and ''freight of whatever kind or description'' for consistency and to eliminate unnecessary words.

Subsection (a) is substituted for ''With a view of securing reciprocal advantages for the citizens, ports, and vessels of the United States'' to improve the organization of the section.

In subsection (b), the words ''and so often as'' are omitted as unnecessary. The word ''burdened'' is substituted for ''made difficult or burdensome'', the word ''unreasonable'' is substituted for ''reciprocally unjust and unreasonable'', the words ''the President by proclamation may suspend'' are substituted for ''he shall have the power, and it shall be his duty, to suspend by proclamation to that effect'', the words ''even when carried in vessels of the United States'' are substituted for ''whether carried in vessels of the United States or of other nations'', and the words ''The suspension shall apply to the extent and for the time the President considers appropriate'' are substituted for ''for such time and to such extent (including absolute prohibition) as he shall deem just'', to eliminate unnecessary words.

In subsection (c)(1), the words ''the President shall impose a toll of'' are substituted for ''tolls shall be levied, collected, and paid as follows, to wit: . . . as shall be from time to time determined by the President'' for clarity and to eliminate unnecessary words.

In subsection (c)(2), the word ''landed'' is substituted for ''carried to and landed'' to eliminate unnecessary words.

In subsection (d), the Secretary of Homeland Security is substituted for the Commissioner of Customs because the functions of the Customs Service and of the Secretary of the Treasury relating thereto were transferred to the Secretary of Homeland Security by section 403(1) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2178). The functions of the Commissioner of Customs previously were vested in the Secretary of the Treasury under section 321(c) of title 31. For prior related transfers of functions, see the transfer of functions note under 46 App. U.S.C. 145.

In subsection (d)(2), the words ''a port described in subsection (c)(2) of this section'' are substituted for ''some port or place within the limits above named'' for clarity.

# Subtitle VII—Security and Drug Enforcement


| Chapter | | Sec. |
|---|---|---|
| **701.** | **Port Security** | **70101** |
| **703.** | **Maritime Security** | **70301** |
| **705.** | **Maritime Drug Law Enforcement** | **70501** |


AMENDMENTS

2008—Pub. L. 110–181, div. C, title XXXV, § 3529(c)(1), Jan. 28, 2008, 122 Stat. 603, repealed Pub. L. 109–304, § 9(a). See 2006 Amendment note below.

2006—Pub. L. 109–304, § 10(1), Oct. 6, 2006, 120 Stat. 1683, amended analysis generally, substituting ''Security and Drug Enforcement'' for ''Miscellaneous'' in subtitle heading and adding items 703 and 705.

Pub. L. 109–304, § 9(a), Oct. 6, 2006, 120 Stat. 1674, which directed amendment identical to that made by Pub. L. 109–241, was repealed by Pub. L. 110–181, § 3529(c)(1), with Pub. L. 109–304, § 9(a), to be treated as if never enacted. See note below.

Pub. L. 109–241, title IX, § 901(k)(1), July 11, 2006, 120 Stat. 564, redesignated subtitle VI of this title as subtitle VII.

## CHAPTER 701—PORT SECURITY


Sec.
70101. Definitions.
70102. United States facility and vessel vulnerability assessments.
70103. Maritime transportation security plans.
70104. Transportation security incident response.
70105. Transportation security cards.
70106. Maritime safety and security teams.
70107. Grants.
70107A. Interagency operational centers for port security[1]
70108. Foreign port assessment.
70109. Notifying foreign authorities.
70110. Actions and assistance for foreign ports and United States territories.
70111. Enhanced crewmember identification.
70112. Maritime security advisory committees.[2]
70113. Maritime intelligence.
70114. Automatic identification systems.
70115. Long-range vessel tracking system.
70116. Secure systems of transportation.
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.
70121. Withholding of clearance.


AMENDMENTS

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''.

### § 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 ''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.

(3) The term ''National Maritime Transportation Security Plan'' means the National Maritime Transportation Security Plan prepared and published under section 70103(a).

