

immigration custody, including those owned or operated by units of State or local government and privately-owned or operated facilities;

(4) Review, examine, and make recommendations to address concerns or violations of contract terms identified in reviews, audits, investigations, or detainee interviews regarding immigration detention facilities and services;

(5) Provide assistance to individuals affected by potential misconduct, excessive force, or violations of law or detention standards by Department of Homeland Security officers or other personnel, or contracted, subcontracted, or cooperating entity personnel; and

(6) Ensure that the functions performed by the Ombudsman are complementary to existing functions within the Department of Homeland Security.

**(c) Access to detention facilities**

The Ombudsman or designated personnel of the Ombudsman, shall be provided unfettered access to any location within each such detention facility and shall be permitted confidential access to any detainee at the detainee's request and any departmental records concerning such detainee.

**(d) Coordination with department components**

**(1) In general**

The Director of U.S. Immigration and Customs Enforcement and the Commissioner of U.S. Customs and Border Protection shall each establish procedures to provide formal responses to recommendations submitted to such officials by the Ombudsman within 60 days of receiving such recommendations.

**(2) Access to information**

The Secretary shall establish procedures to provide the Ombudsman access to all departmental records necessary to execute the responsibilities of the Ombudsman under subsection (b) or (c) not later than 60 days after a request from the Ombudsman for such information.

**(e) Annual report**

The Ombudsman shall prepare a report to Congress on an annual basis on its activities, findings, and recommendations.

(Pub. L. 107-296, title IV, §405, as added Pub. L. 116-93, div. D, title I, §106(a), Dec. 20, 2019, 133 Stat. 2504.)

PART B—U.S. CUSTOMS AND BORDER PROTECTION

CODIFICATION

Pub. L. 114-125, title VIII, §802(g)(1)(B)(iii)(D), Feb. 24, 2016, 130 Stat. 211, substituted “U.S. Customs and Border Protection” for “United States Customs Service” in part heading.

**§ 211. Establishment of U.S. Customs and Border Protection; Commissioner, Deputy Commissioner, and operational offices**

**(a) In general**

There is established in the Department an agency to be known as U.S. Customs and Border Protection.

**(b) Commissioner of U.S. Customs and Border Protection**

**(1) In general**

There shall be at the head of U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection (in this section referred to as the “Commissioner”).

**(2) Committee referral**

As an exercise of the rulemaking power of the Senate, any nomination for the Commissioner submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance.

**(c) Duties**

The Commissioner shall—

(1) coordinate and integrate the security, trade facilitation, and trade enforcement functions of U.S. Customs and Border Protection;

(2) ensure the interdiction of persons and goods illegally entering or exiting the United States;

(3) facilitate and expedite the flow of legitimate travelers and trade;

(4) direct and administer the commercial operations of U.S. Customs and Border Protection, and the enforcement of the customs and trade laws of the United States;

(5) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States, in cases in which such persons are entering, or have recently entered, the United States;

(6) safeguard the borders of the United States to protect against the entry of dangerous goods;

(7) ensure the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;

(8) in coordination with U.S. Immigration and Customs Enforcement and United States Citizenship and Immigration Services, enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 1101(a) of title 8, including—

(A) the inspection, processing, and admission of persons who seek to enter or depart the United States; and

(B) the detection, interdiction, removal, departure from the United States, short-term detention, and transfer of persons unlawfully entering, or who have recently unlawfully entered, the United States;

(9) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

(10) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 1365b of title 8;

(11) enforce and administer the laws relating to agricultural import and entry inspection referred to in section 231 of this title;

(12) in coordination with the Under Secretary for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department's acquisition management directives for major acquisition programs of U.S. Customs and Border Protection;

(13) ensure that the policies and regulations of U.S. Customs and Border Protection are consistent with the obligations of the United States pursuant to international agreements;

(14) enforce and administer—

(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945); and

(B) the Customs–Trade Partnership Against Terrorism program under subtitle B of title II of such Act (6 U.S.C. 961 et seq.);

(15) conduct polygraph examinations in accordance with section 221(1) of this title;

(16) establish the standard operating procedures described in subsection (k);

(17) carry out the training required under subsection (l);

(18) carry out section 218 of this title, relating to the issuance of Asia-Pacific Economic Cooperation Business Travel Cards; and

(19) carry out other duties and powers prescribed by law or delegated by the Secretary.

