

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

section 70109, the Secretary, in consultation with the Secretary of State, may enter into an agreement with 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, under which parties to the agreement—

(A) conduct an assessment, required under subsection (a);

(B) share information pertaining to such assessment (including, but not limited to, information on the outcome of the assessment); or

(C) both.

(3) LIMITATIONS.—Nothing in this subsection shall be construed to—

(A) require the Secretary to recognize an assessment that a foreign government or an international organization has conducted; or

(B) limit the discretion or ability of the Secretary to conduct an assessment under this section.

(4) NOTIFICATION TO CONGRESS.—Not later than 30 days before entering into an agreement or arrangement with a foreign government under paragraph (2), the Secretary shall notify the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the proposed terms of such agreement or arrangement.

(Added Pub. L. 107–295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2079; amended Pub. L. 109–347, title II, §234, Oct. 13, 2006, 120 Stat. 1918; Pub. L. 111–281, title VIII, §806(a)(1), (c)(2)(B), Oct. 15, 2010, 124 Stat. 2992, 2993; Pub. L. 114–120, title III, §317, Feb. 8, 2016, 130 Stat. 62.)

#### AMENDMENTS

2016—Subsec. (f). Pub. L. 114–120 added subsec. (f).

2010—Subsec. (c)(2) to (4). Pub. L. 111–281, §806(c)(2)(B), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: “the Secretary of the Treasury;”.

Subsec. (e). Pub. L. 111–281, §806(a)(1), added subsec. (e).

2006—Subsec. (d). Pub. L. 109–347 added subsec. (d).

#### § 70109. Notifying foreign authorities

(a) IN GENERAL.—Unless the Secretary finds that a port in a foreign country maintains effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

(b) TRAINING PROGRAM.—The Secretary, in cooperation with the Secretary of State, shall operate a port security training program for ports in foreign countries that are found under section 70108 to lack effective antiterrorism measures.

(Added Pub. L. 107–295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2080; amended Pub. L. 111–281, title VIII, §806(a)(2), Oct. 15, 2010, 124 Stat. 2992.)

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281 substituted “Unless the Secretary finds that a port in a foreign country

maintains effective antiterrorism measures,” for “If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures.”.

#### § 70110. Actions and assistance for foreign ports or facilities and United States territories

(a) IN GENERAL.—Unless the Secretary finds that a foreign port or facility maintains effective antiterrorism measures, the Secretary—

(1) may prescribe conditions of entry into the United States for any vessel arriving from that port or facility, or any vessel carrying cargo or passengers originating from or transhipped through that port or facility;

(2) may deny entry into the United States to any vessel that does not meet such conditions; and

(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port or facility shall take effect—

(1) 90 days after the government of the foreign country with jurisdiction over or control of that port or facility is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port or facility up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port or facility.

(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port or facility does not maintain effective antiterrorism measures.

(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port or facility.

(e) ASSISTANCE FOR FOREIGN PORTS, FACILITIES, AND UNITED STATES TERRITORIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, and the Secretary of Energy, shall identify assistance programs that could facilitate implementation of port or facility security antiterrorism measures in foreign countries and territories of the United States. The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port or facility security antiterrorism measures.

(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of American States and the Commandant of the Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementa-