

follows: “There are authorized to be appropriated to the Secretary for each of fiscal years 2003 through 2008 such sums as are necessary to carry out subsections (a) through (g).”

Pub. L. 109-347, §112(c)(1), redesignated subsec. (h) as (l).

Subsec. (m). Pub. L. 109-347, §112(c)(1), redesignated subsec. (i) as (m).

2004—Subsec. (a). Pub. L. 108-293, §804(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of Transportation, acting through the Maritime Administrator, shall establish a grant program for making a fair and equitable allocation among port authorities, facility operators, and State and local agencies required to provide security services of funds to implement Area Maritime Transportation Security Plans and facility security plans. The program shall take into account national economic and strategic defense considerations.”

Subsec. (c)(2)(B). Pub. L. 108-293, §804(b)(1), substituted “Secretary determines” for “Secretary of Transportation determines”.

Subsecs. (d), (e). Pub. L. 108-293, §804(b)(1), substituted “Secretary” for “Secretary of Transportation” wherever appearing.

Subsec. (f). Pub. L. 108-293, §804(b), substituted “Secretary” for “Secretary of Transportation” in two places and “department in which the Coast Guard is operating” for “Department of Transportation”.

Subsecs. (g), (h). Pub. L. 108-293, §804(b)(1), substituted “Secretary” for “Secretary of Transportation” wherever appearing.

Subsec. (i). Pub. L. 108-293, §808(a), added subsec. (i) and struck out former subsec. (i) which related to research and development grants for port security.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-293, title VIII, §804(c), Aug. 9, 2004, 118 Stat. 1081, provided that: “Subsections (a) and (b) [amending this section]—

“(1) shall take effect October 1, 2004; and

“(2) shall not affect any grant made before that date.”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

### § 70107A. Interagency operational centers for port security

(a) IN GENERAL.—The Secretary shall establish interagency operational centers for port security at all high-priority ports not later than 3 years after the date of the enactment of the SAFE Port Act.

(b) CHARACTERISTICS.—The interagency operational centers established under this section shall—

(1)(A) include—

- (i) information management systems, and
- (ii) sensor management systems; and

(B) where practicable, provide for the physical co-location of the Coast Guard and, as the Secretary determines appropriate, representatives of the United States Customs and Border Protection, the United States Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption;

(2) utilize, as appropriate, the compositional and operational characteristics of existing centers;

(3) be organized to fit the security needs, requirements, and resources of the individual port area at which each is operating; and

(4) be incorporated in the implementation and administration of—

(A) maritime transportation security plans developed under section 70103;

(B) maritime intelligence activities under section 70113 and information sharing activities consistent with section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 485) and the Homeland Security Information Sharing Act (6 U.S.C. 481 et seq.);

(C) short- and long-range vessel tracking under sections 70114 and 70115;

(D) protocols under section 201(b)(10) of the SAFE Port Act;

(E) the transportation security incident response plans required by section 70104; and

(F) other activities, as determined by the Secretary.

(c) SECURITY CLEARANCES.—The Secretary shall sponsor and expedite individuals participating in interagency operational centers in gaining or maintaining their security clearances. Through the Captain of the Port, the Secretary may identify key individuals who should participate. The port or other entities may appeal to the Captain of the Port for sponsorship.

(d) SECURITY INCIDENTS.—During a transportation security incident on or adjacent to waters subject to the jurisdiction of the United States, the Coast Guard Captain of the Port designated by the Commandant of the Coast Guard in a maritime security command center described in subsection (a) shall act as the incident commander, unless otherwise directed by the President.

(e) DEPLOYMENT OF INTEROPERABLE COMMUNICATIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CENTERS.—The Secretary, subject to the availability of appropriations, shall ensure that interoperable communications technology is deployed at all interagency operational centers established under subsection (a) and that such technology and equipment has been tested

in live operational environments before deployment.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect the normal command and control procedures for operational entities in the Department, unless so directed by the Secretary.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$60,000,000 for each of the fiscal years 2007 through 2012 to carry out this section.

(Added Pub. L. 109-347, title I, §108(a), Oct. 13, 2006, 120 Stat. 1892; amended Pub. L. 111-281, title VIII, §§803, 824, Oct. 15, 2010, 124 Stat. 2990, 3003.)

#### REFERENCES IN TEXT

The date of the enactment of the SAFE Port Act, referred to in subsec. (a), is the date of enactment of Pub. L. 109-347, which was approved Oct. 13, 2006.

The Homeland Security Information Sharing Act, referred to in subsec. (b)(4)(B), is subtitle I of title VIII of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2252, which is classified principally to part I (§481 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see section 481 of Title 6 and Tables.

Section 201(b)(10) of the SAFE Port Act, referred to in subsec. (b)(4)(D), is classified to section 941(b)(10) of Title 6, Domestic Security.

#### AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-281, §803(3), added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 111-281, §803(2), (4), redesignated former par. (1) as (2), substituted “existing centers;” for “existing centers, including—” and struck out subpars. (A) and (B) which read as follows:

“(A) the pilot project interagency operational centers for port security in Miami, Florida; Norfolk/Hampton Roads, Virginia; Charleston, South Carolina; and San Diego, California; and

“(B) the virtual operation center of the Port of New York and New Jersey;”.

Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 111-281, §803(1), (2), (5), redesignated former par. (2) as (3), inserted “and” at end, and struck out former par. (3) which read as follows: “in addition to the Coast Guard, provide, as the Secretary determines appropriate, for participation by representatives of the United States Customs and Border Protection, the United States Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption; and”.

Subsecs. (e) to (g). Pub. L. 111-281, §824, added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

#### REPORT REQUIREMENT

Pub. L. 109-347, title I, §108(b), Oct. 13, 2006, 120 Stat. 1893, provided that: “Nothing in this section [enacting this section] or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108-293; 118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.”

#### § 70108. Foreign port assessment

(a) **IN GENERAL.**—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

(1) a foreign port—

(A) served by vessels documented under chapter 121 of this title; or

(B) from which foreign vessels depart on a voyage to the United States; and

(2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

(b) **PROCEDURES.**—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

(1) screening of containerized and other cargo and baggage;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards;

(5) the security management program of the foreign port; and

(6) other appropriate measures to deter terrorism against the United States.

(c) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with—

(1) the Secretary of Defense and the Secretary of State—

(A) on the terrorist threat that exists in each country involved; and

(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

(2) appropriate authorities of foreign governments; and

(3) operators of vessels.

(d) **PERIODIC REASSESSMENT.**—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of anti-terrorism measures maintained at ports as described under subsection (a) and of procedures described in subsection (b) not less than once every 3 years.

(e) **LIMITATION ON STATUTORY CONSTRUCTION.**—The absence of an inspection of a foreign port shall not bar the Secretary from making a finding that a port in a foreign country does not maintain effective antiterrorism measures.

(f) **RECOGNITION OF ASSESSMENT CONDUCTED BY OTHER ENTITIES.**—

(1) **CERTIFICATION AND TREATMENT OF ASSESSMENTS.**—For the purposes of this section and section 70109, the Secretary may treat an assessment that a foreign government (including, for the purposes of this subsection, an entity of or operating under the auspices of the European Union) or international organization has conducted as an assessment that the Secretary has conducted for the purposes of subsection (a), provided that the Secretary certifies that the foreign government or international organization has—

(A) conducted the assessment in accordance with subsection (b); and

(B) provided the Secretary with sufficient information pertaining to its assessment (including, but not limited to, information on the outcome of the assessment).

(2) **AUTHORIZATION TO ENTER INTO AN AGREEMENT.**—For the purposes of this section and