**(d) Deputy Commissioner**

There shall be in U.S. Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of U.S. Customs and Border Protection.

**(e) U.S. Border Patrol**

**(1) In general**

There is established in U.S. Customs and Border Protection the U.S. Border Patrol.

**(2) Chief**

There shall be at the head of the U.S. Border Patrol a Chief, who shall—

(A) be at the level of Executive Assistant Commissioner within U.S. Customs and Border Protection; and

(B) report to the Commissioner.

**(3) Duties**

The U.S. Border Patrol shall—

(A) serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported into or exported from the United States at a place other than a designated port of entry;

(B) deter and prevent the illegal entry of terrorists, terrorist weapons, persons, and contraband; and

(C) carry out other duties and powers prescribed by the Commissioner.

**(f) Air and Marine Operations**

**(1) In general**

There is established in U.S. Customs and Border Protection an office known as Air and Marine Operations.

**(2) Executive Assistant Commissioner**

There shall be at the head of Air and Marine Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

**(3) Duties**

Air and Marine Operations shall—

(A) serve as the law enforcement office within U.S. Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

(B) conduct joint aviation and marine operations with U.S. Immigration and Customs Enforcement;

(C) conduct aviation and marine operations with international, Federal, State, and local law enforcement agencies, as appropriate;

(D) administer the Air and Marine Operations Center established under paragraph (4); and

(E) carry out other duties and powers prescribed by the Commissioner.

**(4) Air and Marine Operations Center**

**(A) In general**

There is established in Air and Marine Operations an Air and Marine Operations Center.

**(B) Executive Director**

There shall be at the head of the Air and Marine Operations Center an Executive Director, who shall report to the Executive Assistant Commissioner of Air and Marine Operations.

**(C) Duties**

The Air and Marine Operations Center shall—

(i) manage the air and maritime domain awareness of the Department, as directed by the Secretary;

(ii) monitor and coordinate the airspace for unmanned aerial systems operations of Air and Marine Operations in U.S. Customs and Border Protection;

(iii) detect, identify, and coordinate a response to threats to national security in the air domain, in coordination with other appropriate agencies, as determined by the Executive Assistant Commissioner;

(iv) provide aviation and marine support to other Federal, State, tribal, and local agencies; and

(v) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

**(g) Office of Field Operations**

**(1) In general**

There is established in U.S. Customs and Border Protection an Office of Field Operations.

**(2) Executive Assistant Commissioner**

There shall be at the head of the Office of Field Operations an Executive Assistant Com-

missioner, who shall report to the Commissioner.

**(3) Duties**

The Office of Field Operations shall coordinate the enforcement activities of U.S. Customs and Border Protection at United States air, land, and sea ports of entry to—

(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

(C) prevent illicit drugs, agricultural pests, and contraband from entering the United States;

(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

(E) administer the National Targeting Center established under paragraph (4);

(F) coordinate with the Executive Assistant Commissioner for the Office of Trade with respect to the trade facilitation and trade enforcement activities of U.S. Customs and Border Protection; and

(G) carry out other duties and powers prescribed by the Commissioner.

**(4) National Targeting Center**

**(A) In general**

There is established in the Office of Field Operations a National Targeting Center.

**(B) Executive Director**

There shall be at the head of the National Targeting Center an Executive Director, who shall report to the Executive Assistant Commissioner of the Office of Field Operations.

**(C) Duties**

The National Targeting Center shall—

(i) serve as the primary forum for targeting operations within U.S. Customs and Border Protection to collect and analyze traveler and cargo information in advance of arrival in the United States to identify and address security risks and strengthen trade enforcement;

(ii) identify, review, and target travelers and cargo for examination;

(iii) coordinate the examination of entry and exit of travelers and cargo;

(iv) develop and conduct commercial risk assessment targeting with respect to cargo destined for the United States;

(v) coordinate with the Transportation Security Administration, as appropriate;

(vi) issue Trade Alerts pursuant to section 4318(b) of title 19; and

(vii) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

**(5) Annual report on staffing**

**(A) In general**

Not later than 30 days after February 24, 2016, and annually thereafter, the Executive Assistant Commissioner shall submit to the Committee on Homeland Security and the

Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.

