

which is set out as a note under section 1331 of Title 43, Public Lands.

CHAPTER 701—PORT SECURITY

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2018—Pub. L. 115-282, title IV, §§402(b)(3), 408(c), Dec. 4, 2018, 132 Stat. 4264, 4268, added items 70102a and 70116.

Pub. L. 115-254, div. J, §1809(c)(1), Oct. 5, 2018, 132 Stat. 3538, struck out items 70107A “Interagency operational centers for port security” and 70116 “Secure systems of transportation”.

2016—Pub. L. 114-120, title III, §306(a)(8), Feb. 8, 2016, 130 Stat. 54, inserted a period at end of item 70107A and substituted “Security Advisory Committees” for “security advisory committees” in item 70112 and “Watch Program” for “watch program” in item 70122.

2010—Pub. L. 111-281, title VIII, §828(c)(2), Oct. 15, 2010, 124 Stat. 3007, as amended by Pub. L. 111-330, §1(17)(B)-(D), Dec. 22, 2010, 124 Stat. 3570, added items for subchapters I and II and items 70131 and 70132.

Pub. L. 111-281, title II, §208(b), title VIII, §§801(b), 804(b), 806(c)(2)(C), 807(b), 820(b), 821(c), Oct. 15, 2010, 124 Stat. 2912, 2989, 2991, 2993, 3001, 3003, substituted “Deployable, specialized forces” for “Maritime safety and security teams” in item 70106 and “Actions and assistance for foreign ports or facilities and United States territories” for “Actions and assistance for foreign ports and United States territories” in item 70110, struck out item 70117 “Firearms, arrests, and seizure of property”, and added items 70122 to 70125.

2006—Pub. L. 109-347, title I, §108(d), title II, §233(d), Oct. 13, 2006, 120 Stat. 1893, 1918, added item 70107A and substituted “Actions and assistance for foreign ports and United States territories” for “Actions when foreign ports not maintaining effective antiterrorism measures” in item 70110.

Pub. L. 109-304, §15(33)(E), Oct. 6, 2006, 120 Stat. 1705, which directed the substitution of items 70117 to 70121

for items 70117 to 70119, was executed by making the substitution for items 70117 “Civil penalty”, 70118 “Enforcement”, 70117 “In rem liability for civil penalties and certain costs”, 70118 “Enforcement by injunction or withholding of clearance”, and 70119 “Civil penalty” to reflect the probable intent of Congress.

Pub. L. 109-241, §901(l)(5), July 11, 2006, 120 Stat. 565, which directed amendment of analysis by striking items 70117 through the second 70119 and inserting items 70117 “Firearms, arrests, and seizure of property”, 70118 “Enforcement by State and local officers”, 70119 “Civil penalty”, 70120 “In rem liability for civil penalties and certain costs”, and 70121 “Withholding of clearance”, could not be executed because only one item 70119 appeared.

2004—Pub. L. 108-293, title VIII, §802(c), Aug. 9, 2004, 118 Stat. 1080, added items 70117 “In rem liability for civil penalties and certain costs”, 70118 “Enforcement by injunction or withholding of clearance”, and 70119 “Civil penalty”, and struck out former item 70119 “Enforcement by State and local officers”.

Pub. L. 108-293, title VIII, §801(b), Aug. 9, 2004, 118 Stat. 1078, added items 70118 “Enforcement” and 70119 “Enforcement by State and local officers”.

SUBCHAPTER I—GENERAL

AMENDMENTS

Pub. L. 111-330, §1(17)(A), Dec. 22, 2010, 124 Stat. 3570, amended Pub. L. 111-281, title VIII, §828(c)(1), Oct. 15, 2010, 124 Stat. 3007, which added subchapter I heading.

§ 70101. Definitions

For the purpose of this chapter:

(1) The term “Area Maritime Transportation Security Plan” means an Area Maritime Transportation Security Plan prepared under section 70103(b).

(2) The term “cybersecurity risk” has the meaning given the term in section 227 of the Homeland Security Act of 2002 (6 U.S.C. 148).¹

(3) The term “facility” means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

(4) The term “National Maritime Transportation Security Plan” means the National Maritime Transportation Security Plan prepared and published under section 70103(a).

