§ 403–6. Appointment of officials responsible for intelligence-related activities

(a) Recommendation of DNI in certain appointments
(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of National Intelligence shall recommend to the President an individual for nomination to fill the vacancy.
(2) Paragraph (1) applies to the following positions:
   (A) The Principal Deputy Director of National Intelligence.
   (B) The Director of the Central Intelligence Agency.

(b) Concurrence of DNI in appointments to positions in the intelligence community
(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department or agency concerned may advise the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.
(2) Paragraph (1) applies to the following positions:
   (A) The Director of the National Security Agency.
   (B) The Director of the National Reconnaissance Office.
   (C) The Director of the National Geospatial-Intelligence Agency.
   (D) The Assistant Secretary of State for Intelligence and Research.
   (E) The Director of the Office of Intelligence of the Department of Energy.
   (F) The Director of the Office of Counterintelligence of the Department of Energy.
   (G) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.
   (H) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.
   (I) The Under Secretary of Homeland Security for Intelligence and Analysis.

(c) Consultation with DNI in certain positions
(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.
(2) Paragraph (1) applies to the following positions:
   (A) The Director of the Defense Intelligence Agency.
   (B) The Assistant Commandant of the Coast Guard for Intelligence.
   (C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28.
Amendments


2004—Pub. L. 108–458 amended text generally, substituting provisions relating to involvement of Director of National Intelligence in appointments, consisting of subssecs. (a) to (c), for provisions relating to involvement of Director of Central Intelligence in appointments, consisting of subssecs. (a) and (b).


2001—Subsec. (b)(2)(C), (D). Pub. L. 107–108 added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: “The Director of the Office of Nonproliferation and National Security of the Department of Energy.”.

1996—Pub. L. 104–293 amended section generally, substituting provisions relating to appointment of individuals responsible for intelligence-related activities for provisions relating to administrative provisions pertaining to defense elements within the intelligence community.


Effective Date of 2004 Amendment

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.