**(B) Form**

The report required under subparagraph (A) shall, to the greatest extent practicable, be submitted in unclassified form, but may be submitted in classified form, if the Executive Assistant Commissioner determines that such is appropriate and informs the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate of the reasoning for such.

**(h) Office of Intelligence**

**(1) In general**

There is established in U.S. Customs and Border Protection an Office of Intelligence.

**(2) Assistant Commissioner**

There shall be at the head of the Office of Intelligence an Assistant Commissioner, who shall report to the Commissioner.

**(3) Duties**

The Office of Intelligence shall—

(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the duties and responsibilities of U.S. Customs and Border Protection;

(B) manage the counterintelligence operations of U.S. Customs and Border Protection;

(C) establish, in coordination with the Chief Intelligence Officer of the Department, as appropriate, intelligence-sharing relationships with Federal, State, local, and tribal agencies and intelligence agencies;

(D) conduct risk-based covert testing of U.S. Customs and Border Protection operations, including for nuclear and radiological risks; and

(E) carry out other duties and powers prescribed by the Commissioner.

**(i) Office of International Affairs**

**(1) In general**

There is established in U.S. Customs and Border Protection an Office of International Affairs.

**(2) Assistant Commissioner**

There shall be at the head of the Office of International Affairs an Assistant Commissioner, who shall report to the Commissioner.

**(3) Duties**

The Office of International Affairs, in collaboration with the Office of Policy of the Department, shall—

(A) coordinate and support U.S. Customs and Border Protection's foreign initiatives, policies, programs, and activities;

(B) coordinate and support U.S. Customs and Border Protection's personnel stationed abroad;

(C) maintain partnerships and information-sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of U.S. Customs and Border Protection's duties and responsibilities;

(D) provide necessary capacity building, training, and assistance to foreign customs and border control agencies to strengthen border, global supply chain, and travel security, as appropriate;

(E) coordinate mission support services to sustain U.S. Customs and Border Protection's global activities;

(F) coordinate with customs authorities of foreign countries with respect to trade facilitation and trade enforcement;

(G) coordinate U.S. Customs and Border Protection's engagement in international negotiations;

(H) advise the Commissioner with respect to matters arising in the World Customs Organization and other international organizations as such matters relate to the policies and procedures of U.S. Customs and Border Protection;

(I) advise the Commissioner regarding international agreements to which the United States is a party as such agreements relate to the policies and regulations of U.S. Customs and Border Protection; and

(J) carry out other duties and powers prescribed by the Commissioner.

**(j) Office of Professional Responsibility**

**(1) In general**

There is established in U.S. Customs and Border Protection an Office of Professional Responsibility.

**(2) Assistant Commissioner**

There shall be at the head of the Office of Professional Responsibility an Assistant Commissioner, who shall report to the Commissioner.

**(3) Duties**

The Office of Professional Responsibility shall—

(A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of U.S. Customs and Border Protection;

(B) manage integrity-related programs and policies of U.S. Customs and Border Protection;

(C) conduct research and analysis regarding misconduct of officers, agents, and other employees of U.S. Customs and Border Protection; and

(D) carry out other duties and powers prescribed by the Commissioner.

**(k) Standard operating procedures**

**(1) In general**

The Commissioner shall establish—

(A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication,

electronic, or digital devices encountered by U.S. Customs and Border Protection personnel at United States ports of entry;

(B) standard use of force procedures that officers and agents of U.S. Customs and Border Protection may employ in the execution of their duties, including the use of deadly force;

(C) uniform, standardized, and publicly-available procedures for processing and investigating complaints against officers, agents, and employees of U.S. Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5 (commonly referred to as the "Privacy Act" or the "Privacy Act of 1974");

(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of U.S. Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

(E) standard operating procedures, acting through the Executive Assistant Commissioner for Air and Marine Operations and in coordination with the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

(i) a process for other Federal, State, and local law enforcement agencies to submit mission requests;

(ii) a formal procedure to determine whether to approve or deny such a mission request;

(iii) a formal procedure to determine how such mission requests are prioritized and coordinated; and

(iv) a process regarding the protection and privacy of data and images collected by U.S. Customs and Border Protection through the use of unmanned aerial systems.