(5) The term “owner or operator” means—

(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel; and

(B) in the case of a facility, any person owning, leasing, or operating such facility.

(6) The term “Secretary” means the Secretary of the department in which the Coast Guard is operating.

(7) The term “transportation security incident” means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area. In this paragraph, the term “economic disruption” does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employee-employer dispute.

(Added Pub. L. 107-295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2068; amended Pub. L. 109-347, title I, §124, Oct. 13, 2006, 120 Stat. 1900; Pub. L.

¹ See References in Text note below.

115-254, div. J, §1805(b), Oct. 5, 2018, 132 Stat. 3534.)

REFERENCES IN TEXT

Section 227 of the Homeland Security Act of 2002 (6 U.S.C. 148), referred to in par. (2), was originally section 226 of title II of Pub. L. 107-296, as added Pub. L. 113-282, §3(a), Dec. 18, 2014, 128 Stat. 3066; renumbered §227 and amended Pub. L. 114-113, div. N, title II, §§203, 223(a)(3), Dec. 18, 2015, 129 Stat. 2957, 2963; Pub. L. 114-328, div. A, title XVIII, §1841(b), Dec. 23, 2016, 130 Stat. 2663, and was renumbered title XXII, §2209 of Pub. L. 107-296 by Pub. L. 115-278, §2(g)(2)(I), Nov. 16, 2018, 132 Stat. 4178, and transferred to section 659 of Title 6, Domestic Security.

AMENDMENTS

2018—Pars. (2) to (7). Pub. L. 115-254 added par. (2) and redesignated former pars. (2) to (6) as (3) to (7), respectively.

2006—Par. (6). Pub. L. 109-347 inserted at end “In this paragraph, the term ‘economic disruption’ does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employee-employer dispute.”

REGULATIONS

Pub. L. 107-295, title I, §102(d), Nov. 25, 2002, 116 Stat. 2084, provided that:

“(1) INTERIM FINAL RULE AUTHORITY.—The Secretary shall issue an interim final rule as a temporary regulation implementing this section [enacting this subtitle and provisions set out as notes under sections 70104 and 70114 of this title] (including the amendments made by this section) as soon as practicable after the date of enactment of this section [Nov. 25, 2002], without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act [Nov. 25, 2002].

“(2) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.”

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.

MARITIME BORDER SECURITY COOPERATION

Pub. L. 115-254, div. J, §1814, Oct. 5, 2018, 132 Stat. 3540, provided that: “The Secretary of the department in which the Coast Guard is operating shall, in accordance with law—

“(1) partner with other Federal, State, and local government agencies to leverage existing technology, including existing sensor and camera systems and other sensors, in place along the maritime border to facilitate monitoring of high-risk maritime borders, as determined by the Secretary; and

“(2) subject to the availability of appropriations, enter into such agreements as the Secretary considers necessary to ensure the monitoring described in paragraph (1).”

INTEGRATED CROSS-BORDER MARITIME LAW ENFORCEMENT OPERATIONS BETWEEN THE UNITED STATES AND CANADA

Pub. L. 112-213, title VII, §711, Dec. 20, 2012, 126 Stat. 1581, provided that:

“(a) AUTHORIZATION.—The Secretary of Homeland Security, acting through the Commandant of the Coast Guard, may establish an Integrated Cross-Border Maritime Law Enforcement Operations Program to coordinate the maritime security operations of the United States and Canada (in this section referred to as the ‘Program’).

“(b) PURPOSE.—The Secretary, acting through the Commandant, shall administer the Program in a manner that results in a cooperative approach between the United States and Canada to strengthen border security and detect, prevent, suppress, investigate, and respond to terrorism and violations of law related to border security.

“(c) TRAINING.—The Secretary, acting through the Commandant and in consultation with the Secretary of State, may—

“(1) establish, as an element of the Program, a training program for individuals who will serve as maritime law enforcement officers; and

“(2) conduct training jointly with Canada to enhance border security, including training—

“(A) on the detection and apprehension of suspected terrorists and individuals attempting to unlawfully cross or unlawfully use the international maritime border between the United States and Canada;

“(B) on the integration, analysis, and dissemination of port security information by and between the United States and Canada;

“(C) on policy, regulatory, and legal considerations related to the Program;

“(D) on the use of force in maritime security;

“(E) on operational procedures and protection of sensitive information; and

“(F) on preparedness and response to maritime terrorist incidents.

