fare, prior to repeal by Pub. L. 108–7, div. L, §102(a), Feb. 20, 2003, 117 Stat. 528.

NOTIFICATIONS FOR REPROGRAMMING OR TRANSFER OF FUNDS

Pub. L. 109–90, title V, §503(e), Oct. 18, 2005, 119 Stat. 2082, provided that: ''Hereafter, notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.''

SUBCHAPTER I—DEPARTMENT OF HOMELAND SECURITY

§111. Executive department; mission

(a) Establishment

There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5.

(b) Mission

(1) In general

The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

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

(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and

(H) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) Responsibility for investigating and prosecuting terrorism

Except as specifically provided by law with respect to entities transferred to the Department under this chapter, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

(Pub. L. 107–296, title I, §101, Nov. 25, 2002, 116 Stat. 2142; Pub. L. 108–458, title VIII, §8302, Dec. 17, 2004, 118 Stat. 3867.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), 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.

AMENDMENTS

2004—Subsec. (b)(1)(G), (H). Pub. L. 108–458 added subpar. (G) and redesignated former subpar. (G) as (H).

TRANSFER OF CERTAIN OPM AUTHORITY TO DEPARTMENT OF HOMELAND SECURITY

Pub. L. 109–295, title V, §513, Oct. 4, 2006, 120 Stat. 1378, provided that: ''Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided*, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: *Provided further*, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected pursuant to section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.''

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Directorate for Preparedness, as constituted on June 1, 2006, including the functions of the Under Secretary for Preparedness relating thereto, to the Federal Emergency Management Agency, with certain exceptions, see section 315(a)(2), (b) of this title.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–90, title V, §516, Oct. 18, 2005, 119 Stat. 2084.

Pub. L. 108–334, title V, §518, Oct. 18, 2004, 118 Stat. 1318.

EX. ORD. NO. 13286. AMENDMENT OF EXECUTIVE ORDERS, AND OTHER ACTIONS, IN CONNECTION WITH THE TRANSFER OF CERTAIN FUNCTIONS TO THE SECRETARY OF HOMELAND SECURITY

Ex. Ord. No. 13286, Feb. 28, 2003, 68 F.R. 10619, as amended by Ex. Ord. No. 13442, §1, Aug. 13, 2007, 72 F.R. 45877, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Homeland Security Act of 2002 (Public Law 107–296) [see Tables for classification] and section 301 of title 3, United States Code, and in order to reflect the transfer of certain functions to, and other responsibilities vested in, the Secretary of Homeland Security, the transfer of certain agencies and agency components to the Department of Homeland Security, and the delegation of appropriate responsibilities to the Secretary of Homeland Security, it is hereby ordered as follows:

SECTION 1. [Amended Ex. Ord. No. 13276, set out as a note under section 1182 of Title 8, Aliens and Nationality.]

SEC. 2. [Amended Ex. Ord. No. 13274, set out as a note under section 301 of Title 49, Transportation.]

SEC. 3. [Amended Ex. Ord. No. 13271, set out as a note under section 509 of Title 28, Judiciary and Judicial Procedure.]

SEC. 4. [Amended and revoked Ex. Ord. No. 13260, set out as a note under section 402 of Title 50, War and National Defense.]

SEC. 5. [Amended Ex. Ord. No. 13257, set out as a note under section 7103 of Title 22, Foreign Relations and Intercourse.]

SEC. 6. [Amended Ex. Ord. No. 13254, set out as a note under section 12501 of Title 42, The Public Health and Welfare.]

SEC. 7. [Amended Ex. Ord. No. 13231, set out as a note under section 121 of this title.]

SEC. 8. [Amended Ex. Ord. No. 13228, set out as a note under section 402 of Title 50, War and National Defense.]

SEC. 9. [Amended Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.]

SEC. 10. [Amended Ex. Ord. No. 13212, set out as a note under section 13201 of Title 42, The Public Health and Welfare.]

SEC. 11. [Amended Ex. Ord. No. 13165, set out as a note under section 1701 of Title 21, Food and Drugs.]

SEC. 12. [Amended Ex. Ord. No. 13154.]

SEC. 13. [Amended Ex. Ord. No. 13133.]

SEC. 14. [Amended Ex. Ord. No. 13120, set out as a note under section 12304 of Title 10, Armed Forces.]

SEC. 15. [Amended Ex. Ord. No. 13112, set out as a note under section 4321 of Title 42, The Public Health and Welfare.]