**(2) Requirements regarding certain notifications**

The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

(A) in the case of a search of information conducted on an electronic device by U.S. Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

(B) in the case of information collected by U.S. Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to

notify the individual subject to such search of such transmission.

**(3) Exceptions**

The Commissioner may withhold the notifications required under paragraphs (1)(C) and (2) if the Commissioner determines, in the sole and unreviewable discretion of the Commissioner, that such notifications would impair national security, law enforcement, or other operational interests.

**(4) Update and review**

The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

**(5) Audits**

The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after February 24, 2016, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and shall include the following:

(A) A description of the activities of officers and agents of U.S. Customs and Border Protection with respect to such searches.

(B) The number of such searches.

(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

(D) The number of such devices detained as the result of such searches.

(E) The number of instances in which information collected from such devices was subjected to such searches and was transmitted to another Federal agency, including whether such transmissions resulted in a prosecution or conviction.

**(6) Requirements regarding other notifications**

The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

(A) in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

**(7) Report on unmanned aerial systems**

The Commissioner shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the

Senate an annual report, for each of the three calendar years beginning in the calendar year that begins after February 24, 2016, that reviews whether the use of unmanned aerial systems is being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

(A) shall be submitted with the annual budget of the United States Government submitted by the President under section 1105 of title 31;

(B) may be submitted in classified form if the Commissioner determines that such is appropriate; and

(C) shall include—

(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection are collected and stored; and

(ii) a list of Federal, State, and local law enforcement agencies that submitted mission requests in the previous year and the disposition of such requests.

**(I) Training**

The Commissioner shall require all officers and agents of U.S. Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

**(m) Short-term detention standards**

**(1) Access to food and water**

The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained at a United States port of entry or between ports of entry as soon as practicable following the time of such apprehension or during subsequent short-term detention.

**(2) Access to information on detainee rights at border patrol processing centers**

**(A) In general**

The Commissioner shall ensure that an individual apprehended by a U.S. Border Patrol agent or an Office of Field Operations officer is provided with information concerning such individual's rights, including the right to contact a representative of such individual's government for purposes of United States treaty obligations.

**(B) Form**

The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

**(3) Short-term detention defined**

In this subsection, the term "short-term detention" means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.

**(4) Daytime repatriation**

When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

**(5) Report on procurement process and standards**

Not later than 180 days after February 24, 2016, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the procurement process and standards of entities with which U.S. Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of U.S. Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

**(6) Report on inspections of short-term custody facilities**

The Commissioner shall—

(A) annually inspect all facilities utilized for short-term detention; and

(B) make publicly available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

**(n) Wait times transparency****(1) In general**

The Commissioner shall—

(A) publish live wait times for travelers entering the United States at the 20 United States airports that support the highest volume of international travel (as determined by available Federal flight data);

(B) make information about such wait times available to the public in real time through the U.S. Customs and Border Protection website;

(C) submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, for each of the five calendar years beginning in the calendar year that begins after February 24, 2016, a report that includes compilations of all such wait times and a ranking of such United States airports by wait times; and

(D) provide adequate staffing at the U.S. Customs and Border Protection information center to ensure timely access for travelers attempting to submit comments or speak with a representative about their entry experiences.

**(2) Calculation**

The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual's entry into the U.S. Customs and Border Protection inspection area and such individual's clear-

ance by a U.S. Customs and Border Protection officer.

**(o) Other authorities****(1) In general**

The Secretary may establish such other offices or positions of Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of U.S. Customs and Border Protection.

**(2) Notification**

If the Secretary exercises the authority provided under paragraph (1), the Secretary shall notify the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate not later than 30 days before exercising such authority.

**(p) Reports to Congress**

The Commissioner shall, on and after February 24, 2016, continue to submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate any report required, on the day before February 24, 2016, to be submitted under any provision of law.

**(q) Other Federal agencies**

Nothing in this section may be construed as affecting in any manner the authority, existing on the day before February 24, 2016, of any other Federal agency or component of the Department.

**(r) Definitions**

In this section, the terms “commercial operations”, “customs and trade laws of the United States”, “trade enforcement”, and “trade facilitation” have the meanings given such terms in section 4301 of title 19.

(Pub. L. 107-296, title IV, §411, Nov. 25, 2002, 116 Stat. 2178; Pub. L. 114-125, title VIII, §802(a), Feb. 24, 2016, 130 Stat. 199; Pub. L. 115-79, §4(a), Nov. 2, 2017, 131 Stat. 1260.)