“(d) COORDINATION.—The Secretary, acting through the Commandant, shall coordinate the Program with other similar border security and antiterrorism programs within the Department of Homeland Security.

“(e) MEMORANDA OF AGREEMENT.—The Secretary may enter into any memorandum of agreement necessary to carry out the Program.”

WATERSIDE SECURITY OF ESPECIALLY HAZARDOUS CARGO

Pub. L. 111-281, title VIII, §812, Oct. 15, 2010, 124 Stat. 2995, provided that:

“(a) NATIONAL STUDY.—

“(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall—

“(A) initiate a national study to identify measures to improve the security of maritime transportation of especially hazardous cargo; and

“(B) coordinate with other Federal agencies, the National Maritime Security Advisory Committee, and appropriate State and local government officials through the Area Maritime Security Committees and other existing coordinating committees, to evaluate the waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo.

“(2) MATTERS TO BE INCLUDED.—The study conducted under this subsection shall include—

“(A) an analysis of existing risk assessment information relating to waterside security generated by the Coast Guard and Area Maritime Security Committees as part of the Maritime Security Risk Analysis Model;

“(B) a review and analysis of appropriate roles and responsibilities of maritime stakeholders, including Federal, State, and local law enforcement and industry security personnel, responsible for waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo, including—

“(i) the number of ports in which State and local law enforcement entities are providing any services to enforce Coast Guard-imposed security

zones around vessels transiting to, through, or from United States ports or to conduct security patrols in United States ports;

“(ii) the number of formal agreements entered into between the Coast Guard and State and local law enforcement entities to engage State and local law enforcement entities in the enforcement of Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or the conduct of port security patrols in United States ports, the duration of those agreements, and the aid that State and local entities are engaged to provide through such agreements;

“(iii) the extent to which the Coast Guard has set national standards for training, equipment, and resources to ensure that State and local law enforcement entities engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or in conducting port security patrols in United States ports (or both) can deter to the maximum extent practicable a transportation security incident;

“(iv) the extent to which the Coast Guard has assessed the ability of State and local law enforcement entities to carry out the security assignments that they have been engaged to perform, including their ability to meet any national standards for training, equipment, and resources that have been established by the Coast Guard in order to ensure that those entities can deter to the maximum extent practicable a transportation security incident;

“(v) the extent to which State and local law enforcement entities are able to meet national standards for training, equipment, and resources established by the Coast Guard to ensure that those entities can deter to the maximum extent practicable a transportation security incident;

“(vi) the differences in law enforcement authority, and particularly boarding authority, between the Coast Guard and State and local law enforcement entities, and the impact that these differences have on the ability of State and local law enforcement entities to provide the same level of security that the Coast Guard provides during the enforcement of Coast Guard-imposed security zones and the conduct of security patrols in United States ports; and

“(vii) the extent of resource, training, and equipment differences between State and local law enforcement entities and the Coast Guard units engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or conducting security patrols in United States ports;

“(C) recommendations for risk-based security measures to improve waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo; and

“(D) identification of security funding alternatives, including an analysis of the potential for cost-sharing by the public and private sectors as well as any challenges associated with such cost-sharing.

“(3) INFORMATION PROTECTION.—In carrying out the coordination necessary to effectively complete the study, the Commandant shall implement measures to ensure the protection of any sensitive security information, proprietary information, or classified information collected, reviewed, or shared during collaborative engagement with maritime stakeholders and other Government entities, except that nothing in this paragraph shall constitute authority to withhold information from—

“(A) the Congress; or

“(B) first responders requiring such information for the protection of life or property.

“(4) REPORT.—Not later than 12 months after the date of enactment of this Act [Oct. 15, 2010], the Sec-

retary of the Department in which the Coast Guard is operating shall submit to the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study under this subsection.

“(b) NATIONAL STRATEGY.—Not later than 6 months after submission of the report required by subsection (a), the Secretary of the department in which the Coast Guard is operating shall develop, in conjunction with appropriate Federal agencies, a national strategy for the waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo. The strategy shall utilize the results of the study required by subsection (a).