(4) The term ''owner or operator'' means—

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

[1] So in original. Probably should be followed by a period.

[2] So in original. Does not conform to section catchline.

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

(5) The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating.

(6) 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.)

AMENDMENTS

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.

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), (k), Aug. 9, 2004, 118 Stat. 1087, 1088, provided that:

''(g) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—Within 180 days after the date of the enactment of this Act [Aug. 9, 2004] and annually thereafter, the Inspector General of the department in which the Coast Guard is operating shall prepare a report that includes an assessment of—

''(1) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

''(2) the sources of information, and the quality of the information at the time of reporting, used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

''(3) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

''(4) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

''(5) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

''(h) ACTION REPORT.—If the Inspector General of the department in which the Coast Guard is operating de-

termines in any of the reports prepared under subsection (g) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then the Secretary of the department in which the Coast Guard is operating shall, within 90 days, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure [of the] House of Representatives on what actions will be taken to correct deficiencies identified in the Inspector General Report.

''(i) 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.

''(k) 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.''

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.''

REPORT ON FOREIGN-FLAG VESSELS

Pub. L. 107–295, title I, §112, Nov. 25, 2002, 116 Stat. 2092, provided that: ''Within 6 months after the date of enactment of this Act [Nov. 25, 2002] and every year thereafter, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of State, shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that lists the following information:

''(1) A list of all nations whose flag vessels have entered United States ports in the previous year.

''(2) Of the nations on that list, a separate list of those nations—

''(A) whose registered flag vessels appear as Priority III or higher on the Boarding Priority Matrix maintained by the Coast Guard;

''(B) that have presented, or whose flag vessels have presented, false, intentionally incomplete, or fraudulent information to the United States concerning passenger or cargo manifests, crew identity or qualifications, or registration or classification of their flag vessels;

''(C) whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications or do not exercise adequate control over safety and security concerns; or

''(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

''(3) Actions taken by the United States, whether through domestic action or international negotiation, including agreements at the International Maritime Organization under section 902 of the International Maritime and Port Security Act (46 U.S.C. App. 1801) [now 46 U.S.C. 70302], to improve transparency and security of vessel registration procedures in nations on the list under paragraph (2).

''(4) Recommendations for legislative or other actions needed to improve security of United States ports against potential threats posed by flag vessels of nations named in paragraph (2).''

## § 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 and by not later than December 31, 2004, 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, 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).

(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.)

AMENDMENTS

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.

### § 70103. Maritime transportation security plans

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—(1) Not later than April 1, 2005, the Secretary shall prepare a National Maritime Transportation Security Plan for deterring and responding to a transportation security incident.

(2) The National Maritime Transportation Security Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from a transportation security incident, and shall include the following:

(A) Assignment of duties and responsibilities among Federal departments and agencies and coordination with State and local governmental agencies.

(B) Identification of security resources.

(C) Procedures and techniques to be employed in deterring a national transportation security incident.

(D) Establishment of procedures for the coordination of activities of—

(i) Coast Guard maritime security teams established under this chapter; and

(ii) Federal Maritime Security Coordinators required under this chapter.

(E) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of a transportation security incident and imminent threats of such a security incident to the appropriate State and Federal agencies.

(F) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a transportation security incident, or the substantial threat of such a security incident.

(G) Designation of—

(i) areas for which Area Maritime Transportation Security Plans are required to be prepared under subsection (b); and

(ii) a Coast Guard official who shall be the Federal Maritime Security Coordinator for each such area.

(H) A risk-based system for evaluating the potential for violations of security zones designated by the Secretary on the waters subject to the jurisdiction of the United States.

(I) A recognition of certified systems of intermodal transportation.

(J) A plan for ensuring that the flow of cargo through United States ports is reestablished as efficiently and quickly as possible after a transportation security incident.

(3) The Secretary shall, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Security Plan.

(4) Actions by Federal agencies to deter and minimize damage from a transportation security incident shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Security Plan.