## REFERENCES IN TEXT

The Security and Accountability for Every Port Act of 2006, referred to in subsec. (c)(14)(B), is Pub. L. 109-347, Oct. 13, 2006, 120 Stat. 1884, also known as the SAFE Port Act. Subtitle B of title II of the Act is classified generally to part B (§961 et seq.) of subchapter II of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

## CODIFICATION

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

## AMENDMENTS

2017—Subsec. (c)(18), (19). Pub. L. 115-79 added par. (18) and redesignated former par. (18) as (19).

2016—Pub. L. 114-125 amended section generally. Prior to amendment, section established the United States Customs Service headed by a Commissioner of Customs.

## CHANGE OF NAME

Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210, provided that: “On and after the date of the enactment of this Act [Feb. 24, 2016], any reference in law or regulations to the ‘Commissioner of Customs’ or the ‘Commissioner of the Customs Service’ shall be deemed to be a reference to the Commissioner of U.S. Customs and Border Protection.”

## EFFECTIVE DATE OF 2016 AMENDMENT; CONTINUITY OF FUNCTIONS, RULES, AND ACTIONS

Pub. L. 114-125, title VIII, §802(b), Feb. 24, 2016, 130 Stat. 209, provided that:

“(1) TREATMENT.—Section 411 of the Homeland Security Act of 2002 [6 U.S.C. 211], as amended by subsection (a) of this section, shall be treated as if included in such Act [Pub. L. 107-296] as of the date of the enactment of such Act [Nov. 25, 2002], and, in addition to the functions, missions, duties, and authorities specified in such amended section 411, U.S. Customs and Border Protection shall continue to perform and carry out the functions, missions, duties, and authorities under section 411 of such Act as in existence on the day before the date of the enactment of this Act [Feb. 24, 2016], and section 415 of the Homeland Security Act of 2002 [6 U.S.C. 215].

## “(2) RULES OF CONSTRUCTION.—

“(A) RULES AND REGULATIONS.—Notwithstanding paragraph (1), nothing in this title [see Tables for classification] or any amendment made by this title may be construed as affecting in any manner any rule or regulation issued or promulgated pursuant to any provision of law, including section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act [Feb. 24, 2016], and any such rule or regulation shall continue to have full force and effect on and after such date.

“(B) OTHER ACTIONS.—Notwithstanding paragraph (1), nothing in this Act [see Tables for classification] may be construed as affecting in any manner any action, determination, policy, or decision pursuant to section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such action, determination, policy, or decision shall continue to have full force and effect on and after such date.”

## USE OF FUNDS TO CONTINUE DETENTION SERVICES CONTRACTS

Pub. L. 116-93, div. D, title II, §215, Dec. 20, 2019, 133 Stat. 2513, provided that:

“(a) None of the funds provided under the heading ‘U.S. Immigration and Customs Enforcement—Operations and Support’ may be used to continue any contract for the provision of detention services if the two most recent overall performance evaluations received by the contracted facility are less than ‘adequate’ or the equivalent median score in any subsequent performance evaluation system.

“(b) Beginning not later than January 1, 2021, the performance evaluations referenced in subsection (a) shall be conducted by the U.S. Immigration and Customs Enforcement Office of Professional Responsibility.”

## PORTS OF ENTRY THREAT AND OPERATIONAL REVIEW

Pub. L. 115-372, Dec. 21, 2018, 132 Stat. 5107, provided that:

## “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘United States Ports of Entry Threat and Operational Review Act’.

## “SEC. 2. PORTS OF ENTRY THREAT AND OPERATIONAL ANALYSIS.

## “(a) IN GENERAL.—

“(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 21, 2018], the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Pro-

tection, shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a threat and operational analysis of ports of entry.

“(2) CONTENTS.—The threat and operational analysis required under paragraph (1) shall include an assessment of the following:

“(A) Current and potential threats posed by individuals and organized groups seeking—

“(i) to exploit security vulnerabilities at ports of entry; or

“(ii) to unlawfully enter the United States through such ports of entry.

“(B) Methods and pathways used to exploit security vulnerabilities at ports of entry.