“(c) SECURITY OF ESPECIALLY HAZARDOUS CARGO.—[Amended section 70103 of this title.]

“(d) DEFINITIONS.—For the purposes of this section, the follow[ing] definitions apply:

“(1) ESPECIALLY HAZARDOUS CARGO.—The term ‘especially hazardous cargo’ means anhydrous ammonia, ammonium nitrate, chlorine, liquefied natural gas, liquefied petroleum gas, and any other substance, material, or group or class of material, in a particular amount and form that the Secretary determines by regulation poses a significant risk of creating a transportation security incident while being transported in maritime commerce.

“(2) AREA MARITIME SECURITY COMMITTEE.—The term ‘Area Maritime Security Committee’ means each of those committees responsible for producing Area Maritime Transportation Security Plans under chapter 701 of title 46, United States Code.

“(3) TRANSPORTATION SECURITY INCIDENT.—The term ‘transportation security incident’ has the same meaning as that term has in section 70101 of title 46, United States Code.”

RISK BASED RESOURCE ALLOCATION

Pub. L. 111-281, title VIII, § 827, Oct. 15, 2010, 124 Stat. 3004, provided that:

“(a) NATIONAL STANDARD.—Within 1 year after the date of enactment of this Act [Oct. 15, 2010], in carrying out chapter 701 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating shall develop and utilize a national standard and formula for prioritizing and addressing assessed security risks at United States ports and facilities on or adjacent to the waterways of the United States, such as the Maritime Security Risk Assessment Model that has been tested by the Department of Homeland Security.

“(b) USE BY MARITIME SECURITY COMMITTEES.—Within 2 years after the date of enactment of this Act, the Secretary shall require each Area Maritime Security Committee to use this standard to regularly evaluate each port’s assessed risk and prioritize how to mitigate the most significant risks.

“(c) OTHER USES OF STANDARD.—The Secretary shall utilize the standard when considering departmental resource allocations and grant making decisions.

“(d) USE OF MARITIME RISK ASSESSMENT MODEL.—Within 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall make the United States Coast Guard’s Maritime Security Risk Assessment Model available, in an unclassified version, on a limited basis to regulated vessels and facilities to conduct true risk assessments of their own facilities and vessels using the same criteria employed by the Coast Guard when evaluating a port area, facility, or vessel.”

WATCH LISTS FOR PASSENGERS ABOARD VESSELS

Pub. L. 108-458, title IV, § 4071, Dec. 17, 2004, 118 Stat. 3729, provided that:

“(a) WATCH LISTS.—

“(1) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of

this Act [Dec. 17, 2004], the Secretary of Homeland Security shall—

“(A) implement a procedure under which the Department of Homeland Security compares information about passengers and crew who are to be carried aboard a cruise ship with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates;

“(B) use the information obtained by comparing the passenger and crew information with the information in the database to prevent known or suspected terrorists and their associates from boarding such ships or to subject them to specific additional security scrutiny, through the use of ‘no transport’ and ‘automatic selectee’ lists or other means.

“(2) WAIVER.—The Secretary may waive the requirement in paragraph (1)(B) with respect to cruise ships embarking at foreign ports if the Secretary determines that the application of such requirement to such cruise ships is impracticable.

“(b) COOPERATION FROM OPERATORS OF CRUISE SHIPS.—The Secretary of Homeland Security shall by rulemaking require operators of cruise ships to provide the passenger and crew information necessary to implement the procedure required by subsection (a).

“(c) MAINTENANCE OF ACCURACY AND INTEGRITY OF ‘NO TRANSPORT’ AND ‘AUTOMATIC SELECTEE’ LISTS.—

“(1) WATCH LIST DATABASE.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall develop guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the ‘no transport’ and ‘automatic selectee’ lists described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the lists.

“(2) ACCURACY OF ENTRIES.—In developing the ‘no transport’ and ‘automatic selectee’ lists under subsection (a)(1)(B), the Secretary shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger and crew screening process. The Secretary shall also establish a process to provide an individual whose name is confused with, or similar to, a name in the watch list database with a means of demonstrating that such individual is not the person named in the database.