SEC. 16. [Amended Ex. Ord. No. 13100, set out as a note under section 341 of Title 21, Food and Drugs.]

SEC. 17. [Amended Ex. Ord. No. 13076, set out as a note under section 12304 of Title 10, Armed Forces.]

SEC. 18. [Amended Ex. Ord. No. 13011, set out as a note under section 11101 of Title 40, Public Buildings, Property, and Works.]

SEC. 19. [Amended Ex. Ord. No. 12989, set out as a note under section 1324a of Title 8, Aliens and Nationality.]

SEC. 20. [Amended Ex. Ord. No. 12985, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 21. [Amended Ex. Ord. No. 12982, set out as a note under section 12304 of Title 10, Armed Forces.]

SEC. 22. [Amended Ex. Ord. No. 12978, listed in a table under section 1701 of Title 50, War and National Defense.]

SEC. 23. [Amended Ex. Ord. No. 12977, set out as a note under section 121 of Title 40, Public Buildings, Property, and Works.]

SEC. 24. [Amended Ex. Ord. No. 12919, set out as a note under section 2153 of Title 50, Appendix, War and National Defense.]

SEC. 25. [Amended Ex. Ord. No. 12906, set out as a note under section 1457 of Title 43, Public Lands.]

SEC. 26. [Amended Ex. Ord. No. 12870, set out as a note under section 4727 of Title 15, Commerce and Trade.]

SEC. 27. [Amended Ex. Ord. No. 12835, set out as a note under section 1023 of Title 15, Commerce and Trade.]

SEC. 28. [Amended Ex. Ord. No. 12830, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 29. [Amended Ex. Ord. No. 12824, set out as a note under section 492 of Title 14, Coast Guard.]

SEC. 30. [Amended Ex. Ord. No. 12807, set out as a note under section 1182 of Title 8, Aliens and Nationality.]

SEC. 31. [Amended Ex. Ord. No. 12793, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 32. [Amended Ex. Ord. No. 12789, set out as a note under section 1364 of Title 8, Aliens and Nationality.]

SEC. 33. [Amended Ex. Ord. No. 12788, set out as a note under section 2391 of Title 10, Armed Forces.]

SEC. 34. [Amended Ex. Ord. No. 12777, set out as a note under section 1321 of Title 33, Navigation and Navigable Waters.]

SEC. 35. [Amended Ex. Ord. No. 12743, formerly set out as a note under section 12302 of Title 10, Armed Forces.]

SEC. 36. [Amended Ex. Ord. No. 12742, set out as a note under section 82 of Title 50, War and National Defense.]

SEC. 37. [Amended Ex. Ord. No. 12733, set out as a note under section 12304 of Title 10, Armed Forces.]

SEC. 38. [Amended Ex. Ord. No. 12728, set out as a note under section 12305 of Title 10, Armed Forces.]

SEC. 39. [Amended Ex. Ord. No. 12727, set out as a note under section 12304 of Title 10, Armed Forces.]

SEC. 40. [Amended Ex. Ord. No. 12699, set out as a note under section 7704 of Title 42, The Public Health and Welfare.]

SEC. 41. [Amended Ex. Ord. No. 12657, set out as a note under section 5195 of Title 42, The Public Health and Welfare.]

SEC. 42. [(a) to (i) amended Ex. Ord. No. 12656, set out as a note under section 5195 of Title 42, The Public Health and Welfare.]

Without prejudice to subsections (a) through (i) of this section, all responsibilities assigned to specific Federal officials pursuant to Executive Order 12656 that are substantially the same as any responsibility assigned to, or function transferred to, the Secretary of Homeland Security pursuant to the Homeland Security Act of 2002 (regardless of whether such responsibility or function is expressly required to be carried out through another official of the Department of Homeland Security or not pursuant to such Act), or intended or required to be carried out by an agency or an agency component transferred to the Department of Homeland Security pursuant to such Act, are hereby reassigned to the Secretary of Homeland Security.

SEC. 43. [Amended Ex. Ord. No. 12580, set out as a note under section 9615 of Title 42, The Public Health and Welfare.]

SEC. 44. [Amended Ex. Ord. No. 12555, set out as a note under section 2602 of Title 19, Customs Duties.]

SEC. 45. [Amended Ex. Ord. No. 12501, set out as a note under section 4101 of Title 15, Commerce and Trade.]

SEC. 46. [Amended Ex. Ord. No. 12472, set out as a note under section 5195 of Title 42, The Public Health and Welfare.]