(5) The Secretary shall inform vessel and facility owners or operators of the provisions in the National Transportation Security Plan that the Secretary considers necessary for security purposes.

(b) AREA MARITIME TRANSPORTATION SECURITY PLANS.—(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—

(A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and

(B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.

(2) The Area Maritime Transportation Security Plan for an area shall—

(A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to deter a transportation security incident in or near the area to the maximum extent practicable;

(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

(E) include any other information the Secretary requires;

(F) include a salvage response plan—

(i) to identify salvage equipment capable of restoring operational trade capacity; and

(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as effi-

ciently and quickly as possible after a maritime transportation security incident; and

(G) be updated at least every 5 years by the Federal Maritime Security Coordinator.

(3) The Secretary shall—

(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

(B) periodically review previously approved Area Maritime Transportation Security Plans.

(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

(c) VESSEL AND FACILITY SECURITY PLANS.—(1) Within 6 months after the prescription of interim final regulations on vessel and facility security plans, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a security plan for the vessel or facility, for deterring a transportation security incident to the maximum extent practicable.

(2) The vessels and facilities referred to in paragraph (1)—

(A) except as provided in subparagraph (B), are vessels and facilities that the Secretary believes may be involved in a transportation security incident; and

(B) do not include any vessel or facility owned or operated by the Department of Defense.

(3) A security plan required under this subsection shall—

(A) be consistent with the requirements of the National Maritime Transportation Security Plan and Area Maritime Transportation Security Plans;

(B) identify the qualified individual having full authority to implement security actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);

(C) include provisions for—

(i) establishing and maintaining physical security, passenger and cargo security, and personnel security;

(ii) establishing and controlling access to secure areas of the vessel or facility, including access by persons engaged in the surface transportation of intermodal containers in or out of a port facility;

(iii) procedural security policies;

(iv) communications systems; and

(v) other security systems;

(D) identify, and ensure by contract or other means approved by the Secretary, the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident;

(E) describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility, to be carried out under the plan to deter to the maximum extent practicable a transportation security incident, or a substantial threat of such a security incident;

(F) provide a strategy and timeline for conducting training and periodic unannounced drills;

(G) be updated at least every 5 years;

(H) be resubmitted for approval of each change to the vessel or facility that may substantially affect the security of the vessel or facility; and

(I) in the case of a security plan for a facility, be resubmitted for approval of each change in the ownership or operator of the facility that may substantially affect the security of the facility.

(4) The Secretary shall—

(A) promptly review each such plan;

(B) require amendments to any plan that does not meet the requirements of this subsection;

(C) approve any plan that meets the requirements of this subsection; and

(D) subject to the availability of appropriations, verify the effectiveness of each such facility security plan periodically, but not less than 2 times per year, at least 1 of which shall be an inspection of the facility that is conducted without notice to the facility.

(5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after the end of the 12-month period beginning on the date of the prescription of interim final regulations on vessel and facility security plans, unless—

(A) the plan has been approved by the Secretary; and

(B) the vessel or facility is operating in compliance with the plan.

(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a security plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator of the vessel or facility certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.

(7) The Secretary shall require each owner or operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures, including cargo security programs, to deter to the maximum extent practicable a transportation security incident until the security plan for that vessel or facility operator is approved.

(8)(A) The Secretary shall require that the qualified individual having full authority to implement security actions for a facility described in paragraph (2) shall be a citizen of the United States.

(B) The Secretary may waive the requirement of subparagraph (A) with respect to an individual if the Secretary determines that it is appropriate to do so based on a complete background check of the individual and a review of all terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.

(d) NONDISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

(1) facility security plans, vessel security plans, and port vulnerability assessments; and

(2) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2069; amended Pub. L. 108–458, title IV, § 4072(a), Dec. 17, 2004, 118 Stat. 3730; Pub. L. 109–347, title I, §§ 101–103, 113(c), Oct. 13, 2006, 120 Stat. 1887, 1888, 1896.)