“(d) CRUISE SHIP DEFINED.—In this section, the term ‘cruise ship’ means a vessel on an international voyage that embarks or disembarks passengers at a port of United States jurisdiction to which subpart C of part 160 of title 33, Code of Federal Regulations, applies and that provides overnight accommodations.”

VESSEL AND INTERMODAL SECURITY REPORTS

Pub. L. 108-293, title VIII, §809(g), (i), formerly §809(g)–(i), (k), Aug. 9, 2004, 118 Stat. 1087, 1088, renumbered and amended by Pub. L. 113-284, §2(a)(1), (2)(B), Dec. 18, 2014, 128 Stat. 3089, provided that:

“(g) COMPLIANCE WITH SECURITY STANDARDS ESTABLISHED PURSUANT TO MARITIME TRANSPORTATION SECURITY PLANS.—Within 180 days after the date of the enactment of this Act [Aug. 9, 2004] and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall prepare a report on compliance and steps taken to ensure compliance by ports, terminals, vessel operators, and shippers with security standards established pursuant to section 70103 of title 46, United States Code. The reports shall also include a summary of security standards established pursuant to such section during the previous year. The Secretary shall submit the reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(h) Repealed. Pub. L. 113-284, §2(a)(1), Dec. 18, 2014, 128 Stat. 3089.]

“(i) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General of the department in which the Coast Guard is operating may submit any plan or report required by this section in both classified and redacted formats, if the Secretary determines that it is appropriate or necessary.”

[(k) Redesignated (i).]

FINDINGS

Pub. L. 107-295, title I, §101, Nov. 25, 2002, 116 Stat. 2066, provided that:

“The Congress makes the following findings:

“(1) There are 361 public ports in the United States that are an integral part of our Nation’s commerce.

“(2) United States ports handle over 95 percent of United States overseas trade. The total volume of goods imported and exported through ports is expected to more than double over the next 20 years.

“(3) The variety of trade and commerce carried out at ports includes bulk cargo, containerized cargo, passenger transport and tourism, and intermodal transportation systems that are complex to secure.

“(4) The United States is increasingly dependent on imported energy for a substantial share of its energy supply, and a disruption of that share of supply would seriously harm consumers and our economy.

“(5) The top 50 ports in the United States account for about 90 percent of all the cargo tonnage. Twenty-five United States ports account for 98 percent of all container shipments. Cruise ships visiting foreign destinations embark from at least 16 ports. Ferries in the United States transport 113,000,000 passengers and 32,000,000 vehicles per year.

“(6) Ports often are a major locus of Federal crime, including drug trafficking, cargo theft, and smuggling of contraband and aliens.

“(7) Ports are often very open and exposed and are susceptible to large scale acts of terrorism that could cause a large loss of life or economic disruption.

“(8) Current inspection levels of containerized cargo are insufficient to counter potential security risks. Technology is currently not adequately deployed to allow for the nonintrusive inspection of containerized cargo.

“(9) The cruise ship industry poses a special risk from a security perspective.

“(10) Securing entry points and other areas of port facilities and examining or inspecting containers would increase security at United States ports.

“(11) Biometric identification procedures for individuals having access to secure areas in port facilities are important tools to deter and prevent port cargo crimes, smuggling, and terrorist actions.

“(12) United States ports are international boundaries that—

“(A) are particularly vulnerable to breaches in security;

“(B) may present weaknesses in the ability of the United States to realize its national security objectives; and

“(C) may serve as a vector or target for terrorist attacks aimed at the United States.

“(13) It is in the best interests of the United States—

“(A) to have a free flow of interstate and foreign commerce and to ensure the efficient movement of cargo;

“(B) to increase United States port security by establishing improving communication among law enforcement officials responsible for port security;

“(C) to formulate requirements for physical port security, recognizing the different character and nature of United States port facilities, and to require the establishment of security programs at port facilities;

“(D) to provide financial assistance to help the States and the private sector to increase physical security of United States ports;

“(E) to invest in long-term technology to facilitate the private sector development of technology

that will assist in the nonintrusive timely detection of crime or potential crime at United States ports;

“(F) to increase intelligence collection on cargo and intermodal movements to address areas of potential threat to safety and security; and

“(G) to promote private sector procedures that provide for in-transit visibility and support law enforcement efforts directed at managing the security risks of cargo shipments.