“(C) Improvements needed at ports of entry to prevent the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States.

“(D) Improvements needed to enhance travel and trade facilitation and reduce wait times at ports of entry, including—

“(i) security vulnerabilities associated with prolonged wait times;

“(ii) current technology at ports of entry that can be adapted to handle more volume, increase efficiency, and improve accuracy of detection efforts; and

“(iii) infrastructure additions and upgrades.

“(E) Processes conducted at ports of entry that do not require law enforcement training and could be—

“(i) filled with—

“(I) non-law enforcement staff; or

“(II) the private sector, for processes or activities determined to not be inherently governmental (as such term is defined in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; [31 U.S.C. 501 note])); or

“(ii) automated.

“(3) ANALYSIS REQUIREMENTS.—In compiling the threat and operational analysis required under paragraph (1), the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall consider and examine the following:

“(A) Personnel needs, including K-9 Units, and estimated costs, at each port of entry, including such needs and challenges associated with recruitment and hiring.

“(B) Technology needs, including radiation portal monitors and non-intrusive inspection technology, and estimated costs at each port of entry.

“(C) Infrastructure needs and estimated costs at each port of entry.

## “(b) PORTS OF ENTRY STRATEGY AND IMPLEMENTATION PLAN.—

“(1) IN GENERAL.—Not later than 270 days after the submission of the threat and operational analysis required under subsection (a) and every 5 years thereafter for 10 years, the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection (CBP), shall provide to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a ports of entry strategy and implementation plan.

“(2) CONTENTS.—The ports of entry strategy and implementation plan required under paragraph (1) shall include a consideration of the following:

“(A) The ports of entry threat and operational analysis required under subsection (a), with an emphasis on efforts to mitigate threats and challenges identified in such analysis.

“(B) Efforts to reduce wait times at ports of entry and standards against which the effectiveness of such efforts may be determined.

“(C) Efforts to prevent the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States at the earliest possible point at ports of entry and standards against which the effectiveness of such efforts may be determined.

“(D) Efforts to focus intelligence collection and information analysis to disrupt transnational criminal organizations attempting to exploit vulnerabilities at ports of entry and standards against which the effectiveness of such efforts may be determined.

“(E) Efforts to verify that any new port of entry technology acquisition can be operationally integrated with existing technologies in use by the Department of Homeland Security.

“(F) Lessons learned from reports on the business transformation initiative under section 802(i)(1) of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114-125).

“(G) CBP staffing requirements for all ports of entry.

“(H) Efforts to identify and detect fraudulent documents at ports of entry and standards against which the effectiveness of such efforts may be determined.

“(I) Efforts to prevent, detect, investigate, and mitigate corruption at ports of entry and standards against which the effectiveness of such efforts may be determined.

“(c) PORTS OF ENTRY DESCRIBED.—In this section, the term ‘ports of entry’ means United States air, land, and sea ports of entry.”

#### REQUIRED NOTICE OF AIRCRAFT TRANSFERS

Pub. L. 115-141, div. F, title II, §203, Mar. 23, 2018, 132 Stat. 612, provided that: “Hereafter, no U.S. Customs and Border Protection aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security without prior notice to the Committees on Appropriations of the Senate and the House of Representatives.”

#### DETECTING INCOMING CONTRABAND WITH TECHNOLOGY

Pub. L. 115-112, Jan. 10, 2018, 131 Stat. 2274, provided that:

##### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘International Narcotics Trafficking Emergency Response by Detecting Incoming Contraband with Technology Act’ or the ‘INTERDICTION Act’.

##### “SEC. 2. DEFINITIONS.

“In this Act:

“(1) CHEMICAL SCREENING DEVICE.—The term ‘chemical screening device’ means an immunoassay, narcotics field test kit, infrared spectrophotometer, mass spectrometer, nuclear magnetic resonance spectrometer, Raman spectrophotometer, or other scientific instrumentation able to collect data that can be interpreted to determine the presence of fentanyl, other synthetic opioids, and other narcotics and psychoactive substances.

“(2) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of U.S. Customs and Border Protection.

“(3) EXPRESS CONSIGNMENT OPERATOR OR CARRIER.—The term ‘express consignment operator or carrier’ has the meaning given that term in section 128.1 of title 19, Code of Federal Regulations (or any similar successor regulation).