SEC. 47. [Amended Ex. Ord. No. 12382, set out as a note under section 901 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.]

SEC. 48. [Amended Ex. Ord. No. 12341, set out as a note under section 1522 of Title 8, Aliens and Nationality.]

SEC. 49. [Amended Ex. Ord. No. 12208, set out as a note under section 1157 of Title 8, Aliens and Nationality.]

SEC. 50. [Amended Ex. Ord. No. 12188, set out as a note under section 2171 of Title 19, Customs Duties.]

SEC. 51. [Amended Ex. Ord. No. 12160, set out as a note under section 3501 of Title 42, The Public Health and Welfare.]

SEC. 52. [Amended Ex. Ord. No. 12148, set out as a note under section 5195 of Title 42, The Public Health and Welfare.]

SEC. 53. [Amended Ex. Ord. No. 12146, set out as a note under section 509 of Title 28, Judiciary and Judicial Procedures.]

SEC. 54. [Amended Ex. Ord. No. 12002, set out as a note under section 2403 of Title 50, Appendix, War and National Defense.]

SEC. 55. [Amended Ex. Ord. No. 11965, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 56. [Amended Ex. Ord. No. 11926, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 57. [Amended Ex. Ord. No. 11858, set out as a note under section 78b of Title 15, Commerce and Trade.]

SEC. 58. [Amended Ex. Ord. No. 11800, formerly set out as a note under section 301a of Title 37, Pay and Allowances of the Uniformed Services.]

SEC. 59. [Amended Ex. Ord. No. 11645, set out as a note under section 475 of Title 14, Coast Guard.]

SEC. 60. [Amended Ex. Ord. No. 11623, set out as a note under section 460 of Title 50, Appendix, War and National Defense.]

SEC. 61. [Amended Ex. Ord. No. 11448, set out as a note preceding section 1121 of Title 10, Armed Forces.]

SEC. 62. [Amended Ex. Ord. No. 11446, set out as a note under section 7342 of Title 5, Government Organization and Employees.]

SEC. 63. [Amended Ex. Ord. No. 11438, set out as a note under section 1124 of Title 10, Armed Forces.]

SEC. 64. [Amended Ex. Ord. No. 11366, set out as a note under section 12303 of Title 10, Armed Forces.]

SEC. 65. [Amended Ex. Ord. No. 11239, set out as a note under former section 1051 of Title 33, Navigation and Navigable Waters.]

SEC. 66. [Amended Ex. Ord. No. 11231.]

SEC. 67. [Amended Ex. Ord. No. 11190, set out as a note under section 10149 of Title 10, Armed Forces.]

SEC. 68. [Amended Ex. Ord. No. 11139.]

SEC. 69. [Amended Ex. Ord. No. 11079, set out as a note under section 2603 of Title 10, Armed Forces.]

SEC. 70. [Amended Ex. Ord. No. 11046, set out as a note under section 3746 of Title 10, Armed Forces.]

SEC. 71. [Amended Ex. Ord. No. 11016.]

SEC. 72. [Amended Ex. Ord. No. 10977.]

SEC. 73. [Amended Ex. Ord. No. 10789, set out as a note under section 1431 of Title 50, War and National Defense.]

SEC. 74. [Amended Ex. Ord. No. 10694.]

SEC. 75. [Amended Ex. Ord. No. 10637, set out as a note under section 301 of Title 3, The President.]

SEC. 76. [Amended Ex. Ord. No. 10631, set out as a note under section 802 of Title 10, Armed Forces.]

SEC. 77. [Amended Ex. Ord. No. 10554, set out as a note under section 772 of Title 10, Armed Forces.]

SEC. 78. [Amended Ex. Ord. No. 10499.]

SEC. 79. [Amended Ex. Ord. No. 10448.]

SEC. 80. [Amended Ex. Ord. No. 10271, set out as a note under section 471 of Title 50, Appendix, War and National Defense.]

SEC. 81. [Amended Ex. Ord. No. 10179.]

SEC. 82. [Amended Ex. Ord. No. 10163.]

SEC. 83. [Amended Ex. Ord. No. 10113, set out as a note under section 418 of Title 37, Pay and Allowances of the Uniformed Services.]

SEC. 84. [Amended Ex. Ord. No. 4601.]

SEC. 85. *Designation as a Defense Agency of the United States.*

I hereby designate the Department of Homeland Security as a defense agency of the United States for the purposes of chapter 17 of title 35 of the United States Code.