“(14) On April 27, 1999, the President established the Interagency Commission on Crime and Security in United States Ports to undertake a comprehensive study of the nature and extent of the problem of crime in our ports, as well as the ways in which governments at all levels are responding. The Commission concluded that frequent crimes in ports include drug smuggling, illegal car exports, fraud, and cargo theft. Internal conspiracies are an issue at many ports and contribute to Federal crime. Criminal organizations are exploiting weak security at ports to commit a wide range of cargo crimes. Intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many ports. A lack of minimum physical and personnel security standards at ports and related facilities leaves many ports and port users very vulnerable. Access to ports and operations within ports is often uncontrolled. Security-related and detection-related equipment, such as small boats, cameras, large-scale x-ray machines, and vessel tracking devices, are lacking at many ports.

“(15) The International Maritime Organization and other similar international organizations are currently developing a new maritime security system that contains the essential elements for enhancing global maritime security. Therefore, it is in the best interests of the United States to implement new international instruments that establish such a system.”

MARITIME SECURITY PROFESSIONAL TRAINING

Pub. L. 107-295, title I, §109, Nov. 25, 2002, 116 Stat. 2090, provided that:

“(a) IN GENERAL.—

“(1) DEVELOPMENT OF STANDARDS.—Not later than 6 months after the date of enactment of this Act [Nov. 25, 2002], the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, as amended by this Act.

“(2) SECRETARY TO CONSULT ON STANDARDS.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy’s Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

“(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include the following elements:

“(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background check process for personnel trained and certified in foreign ports.

“(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

“(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

“(c) TRAINING PROVIDED TO LAW ENFORCEMENT AND SECURITY PERSONNEL.—

“(1) IN GENERAL.—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or maritime security personnel in the United States or to personnel employed in foreign ports used by vessels with United States citizens as passengers or crewmembers.

“(2) ACADEMIES AND SCHOOLS.—The Secretary may provide training under this section at—

“(A) each of the 6 State maritime academies;

“(B) the United States Merchant Marine Academy;

“(C) the Appalachian Transportation Institute;

and

“(D) other security training schools in the United States.

“(d) USE OF CONTRACT RESOURCES.—The Secretary may employ Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act [see Tables for classification].

“(e) ANNUAL REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$5,500,000 for each of fiscal years 2003 through 2008.”

[For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 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.]

REPORT ON TRAINING CENTER

Pub. L. 107-295, title I, §110(b), Nov. 25, 2002, 116 Stat. 2091, provided that: “The Commandant of the United States Coast Guard, in conjunction with the Secretary of the Navy, shall submit to Congress a report, at the time they submit their fiscal year 2005 budget, on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security. The purpose of the Center would be to provide an integrated training complex to prevent and mitigate terrorist threats against coastal and maritime assets of the United States, including ports, harbors, ships, dams, reservoirs, and transport nodes.”

PERFORMANCE STANDARDS

Pub. L. 107-295, title I, §111, Nov. 25, 2002, 116 Stat. 2092, provided that: “Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, in consultation with the Transportation Security Oversight Board, shall—

“(1) develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

“(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.”

REPORT ON FOREIGN-FLAG VESSELS

Pub. L. 107-295, title I, §112, Nov. 25, 2002, 116 Stat. 2092, which required the Secretary of the department in

which the Coast Guard is operating to provide an annual report regarding all nations whose flag vessels have entered United States ports in the previous year, a separate list of those nations whose registered flag vessels present certain irregularities, actions taken to improve transparency and security of vessel registration procedures in those nations, and recommendations for legislative or other actions to improve security of United States ports, was repealed by Pub. L. 111-207, §4(a)(2), July 27, 2010, 124 Stat. 2251.

§ 70102. United States facility and vessel vulnerability assessments

(a) INITIAL ASSESSMENTS.—The Secretary shall conduct an assessment of vessel types and United States facilities on or adjacent to the waters subject to the jurisdiction of the United States to identify those vessel types and United States facilities that pose a high risk of being involved in a transportation security incident.