AMENDMENTS

2006—Subsec. (b)(2)(F), (G). Pub. L. 109–347, § 101, added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (c)(3)(C)(ii). Pub. L. 109–347, § 102(1)(A), substituted ''facility, including access by persons engaged in the surface transportation of intermodal containers in or out of a port facility'' for ''facility''.

Subsec. (c)(3)(F), (G). Pub. L. 109–347, § 113(c), added subpar. (F) and redesignated former subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (c)(3)(H). Pub. L. 109–347, § 113(c)(1), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Pub. L. 109–347, § 102(1)(B)–(D), added subpar. (H).

Subsec. (c)(3)(I). Pub. L. 109–347, § 113(c)(1), redesignated subpar. (H) as (I).

Subsec. (c)(4)(D). Pub. L. 109–347, § 103, amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''review each plan periodically thereafter.''

Subsec. (c)(8). Pub. L. 109–347, § 102(2), added par. (8).

2004—Subsec. (a)(1). Pub. L. 108–458 substituted ''Not later than April 1, 2005, the Secretary'' for ''The Secretary''.

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.

RISK ASSESSMENT TOOL

Pub. L. 109–347, title I, § 111, Oct. 13, 2006, 120 Stat. 1894, provided that: ''In updating Area Maritime Security Plans required under section 70103(b)(2)(F) [now section 70103(b)(2)(G)] of title 46, United States Code, and in applying for grants under section 70107 of such title, the Secretary of the Department in which the Coast Guard is operating shall make available, and Area Maritime Security Committees may use a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard.''

REVISION OF PORT SECURITY PLANNING GUIDE

Pub. L. 107–295, title I, § 113, Nov. 25, 2002, 116 Stat. 2093, provided that: ''The Secretary of Transportation, acting through the Maritime Administration and after consultation with the National Maritime Security Advisory Committee and the Coast Guard, shall publish a revised version of the document entitled 'Port Security: A National Planning Guide', incorporating the requirements prescribed under chapter 701 of title 46, United States Code, as amended by this Act, within 3 years after the date of enactment of this Act [Nov. 25, 2002], and make that revised document available on the Internet.''

## § 70104. Transportation security incident response

(a) FACILITY AND VESSEL RESPONSE PLANS.—The Secretary shall—

(1) establish security incident response plans for vessels and facilities that may be involved in a transportation security incident; and

(2) make those plans available to the Administrator of the Federal Emergency Management Agency for inclusion in the Administrator's response plan for United States ports and waterways.

(b) CONTENTS.—Response plans developed under subsection (a) shall provide a comprehensive response to an emergency, including notifying and coordinating with local, State, and Federal authorities, including the Administrator of the Federal Emergency Management Agency, securing the facility or vessel, and evacuating facility and vessel personnel.

(c) INCLUSION IN SECURITY PLAN.—A response plan required under this subsection for a vessel or facility may be included in the security plan prepared under section 70103(c).

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2072; amended Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' and ''Administrator's'' substituted for ''Director of the Federal Emergency Management Agency'' and ''Director's'', respectively, on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

DEADLINE

Pub. L. 107–295, title I, § 102(c), Nov. 25, 2002, 116 Stat. 2084, provided that: ''The Secretary shall establish the

plans required under section 70104(a)(1) of title 46, United States Code, as enacted by this Act, before April 1, 2003.''

**§ 70105. Transportation security cards**

(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a biometric transportation security card to an individual specified in paragraph (2), unless the Secretary determines under subsection (c) that the individual poses a security risk warranting denial of the card.

(2) This subsection applies to—

(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

(C) a vessel pilot;

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel;

(E) an individual with access to security sensitive information as determined by the Secretary;

(F) other individuals engaged in port security activities as determined by the Secretary; and

(G) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection.

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) DISQUALIFICATIONS.—

(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

(i) Espionage or conspiracy to commit espionage.

(ii) Sedition or conspiracy to commit sedition.

(iii) Treason or conspiracy to commit treason.