SEC. 86. *Exception from the Provisions of the Government Employees Training Act.*

Those elements of the Department of Homeland Security that are supervised by the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis are, pursuant to section 4102(b)(1) of title 5, United States Code, and in the public interest, excepted from the following provisions of the Government Employees Training Act as codified in title 5: sections 4103(a)(1), 4108, 4115, 4117, and 4118, and that part of 4109(a) that provides ''under the regulations prescribed under section 4118(a)(8) of this title and''.

SEC. 87. *Functions of Certain Officials in the Coast Guard.*

The Commandant and the Assistant Commandant for Intelligence of the Coast Guard each shall be considered a ''Senior Official of the Intelligence Community'' for purposes of Executive Order 12333 of December 4, 1981 [50 U.S.C. 401 note], and all other relevant authorities.

SEC. 88. *Order of Succession.*

Subject to the provisions of subsection (b) of this section, the officers named in subsection (a) of this section, in the order listed, shall act as, and perform the functions and duties of the office of, the Secretary of Homeland Security (Secretary), if they are eligible to act as Secretary under the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.* (Vacancies Act), during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

(a) Order of Succession.

(i) Deputy Secretary of Homeland Security;

(ii) Under Secretary for National Protection and Programs;

(iii) Under Secretary for Management;

(iv) Assistant Secretary of Homeland Security (Policy);

(v) Under Secretary for Science and Technology;

(vi) General Counsel;

(vii) Assistant Secretary of Homeland Security (Transportation Security Administration);

(viii) Administrator of the Federal Emergency Management Agency;

(ix) Commissioner of U.S. Customs and Border Protection;

(x) Assistant Secretary of Homeland Security (U.S. Immigration and Customs Enforcement);

(xi) Director of U.S. Citizenship and Immigration Services;

(xii) Chief Financial Officer;

(xiii) Regional Administrator, Region V, Federal Emergency Management Agency;

(xiv) Regional Administrator, Region VI, Federal Emergency Management Agency;

(xv) Regional Administrator, Region VII, Federal Emergency Management Agency;

(xvi) Regional Administrator, Region IX, Federal Emergency Management Agency; and

(xvii) Regional Administrator, Region I, Federal Emergency Management Agency.

(b) Exceptions.

(i) No individual who is serving in an office listed in subsection (a) in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this section.

(ii) Notwithstanding the provisions of this section, the President retains discretion, to the extent permitted by the Vacancies Act, to depart from this order in designating an acting Secretary.

SEC. 89. *Savings Provision.*

Except as otherwise specifically provided above or in Executive Order 13284 of January 23, 2003 (''Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security'') [6 U.S.C. 121 note], references in any prior Executive Order relating to an agency or an agency component that is transferred to the Department of Homeland Security (''the Department''), or relating to a function that is transferred to the Secretary of Homeland Security, shall be deemed to refer, as appropriate, to the Department or its officers, employees, agents, organizational units, or functions.

SEC. 90. Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title.

SEC. 91. Nothing in this order shall be construed to limit or restrict the authorities of the Central Intelligence Agency and the Director of Central Intelligence pursuant to the National Security Act of 1947 [see Short Title note set out under 50 U.S.C. 401] and the CIA Act of 1949 [probably means the Central Intelligence Agency Act of 1949, see Short Title note set out under 50 U.S.C. 403a].

SEC. 92. This order shall become effective on March 1, 2003.

SEC. 93. This order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a) and (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

EXECUTIVE ORDER NO. 13362

Ex. Ord. No. 13362, Nov. 29, 2004, 69 F.R. 70173, which designated additional officers for the Department of Homeland Security order of succession, was revoked by Ex. Ord. No. 13442, § 2, Aug. 13, 2007, 72 F.R. 45878.

§ 112. Secretary; functions

(a) Secretary

(1) In general

There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) Head of Department

The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) Functions vested in Secretary

All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) Functions

The Secretary—

(1) except as otherwise provided by this chapter, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this chapter or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) Coordination with non-Federal entities

With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination[1] (established under section 361 of this title) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

[1] So in original. Probably should be ''Office of State and Local Government Coordination''.

(d) Meetings of National Security Council

The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) Issuance of regulations

The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, except as specifically provided in this chapter, in laws granting regulatory authorities that are transferred by this chapter, and in laws enacted after November 25, 2002.

(f) Special Assistant to the Secretary

The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(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 re-