##### “SEC. 3. INTERDICTION OF FENTANYL, OTHER SYNTHETIC OPIOIDS, AND OTHER NARCOTICS AND PSYCHOACTIVE SUBSTANCES.

“(a) CHEMICAL SCREENING DEVICES.—The Commissioner shall—

“(1) increase the number of chemical screening devices available to U.S. Customs and Border Protection officers over the number of such devices that are available on the date of the enactment of this Act [Jan. 10, 2018]; and

“(2) make such additional chemical screening devices available to U.S. Customs and Border Protection officers as the Commissioner determines are necessary to interdict fentanyl, other synthetic opioids, and other narcotics and psychoactive substances that are illegally imported into the United States, including such substances that are imported through the mail or by an express consignment operator or carrier.

“(b) PERSONNEL TO INTERPRET DATA.—The Commissioner shall dedicate the appropriate number of U.S. Customs and Border Protection personnel, including scientists, so that such personnel are available during all operational hours to interpret data collected by chemical screening devices.

##### “SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to the Commissioner \$9,000,000 to ensure that U.S. Customs and Border Protection has resources, including chemical screening devices, personnel, and scientists, available during all operational hours to prevent, detect, and interdict the unlawful importation of fentanyl, other synthetic opioids, and other narcotics and psychoactive substances.”

#### CONTINUATION IN OFFICE

Pub. L. 114-125, title VIII, §802(c), Feb. 24, 2016, 130 Stat. 210, provided that:

“(1) COMMISSIONER.—The individual serving as the Commissioner of Customs on the day before the date of the enactment of this Act [Feb. 24, 2016] may serve as the Commissioner of U.S. Customs and Border Protection on and after such date of enactment until a Commissioner of U.S. Customs and Border Protection is appointed under section 411 of the Homeland Security Act of 2002 [6 U.S.C. 211], as amended by subsection (a) of this section.

“(2) OTHER POSITIONS.—The individual serving as Deputy Commissioner, and the individuals serving as Assistant Commissioners and other officers and officials, under section 411 of the Homeland Security Act of 2002 on the day before the date of the enactment of this Act [Feb. 24, 2016] may serve as the Executive Assistant Commissioners, Deputy Commissioner, Assistant Commissioners, and other officers and officials, as appropriate, under such section 411 as amended by subsection (a) of this section unless the Commissioner of U.S. Customs and Border Protection determines that another individual should hold such position or positions.”

#### BORDER JOBS FOR VETERANS

Pub. L. 114-68, Oct. 16, 2015, 129 Stat. 555, provided that:

##### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Border Jobs for Veterans Act of 2015’.

##### “SEC. 2. FINDINGS.

“Congress finds the following:

“(1) Customs and Border Protection officers at United States ports of entry carry out critical law enforcement duties associated with screening foreign visitors, returning United States citizens, and imported cargo entering the United States.

“(2) It is in the national interest for United States ports of entry to be adequately staffed with Customs and Border Protection officers in a timely fashion, including meeting the congressionally funded staffing target of 23,775 officers for fiscal year 2015.

“(3) An estimated 250,000 to 300,000 members of the Armed Forces separate from military service every year.

“(4) Recruiting efforts and expedited hiring procedures must be enhanced to ensure that individuals



separating from military service are aware of, and partake in, opportunities to fill vacant Customs and Border Protection officer positions.

**“SEC. 3. EXPEDITED HIRING OF APPROPRIATE SEPARATING SERVICE MEMBERS.**

“The Secretary of Homeland Security shall consider the expedited hiring of qualified candidates who have the ability to perform the essential functions of the position of a Customs and Border Protection officer and who are eligible for a veterans recruitment appointment authorized under section 4214 of title 38, United States Code.

**“SEC. 4. ENHANCEMENTS TO EXISTING PROGRAMS TO RECRUIT SERVICE MEMBERS SEPARATING FROM MILITARY SERVICE FOR CUSTOMS AND BORDER PROTECTION OFFICER VACANCIES.**

“(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Defense, and acting through existing programs, authorities, and agreements, where applicable, shall enhance the efforts of the Department of Homeland Security to recruit members of the Armed Forces who are separating from military service to serve as Customs and Border Protection officers.

