

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges;

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations; and

(C) advise the Secretary on private sector preparedness issues, including effective methods for—

(i) promoting voluntary preparedness standards to the private sector; and

(ii) assisting the private sector in adopting voluntary preparedness standards;

(5) working with Federal laboratories, federally funded research and development centers, other federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges;

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure;

(8) providing information to the private sector regarding voluntary preparedness standards and the business justification for preparedness and promoting to the private sector the adoption of voluntary preparedness standards;

(9) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack;

(10) coordinating with the Commissioner of U.S. Customs and Border Protection and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

(11) consulting with the Office of State and Local Government Coordination and Preparedness on all matters of concern to the private sector, including the tourism industry.

**(g) Standards policy**

All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A-119.

(Pub. L. 107-296, title I, §102, Nov. 25, 2002, 116 Stat. 2142; Pub. L. 108-458, title VII, §7402, Dec.

17, 2004, 118 Stat. 3850; Pub. L. 110-53, title IX, §902, Aug. 3, 2007, 121 Stat. 371; Pub. L. 114-125, title VIII, §802(g)(1)(A)(i), Feb. 24, 2016, 130 Stat. 210.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (2), and (e), 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.

Section 12(d) of the National Technology Transfer Advancement Act of 1995, referred to in subsec. (g), probably means section 12(d) of the National Technology Transfer and Advancement Act of 1995, which is section 12(d) of Pub. L. 104-113, and which is set out as a note under section 272 of Title 15, Commerce and Trade.

AMENDMENTS

2016—Subsec. (f)(10). Pub. L. 114-125 substituted “the Commissioner of U.S. Customs and Border Protection” for “the Directorate of Border and Transportation Security”.

2007—Subsec. (f)(4)(C). Pub. L. 110-53, §902(b), added subpar. (C).

Subsec. (f)(8) to (11). Pub. L. 110-53, §902(a), added par. (8) and redesignated former pars. (8) to (10) as (9) to (11), respectively.

2004—Subsec. (f)(8) to (10). Pub. L. 108-458 added pars. (8) to (10).

**Statutory Notes and Related Subsidiaries**

REQUIRED COORDINATION

Pub. L. 108-458, title VII, §7405, Dec. 17, 2004, 118 Stat. 3851, provided that: “The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.”

PROTECTIONS FOR HUMAN RESEARCH SUBJECTS OF THE DEPARTMENT OF HOMELAND SECURITY

Pub. L. 108-458, title VIII, §8306, Dec. 17, 2004, 118 Stat. 3869, provided that: “The Secretary of Homeland Security shall ensure that the Department of Homeland Security complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by such Secretary, with respect to research that is conducted or supported by the Department.”

**§ 113. Other officers**

**(a) Deputy Secretary; Under Secretaries**

**(1) In general**

Except as provided under paragraph (2), there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(A) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5.

(B) An Under Secretary for Science and Technology.

(C) A Commissioner of U.S. Customs and Border Protection.

(D) An Administrator of the Federal Emergency Management Agency.

(E) A Director of the Bureau of Citizenship and Immigration Services.

(F) An Under Secretary for Management, who shall be first assistant to the Deputy Secretary of Homeland Security for purposes of subchapter III of chapter 33 of title 5.

(G) A Director of U.S. Immigration and Customs Enforcement.

(H) A Director of the Cybersecurity and Infrastructure Security Agency.

(I) Not more than 12 Assistant Secretaries.

(J) A General Counsel, who shall be the chief legal officer of the Department.

(K) An Under Secretary for Strategy, Policy, and Plans.

## (2) Assistant Secretaries

If any of the Assistant Secretaries referred to under paragraph (1)(I) is designated to be the Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs, or the Assistant Secretary for Public Affairs, that Assistant Secretary shall be appointed by the President without the advice and consent of the Senate.

## (b) Inspector General

There shall be in the Department an Office of Inspector General and an Inspector General at the head of such office, as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

## (c) Commandant of the Coast Guard

To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44<sup>1</sup> of title 14 and who shall report directly to the Secretary. In addition to such duties as may be provided in this chapter and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2<sup>1</sup> of title 14.

## (d) Other officers

To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) An Officer for Civil Rights and Civil Liberties.

(4) An Assistant Secretary for the Countering Weapons of Mass Destruction Office.

(5) Any Director of a Joint Task Force under section 348 of this title.

## (e) Chief Financial Officer

There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31.

## (f) Performance of specific functions

Subject to the provisions of this chapter, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

<sup>1</sup> See References in Text note below.

## (g) Vacancies

### (1) Absence, disability, or vacancy of Secretary or Deputy Secretary

Notwithstanding chapter 33 of title 5, the Under Secretary for Management shall serve as the Acting Secretary if by reason of absence, disability, or vacancy in office, neither the Secretary nor Deputy Secretary is available to exercise the duties of the Office of the Secretary.

### (2) Further order of succession

Notwithstanding chapter 33 of title 5, the Secretary may designate such other officers of the Department in further order of succession to serve as Acting Secretary.

### (3) Notification of vacancies

The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives of any vacancies that require notification under sections 3345 through 3349d of title 5 (commonly known as the "Federal Vacancies Reform Act of 1998").

