by this chapter, see section 4622 of this title.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, known as the Export Administration Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2414 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418, §2429, inserted “and such other statutes that related to national security” after “Secretary under this chapter”.

Subsec. (b). Pub. L. 100-418, §2420(b), substituted “such other” for “and such other” and inserted “, and the appropriate technical advisory committee” after “appropriate”.

1985—Pub. L. 99-64 substituted “Administrative and regulatory authority” for “Regulatory authority” as section catchline, and amended text generally. Prior to amendment, section read as follows: “The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this chapter. Any such regulations issued to carry out the provisions of section 4604(a), 4605(a), 4606(a), or 4607(b) of this title may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.”

EFFECTIVE DATE OF 1985 AMENDMENT

Subsec. (a) of this section effective Oct. 1, 1987, see section 116(d) of Pub. L. 99-64, set out as a note under section 5314 of Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 4603 of this title.

SPENDING AUTHORITY UNDER 1985 AMENDMENT

Pub. L. 99-64, title I, §116(e), July 12, 1985, 99 Stat. 153, provided that: “Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this section [amending this section and sections 5314 and 5315 of Title 5, Government Organization and Employees] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.”

§ 4618. Definitions

As used in this chapter—

(1) the term “person” includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term “United States person” means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent for-