

relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

**(3) Certificate**

For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

**(e) Exclusion**

Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

(Pub. L. 107-296, title VIII, § 863, Nov. 25, 2002, 116 Stat. 2239.)

**§ 443. Risk management**

**(a) In general**

**(1) Liability insurance required**

Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal Government customers ("Seller") shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

**(2) Maximum amount**

For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

**(3) Scope of coverage**

Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their

potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) Contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) Contractors, subcontractors, suppliers, and vendors of the customer.

**(4) Third party claims**

Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

**(b) Reciprocal waiver of claims**

The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

**(c) Extent of liability**

Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

(Pub. L. 107-296, title VIII, § 864, Nov. 25, 2002, 116 Stat. 2240.)

**§ 444. Definitions**

For purposes of this part, the following definitions apply:

**(1) Qualified anti-terrorism technology**

For purposes of this part, the term "qualified anti-terrorism technology" means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

**(2) Act of terrorism**

(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

- (i) is unlawful;
- (ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and
- (iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

**(3) Insurance carrier**

The term “insurance carrier” means any corporation, association, society, order, firm, company, mutual,<sup>1</sup> partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

**(4) Liability insurance**

**(A)<sup>2</sup> In general**

The term “liability insurance” means insurance for legal liabilities incurred by the insured resulting from—

- (i) loss of or damage to property of others;
- (ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;
- (iii) bodily injury (including) to persons other than the insured or its employees; or
- (iv) loss resulting from debt or default of another.

**(5) Loss**

The term “loss” means death, bodily injury, or loss of or damage to property, including business interruption loss.

**(6) Non-Federal Government customers**

The term “non-Federal Government customers” means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85–804 [50 U.S.C. 1431 et seq.] to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

(Pub. L. 107–296, title VIII, § 865, Nov. 25, 2002, 116 Stat. 2241.)

REFERENCES IN TEXT

Public Law 85–804, referred to in par. (6), is Pub. L. 85–804, Aug. 28, 1958, 72 Stat. 972, as amended, which is classified generally to chapter 29 (§1431 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

PART H—MISCELLANEOUS PROVISIONS

**§ 451. Advisory committees**

**(a) In general**

The Secretary may establish, appoint members of, and use the services of, advisory com-

<sup>1</sup> So in original.

<sup>2</sup> So in original. No subpar. (B) has been enacted.

mittees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18 for official actions taken as a member of such advisory committee.

**(b) Termination**

Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

(Pub. L. 107–296, title VIII, § 871, Nov. 25, 2002, 116 Stat. 2243.)

REFERENCES IN TEXT

Public Law 92–463, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, known as the Federal Advisory Committee Act, which is set out in the Appendix to Title 5, Government Organization and Employees.

**§ 452. Reorganization**

**(a) Reorganization**

The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

- (1) pursuant to section 542(b) of this title; or
- (2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

**(b) Limitations**

**(1) In general**

Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this chapter.

**(2) Abolitions**

Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

(Pub. L. 107–296, title VIII, § 872, Nov. 25, 2002, 116 Stat. 2243.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), 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 chap-