(Pub. L. 107-296, title I, §103, Nov. 25, 2002, 116 Stat. 2144; Pub. L. 108-7, div. L, §104(a), Feb. 20, 2003, 117 Stat. 529; Pub. L. 108-330, §3(d)(1)(A), Oct. 16, 2004, 118 Stat. 1276; Pub. L. 108-458, title VII, §7407(b), Dec. 17, 2004, 118 Stat. 3853; Pub. L. 109-295, title VI, §612(b), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 109-347, title V, §501(b)(1), Oct. 13, 2006, 120 Stat. 1935; Pub. L. 110-53, title V, §531(b)(2), Aug. 3, 2007, 121 Stat. 334; Pub. L. 110-388, §1, Oct. 10, 2008, 122 Stat. 4144; Pub. L. 112-166, §2(f)(5), Aug. 10, 2012, 126 Stat. 1285; Pub. L. 114-125, title VIII, §802(g)(1)(A)(ii), Feb. 24, 2016, 130 Stat. 211; Pub. L. 114-328, div. A, title XIX, §§1901(a), 1903(a), Dec. 23, 2016, 130 Stat. 2665, 2672; Pub. L. 115-278, §2(g)(1), Nov. 16, 2018, 132 Stat. 4176; Pub. L. 115-387, §2(f)(1), Dec. 21, 2018, 132 Stat. 5168.)

## Editorial Notes

### REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 2 and 44 of title 14, referred to in subsec. (c), redesignated sections 102 and 302, respectively, of title 14 by Pub. L. 115-282, title I, §§103(b), 104(b), Dec. 4, 2018, 132 Stat. 4195, 4196, and references to sections 2 and 44 of title 14 deemed to refer to such redesignated sections, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115-282 note preceding section 101 of Title 14, Coast Guard.

This chapter, referred to in subsecs. (c) and (f), 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 Federal Vacancies Reform Act of 1998, referred to in subsec. (g)(3), is section 151(a) of title I of div. C of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-611, which enacted sections 3345 to 3349d of Title 5, Government Organization and Employees, repealed former sections 3345 to 3349 of Title 5, and enacted provisions set out as

a note under section 3345 of Title 5. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 3301 of Title 5 and Tables.

#### AMENDMENTS

2018—Subsec. (a)(1)(H). Pub. L. 115–278 amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: “An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.”

Subsec. (d)(4). Pub. L. 115–387 substituted “An Assistant Secretary for the Countering Weapons of Mass Destruction Office” for “A Director for Domestic Nuclear Detection”.

2016—Subsec. (a)(1)(C). Pub. L. 114–125, § 802(g)(1)(A)(ii)(D), substituted “A Commissioner of U.S. Customs and Border Protection.” for “An Under Secretary for Border and Transportation Security.”

Subsec. (a)(1)(F). Pub. L. 114–328, § 1903(a)(1)(A), inserted “, who shall be first assistant to the Deputy Secretary of Homeland Security for purposes of subchapter III of chapter 33 of title 5” before period at end.

Subsec. (a)(1)(G). Pub. L. 114–125, § 802(g)(1)(A)(ii)(II), substituted “A Director of U.S. Immigration and Customs Enforcement.” for “A Director of the Office of Counternarcotics Enforcement.”

Subsec. (a)(1)(K). Pub. L. 114–328, § 1903(a)(1)(B), added subpar. (K).

Subsec. (d)(5). Pub. L. 114–328, § 1901(a), added par. (5).  
Subsec. (g). Pub. L. 114–328, § 1903(a)(2), added subsec. (g).

2012—Subsec. (a). Pub. L. 112–166 redesignated introductory provisions as introductory provisions of par. (1), inserted par. (1) heading, substituted “Except as provided under paragraph (2), there” for “There”, redesignated pars. (1) to (10) as subpars. (A) to (J), respectively, of par. (1), and added par. (2).

2008—Subsec. (d)(3) to (5). Pub. L. 110–388 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “A Chief Human Capital Officer.”

2007—Subsec. (a)(8) to (10). Pub. L. 110–53 added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

2006—Subsec. (a)(2) to (4). Pub. L. 109–295, § 612(b)(2), (3), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: “An Under Secretary for Information Analysis and Infrastructure Protection.”

Subsec. (a)(5). Pub. L. 109–295, § 612(b)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 109–295, § 612(b)(1), added par. (5) and struck out former par. (5) which read as follows: “An Under Secretary for Emergency Preparedness and Response.”

Subsec. (a)(6) to (10). Pub. L. 109–295, § 612(b)(3), redesignated pars. (7) to (10) as (6) to (9), respectively. Former par. (6) redesignated (5).

Subsec. (d)(5). Pub. L. 109–347 added par. (5).

2004—Subsec. (a)(8) to (10). Pub. L. 108–458 added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (d)(4), (5). Pub. L. 108–330, § 3(d)(1)(A)(i), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “A Chief Financial Officer.”

Subsecs. (e), (f). Pub. L. 108–330, § 3(d)(1)(A)(ii), (iii), added subsec. (e) and redesignated former subsec. (e) as (f).

2003—Subsec. (b). Pub. L. 108–7 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.”

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L.

109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of this title.

##### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–166, § 6(a), Aug. 10, 2012, 126 Stat. 1295, provided that: “The amendments made by section 2 [see Tables for classification] shall take effect 60 days after the date of enactment of this Act [Aug. 10, 2012] and apply to appointments made on and after that effective date, including any nomination pending in the Senate on that date.”

##### UNDER SECRETARY RESPONSIBLE FOR OVERSEEING CRITICAL INFRASTRUCTURE PROTECTION, CYBERSECURITY AND RELATED PROGRAMS AUTHORIZED TO SERVE AS DIRECTOR OF CYBERSECURITY AND INFRASTRUCTURE SECURITY

For authorization of individual serving as Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity and related programs on the day before Nov. 16, 2018, to continue to serve as Director of Cybersecurity and Infrastructure Security on and after such date, see section 2(b)(1) of Pub. L. 115–278, Nov. 16, 2018, 132 Stat. 4175, set out as a note under section 652 of this title.

#### § 114. Sensitive Security Information

Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: *Provided*, That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coordinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: *Provided further*, That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are 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