(b) FACILITY AND VESSEL ASSESSMENTS.—(1) Based on the information gathered under subsection (a) of this section, the Secretary shall conduct a detailed vulnerability assessment of the facilities and vessels that may be involved in a transportation security incident. The vulnerability assessment shall include the following:

(A) Identification and evaluation of critical assets and infrastructures.

(B) Identification of the threats to those assets and infrastructures.

(C) Identification of weaknesses in physical security, security against cybersecurity risks, passenger and cargo security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, contingency response, and other areas as determined by the Secretary.

(2) Upon completion of an assessment under this subsection for a facility or vessel, the Secretary shall provide the owner or operator with a copy of the vulnerability assessment for that facility or vessel.

(3) The Secretary shall update each vulnerability assessment conducted under this section at least every 5 years.

(4) In lieu of conducting a facility or vessel vulnerability assessment under paragraph (1), the Secretary may accept an alternative assessment conducted by or on behalf of the owner or operator of the facility or vessel if the Secretary determines that the alternative assessment includes the matters required under paragraph (1).

(c) SHARING OF ASSESSMENT INTEGRATION OF PLANS AND EQUIPMENT.—The owner or operator of a facility, consistent with any Federal security restrictions, shall—

(1) make a current copy of the vulnerability assessment conducted under subsection (b) available to the port authority with jurisdiction of the facility and appropriate State or local law enforcement agencies; and

(2) integrate, to the maximum extent practical, any security system for the facility with compatible systems operated or maintained by the appropriate State, law enforcement agencies, and the Coast Guard.

(Added Pub. L. 107-295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2068; amended Pub. L. 108-458, title

IV, §4072(b), Dec. 17, 2004, 118 Stat. 3730; Pub. L. 111-281, title VIII, §822, Oct. 15, 2010, 124 Stat. 3003; Pub. L. 115-254, div. J, §1805(d)(1), Oct. 5, 2018, 132 Stat. 3535.)

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-254, §1805(d)(1)(A), struck out “and by not later than December 31, 2004” after “subsection (a) of this section” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 115-254, §1805(d)(1)(B), inserted “security against cybersecurity risks,” after “physical security.”

2010—Subsec. (c). Pub. L. 111-281 added subsec. (c).
2004—Subsec. (b)(1). Pub. L. 108-458 substituted “and by not later than December 31, 2004, the Secretary” for “; the Secretary” in introductory provisions.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-254, div. J, §1805(d)(3), Oct. 5, 2018, 132 Stat. 3535, provided that: “The amendments made by this subsection [amending this section and section 70103 of this title] shall apply to assessments or security plans, or updates to such assessments or plans, submitted after the date that the cybersecurity risk assessment model is developed under subsection (a) [46 U.S.C. 70112 note].”

COORDINATION WITH TSA ON MARITIME FACILITIES

Pub. L. 115-254, div. J, §1803, Oct. 5, 2018, 132 Stat. 3533, provided that: “The Secretary of Homeland Security shall—

“(1) provide the Administrator of the TSA [Transportation Security Administration] with updates to vulnerability assessments required under section 70102(b)(3) of title 46, United States Code, to avoid any duplication of effort between the Coast Guard and the TSA; and

“(2) identify any security gaps between authorities of operating entities within the Department of Homeland Security that a threat could exploit to cause a transportation security incident (as defined in section 70101 of title 46, United States Code).”

DEFINITIONS

Pub. L. 115-254, div. J, §1802, Oct. 5, 2018, 132 Stat. 3533, provided that: “In this division [see section 1801 of Pub. L. 115-254, set out as a Short Title of 2018 Amendment note under section 101 of this title]:

“(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Commerce, Science, and Transportation of the Senate;

“(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(C) the Committee on Homeland Security of the House of Representatives; and

“(D) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) TSA.—The term ‘TSA’ means the Transportation Security Administration.”

§ 70102a. Port, harbor, and coastal facility security

(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

(1) an individual, vessel, or public or commercial structure, that is—

(A) subject to the jurisdiction of the United States; and

(B) located within or adjacent to the marine environment; or

(2) a vessel of the United States or an individual on board that vessel.

(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—