(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.

(v) A crime involving a transportation security incident.

(vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.

(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—

(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

(III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).

(viii) Murder.

(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

(x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the defendant consists of one of the crimes listed in this subparagraph.

(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

(ii) Extortion.

(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

(iv) Bribery.

(v) Smuggling.

(vi) Immigration violations.

(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

(viii) Arson.

(ix) Kidnaping or hostage taking.

(x) Rape or aggravated sexual abuse.

(xi) Assault with intent to kill.

(xii) Robbery.

(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

(xv) A violation of the chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act[1] or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

(II) for causing a severe transportation security incident;

(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(iv) otherwise poses a terrorism security risk to the United States.

(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).

(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under subparagraph (A), (B), or (D)[2] paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

(3) DENIAL OF WAIVER REVIEW.—

(A) IN GENERAL.—The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

(B) SCOPE OF REVIEW.—In conducting a review under the process established pursuant to subparagraph (A), the administrative law judge shall be governed by the standards of section 706 of title 5. The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

(C) CLASSIFIED EVIDENCE.—The Secretary, in consultation with the National Intelligence Director, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

(D) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(i) REVIEW.—As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

(ii) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

(iii) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not

[1] So in original. Probably should be followed by a comma.

[2] So in original. Probably should be followed by ''of''.

to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause (i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

(E) NEW EVIDENCE.—The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied.

(4) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

(5) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

(A) conduct a background records check regarding the individual; and

(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

(2) A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history databases.

(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international databases or other appropriate means.

(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer.

(2) Any information constituting grounds for denial of a transportation security card under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed of whether or not the individual has been issued the card under this section.

(f) DEFINITION.—In this section, the term ''alien'' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(g) APPLICATIONS FOR MERCHANT MARINERS' DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46, United States Code, and an application from that individual for a transportation security card under this section.

(h) FEES.—The Secretary shall ensure that the fees charged each individual applying for a transportation security card under this section who has passed a background check under section 5103a(d) of title 49, United States Code, and who has a current hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current merchant mariners' document who has passed a criminal background check under section 7302(d)—

(1) are for costs associated with the issuance, production, and management of the transportation security card, as determined by the Secretary; and

(2) do not include costs associated with performing a background check for that individual, except for any incremental costs in the event that the scope of such background checks diverge.

(i) IMPLEMENTATION SCHEDULE.—In implementing the transportation security card program under this section, the Secretary shall—

(1) establish a priority for each United States port based on risk, including vulnerabilities assessed under section 70102; and

(2) implement the program, based upon such risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at—

(A) the 10 United States ports that the Secretary designates top priority not later than July 1, 2007;

(B) the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and

(C) all other United States ports not later than January 1, 2009.

(j) TRANSPORTATION SECURITY CARD PROCESSING DEADLINE.—Not later than January 1, 2009, the Secretary shall process and issue or deny each application for a transportation security card under this section for individuals with current and valid merchant mariners' documents on the date of the enactment of the SAFE Port Act.

(k) DEPLOYMENT OF TRANSPORTATION SECURITY CARD READERS.—

(1) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary shall conduct a pilot program to test the business processes, technology, and operational impacts required to deploy transportation security card readers at secure areas of the marine transportation system.

(B) GEOGRAPHIC LOCATIONS.—The pilot program shall take place at not fewer than 5 distinct geographic locations, to include vessels and facilities in a variety of environmental settings.

(C) COMMENCEMENT.—The pilot program shall commence not later than 180 days after the date of the enactment of the SAFE Port Act.

(2) CORRELATION WITH TRANSPORTATION SECURITY CARDS.—

(A) IN GENERAL.—The pilot program described in paragraph (1) shall be conducted concurrently with the issuance of the transportation security cards described in subsection (b) to ensure card and card reader interoperability.

(B) FEE.—An individual charged a fee for a transportation security card issued under this section may not be charged an additional fee if the Secretary determines different transportation security cards are needed based on the results of the pilot program described in paragraph (1) or for other reasons related to the technology requirements for the transportation security card program.

(3) REGULATIONS.—Not later than 2 years after the commencement of the pilot program under paragraph (1)(C), the Secretary, after a notice and comment period that includes at least 1 public hearing, shall promulgate final regulations that require the deployment of transportation security card readers that are consistent with the findings of the pilot program and build upon the regulations prescribed under subsection (a).

(4) REPORT.—Not later than 120 days before the promulgation of regulations under paragraph (3), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(1) of SAFE Port Act) that includes—

(A) the findings of the pilot program with respect to technical and operational impacts of implementing a transportation security card reader system;

(B) any actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with such regulations; and

(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.

(*l*) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the SAFE Port Act, and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(1) of the SAFE Port Act).

(m) LIMITATION.—The Secretary may not require the placement of an electronic reader for transportation security cards on a vessel unless—

(1) the vessel has more individuals on the crew that are required to have a transportation security card than the number the Secretary determines, by regulation issued under subsection (k)(3), warrants such a reader; or

(2) the Secretary determines that the vessel is at risk of a severe transportation security incident.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2073; amended Pub. L. 109–241, title III, § 309, July 11, 2006, 120 Stat. 528; Pub. L. 109–347, title I, § 104(a), (b), Oct. 13, 2006, 120 Stat. 1888, 1890; Pub. L. 110–53, title XIII, § 1309(a), Aug. 3, 2007, 121 Stat. 397.)

REFERENCES IN TEXT

Section 5845 of the Internal Revenue Code of 1986, referred to in subsec. (c)(1)(A)(vii)(III), (B)(i)(I), is classified to section 5845 of Title 26, Internal Revenue Code.

The Immigration and Nationality Act, referred to in subsec. (c)(1)(D)(iii), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Classified Information Procedures Act, referred to in subsec. (c)(3)(D)(i), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The date of the enactment of the SAFE Port Act, referred to in subsecs. (j), (k)(1)(C), (*l*), is the date of enactment of Pub. L. 109–347, which was approved Oct. 13, 2006.

Section 2(1) of the SAFE Port Act, referred to in subsecs. (k)(4), (*l*), is classified to section 901(1) of Title 6, Domestic Security.

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–53, § 1309(a)(1), substituted ''determines under subsection (c) that the individual poses a security risk'' for ''decides that the individual poses a security risk under subsection (c)''.

Subsec. (c)(1). Pub. L. 110–53, § 1309(a)(2), inserted heading and amended text of par. (1) generally, substituting provisions relating to disqualifications, consisting of subpars. (A) to (E), for former provisions relating to when individuals may be denied transportation security cards, consisting of subpars. (A) to (D).

2006—Subsec. (b)(2)(G). Pub. L. 109–347, § 104(b)(1), added subpar. (G).

Subsec. (c)(2). Pub. L. 109–347, § 104(b)(2), inserted ''subparagraph (A), (B), or (D)'' before ''paragraph (1)''.

Subsec. (c)(3) to (5). Pub. L. 109–241 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsecs. (g) to (m). Pub. L. 109–347, § 104(a), added subsecs. (g) to (m).

DEADLINE FOR SECTION 70105 REGULATIONS

Pub. L. 109–347, title I, § 104(c), Oct. 13, 2006, 120 Stat. 1891, provided that: ''Not later than January 1, 2007, the Secretary [of Homeland Security] shall promulgate final regulations implementing the requirements for issuing transportation security cards under section 70105 of title 46, United States Code. The regulations shall include a background check process to enable newly hired workers to begin working unless the Secretary makes an initial determination that the worker poses a security risk. Such process shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government.''

PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO PERSONS CONVICTED OF CERTAIN FELONIES

Pub. L. 109–347, title I, § 106, Oct. 13, 2006, 120 Stat. 1891, provided that: ''The Secretary [of Homeland Security], in issuing a final rule pursuant to section 70105 of title 46, United States Code, shall provide for the disqualification of individuals who have been found guilty or have been found not guilty by reason of insanity of a felony, involving—

''(1) treason, or conspiracy to commit treason;

''(2) espionage, or conspiracy to commit espionage;

''(3) sedition, or conspiracy to commit sedition; or

''(4) a crime listed in chapter 113B of title 18, United States Code, a comparable State law, or conspiracy to commit such crime.''

### § 70106. Maritime safety and security teams

(a) IN GENERAL.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish such maritime safety and security teams as are needed to safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with the transportation security plans developed under section 70103.

(b) MISSION.—Each maritime safety and security team shall be trained, equipped, and capable of being employed to—

(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

(2) enforce moving or fixed safety or security zones established pursuant to law;

(3) conduct high speed intercepts;

(4) board, search, and seize any article or thing on or at, respectively, a vessel or facility found to present a risk to the vessel or facility, or to a port;

(5) rapidly deploy to supplement United States armed forces domestically or overseas;

(6) respond to criminal or terrorist acts within a port so as to minimize, insofar as possible, the disruption caused by such acts;

(7) assist with facility vulnerability assessments required under this chapter; and

(8) carry out any other missions of the Coast Guard as are assigned to it by the Secretary.

(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2074; amended Pub. L. 109–241, title III, § 305, July 11, 2006, 120 Stat. 528.)

AMENDMENTS

2006—Subsec. (b)(8). Pub. L. 109–241 substituted ''any other missions of the Coast Guard'' for ''other security missions''.

### § 70107. Grants

(a) IN GENERAL.—The Secretary shall establish a grant program for the allocation of funds based on risk to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services. Before awarding a grant under the program, the Secretary shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic, energy, and strategic defense concerns based upon the most current risk assessments available.

(b) ELIGIBLE COSTS.—The following costs of funding the correction of Coast Guard identified vulnerabilities in port security and ensuring compliance with Area Maritime Transportation Security Plans and facility security plans are eligible to be funded:

(1) Salary, benefits, overtime compensation, retirement contributions, and other costs of additional Coast Guard mandated security personnel.

(2) The cost of acquisition, operation, and maintenance of security equipment or facilities to be used for security monitoring and recording, security gates and fencing, marine barriers for designated security zones, security-related lighting systems, remote surveillance, concealed video systems, security vessels, and other security-related infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers. Grants awarded under this section may not be used to construct buildings or other physical facilities, except those which are constructed under terms and conditions consistent with the requirements under section 611(j)(8) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121(j)(8)[1]), including those facilities in support of this paragraph, and specifically approved by the Secretary. Costs eligible for funding under this paragraph may not exceed the greater of—

(A) $1,000,000 per project; or

(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the grant.

(3) The cost of screening equipment, including equipment that detects weapons of mass destruction and conventional explosives, and of testing and evaluating such equipment, to certify secure systems of transportation.

(4) The cost of conducting vulnerability assessments to evaluate and make recommendations with respect to security.

(5) The cost of conducting exercises or training for prevention and detection of, preparedness for, response to, or recovery from terrorist attacks.

(6) The cost of establishing or enhancing mechanisms for sharing terrorism threat information and ensuring that the mechanisms are interoperable with Federal, State, and local agencies.

(7) The cost of equipment (including software) required to receive, transmit, handle, and store classified information.

(c) MATCHING REQUIREMENTS.—

(1) 75-PERCENT FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) EXCEPTIONS.—

(A) SMALL PROJECTS.—There are no matching requirements for grants under subsection (a) for projects costing not more than $25,000.

(B) HIGHER LEVEL OF SUPPORT REQUIRED.—If the Secretary determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching require-

[1] So in original. Probably should be ''5196(j)(8)''.

ment other than that specified in paragraph (1).

(d) COORDINATION AND COOPERATION AGREEMENTS.—The Secretary shall ensure that projects paid for, or the costs of which are reimbursed, under this section within any area or port are coordinated with other projects, and may require cooperative agreements among users of the port and port facilities with respect to projects funded under this section.