“(b) ELEMENTS.—The enhanced recruiting efforts under subsection (a) shall—

“(1) include Customs and Border Protection officer opportunities in relevant job assistance efforts under the Transition Assistance Program;

“(2) place U.S. Customs and Border Protection officials or other relevant Department of Homeland Security officials at recruiting events and jobs fairs involving members of the Armed Forces who are separating from military service;

“(3) provide opportunities for local U.S. Customs and Border Protection field offices to partner with military bases in the region;

“(4) include outreach efforts to educate members of the Armed Forces with Military Occupational Specialty Codes and Officer Branches, Air Force Specialty Codes, Naval Enlisted Classifications and Officer Designators, and Coast Guard competencies that are transferable to the requirements, qualifications, and duties assigned to Customs and Border Protection officers of available hiring opportunities to become Customs and Border Protection officers;

“(5) identify shared activities and opportunities for reciprocity related to steps in hiring Customs and Border Protection officers with the goal of minimizing the time required to hire qualified applicants;

“(6) ensure the streamlined interagency transfer of relevant background investigations and security clearances; and

“(7) include such other elements as may be necessary to ensure that members of the Armed Forces who are separating from military service are aware of opportunities to fill vacant Customs and Border Protection officer positions.

**“SEC. 5. REPORT TO CONGRESS.**

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 16, 2015], and by December 31 of each of the next 3 years thereafter, the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall submit a report to the Committee on Homeland Security and the Committee on Armed Services of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate that includes a description and assessment of the efforts of the Department of Homeland Security to hire members of the Armed Forces who are separating from military service as Customs and Border Protection officers under section 4.

“(b) CONTENT.—The report required under subsection (a) shall include—

“(1) a detailed description of the efforts to implement section 4, including—

“(A) elements of the enhanced recruiting efforts and the goals associated with such elements; and

“(B) a description of how the elements and goals referred to in subparagraph (A) will assist in meeting statutorily mandated staffing levels and agency hiring benchmarks;

“(2) a detailed description of the efforts that have been undertaken under section 4;

“(3) the estimated number of separating service members made aware of Customs and Border Protection officer vacancies;

“(4) the number of Customs and Border Protection officer vacancies filled with separating service members; and

“(5) the number of Customs and Border Protection officer vacancies filled with separating service members under Veterans Recruitment Appointment authorized under section 4214 of title 38, United States Code.

**“SEC. 6. RULES OF CONSTRUCTION.**

“Nothing in this Act may be construed—

“(1) as superseding, altering, or amending existing Federal veterans’ hiring preferences or Federal hiring authorities; or

“(2) to authorize the appropriation of additional amounts to carry out this Act.”

**PORT OF ENTRY PARTNERSHIP PILOT PROGRAM**

Pub. L. 113–76, div. F, title V, § 559, Jan. 17, 2014, 128 Stat. 279, as amended by Pub. L. 114–4, title V, § 552(a), Mar. 4, 2015, 129 Stat. 71; Pub. L. 114–113, div. F, title V, § 550, Dec. 18, 2015, 129 Stat. 2519, which established a pilot program to permit U.S. Customs and Border Protection to enter into partnerships with private sector and government entities at ports of entry for certain services and to accept certain donations, was repealed by Pub. L. 114–279, § 4(b), Dec. 16, 2016, 130 Stat. 1422.

**REDUCING PASSENGER PROCESSING TIMES**

Pub. L. 113–76, div. F, title V, § 571, Jan. 17, 2014, 128 Stat. 287, provided that:

“(a) The Commissioner of U.S. Customs and Border Protection shall develop metrics that support a goal of reducing passenger processing times at air, land, and sea ports of entry, taking into consideration the capacity of an air or land port’s physical infrastructure, airline arrival schedules, peak processing periods, and security requirements.

“(b) Not later than 240 days after the date of enactment of this Act [Jan. 17, 2014], the Commissioner of U.S. Customs and Border Protection shall develop and implement operational work plans to meet the goals of subsection (a) at United States air, land, and sea ports with the highest passenger volume and longest wait times. In developing such plans, the Commissioner of U.S. Customs and Border Protection shall consult with appropriate stakeholders, including, but not limited to, airlines and airport operators, port authorities, and importers.”

**§ 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)<sup>1</sup> 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

<sup>1</sup> So in original. Probably should be section “203(1)”.