(e) MULTIPLE-YEAR PROJECTS.—

(1) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to such authorities, operators, and agencies.

(2) LIMITATION.—Not more than 20 percent of the grant funds awarded under this subsection in any fiscal year may be awarded for projects that span multiple years.

(f) CONSISTENCY WITH PLANS.—The Secretary shall ensure that each grant awarded under subsection (e)—

(1) is used to supplement and support, in a consistent and coordinated manner, the applicable Area Maritime Transportation Security Plan; and

(2) is coordinated with any applicable State or Urban Area Homeland Security Plan.

(g) APPLICATIONS.—Any entity subject to an Area Maritime Transportation Security Plan may submit an application for a grant under this section, at such time, in such form, and containing such information and assurances as the Secretary may require.

(h) REPORTS.—Not later than 180 days after the date of the enactment of the SAFE Port Act, the Secretary, acting through the Commandant of the Coast Guard, shall submit a report to Congress, in a secure format, describing the methodology used to allocate port security grant funds on the basis of risk.

(i) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall require eligible port authorities, facility operators, and State and local agencies required to provide security services, to submit an application, at such time, in such form, and containing such information and assurances as the Secretary may require, and shall include appropriate application, review, and delivery mechanisms.

(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application for payment or reimbursement of eligible costs shall include, at a minimum, the following:

(A) A copy of the applicable Area Maritime Transportation Security Plan or facility security plan.

(B) A comprehensive description of the need for the project, and a statement of the project's relationship to the applicable Area Maritime Transportation Security Plan or facility security plan.

(C) A determination by the Captain of the Port that the security project addresses or corrects Coast Guard identified vulnerabilities in security and ensures compliance with Area Maritime Transportation Security Plans and facility security plans.

(3) PROCEDURAL SAFEGUARDS.—The Secretary shall by regulation establish appropriate accounting, reporting, and review procedures to ensure that amounts paid or reimbursed under this section are used for the purposes for which they were made available, all expenditures are properly accounted for, and amounts not used for such purposes and amounts not obligated or expended are recovered.

(4) PROJECT APPROVAL REQUIRED.—The Secretary may approve an application for the payment or reimbursement of costs under this section only if the Secretary is satisfied that—

(A) the project is consistent with Coast Guard vulnerability assessments and ensures compliance with Area Maritime Transportation Security Plans and facility security plans;

(B) enough money is available to pay the project costs that will not be reimbursed by the United States Government under this section;

(C) the project will be completed without unreasonable delay; and

(D) the recipient has authority to carry out the project as proposed.

(j) AUDITS AND EXAMINATIONS.—A recipient of amounts made available under this section shall keep such records as the Secretary may require, and make them available for review and audit by the Secretary, the Comptroller General of the United States, or the Inspector General of the department in which the Coast Guard is operating.

(k) REPORTS ON SECURITY FUNDING AND COMPLIANCE.—

(1) INITIAL REPORT.—Within 6 months after the date of enactment of this Act, the Secretary shall transmit an unclassified report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, that—

(A) includes a funding proposal and rationale to fund the correction of Coast Guard identified vulnerabilities in port security and to help ensure compliance with Area Maritime Transportation Security Plans and facility security plans for fiscal years 2003 through 2008; and

(B) includes projected funding proposals for fiscal years 2003 through 2008 for the following security programs:

(i) The Sea Marshall program.

(ii) The Automated Identification System and a system of polling vessels on entry into United States waters.

(iii) The maritime intelligence requirements in this Act.

(iv) The issuance of transportation security cards required by section 70105.

(v) The program of certifying secure systems of transportation.

(2) OTHER EXPENDITURES.—The Secretary shall, as part of the report required by paragraph (1) report, in coordination with the Commissioner of Customs, on projected expenditures of screening and detection equipment and on cargo security programs over fiscal years 2003 through 2008.

(3) ANNUAL REPORTS.—Annually, beginning 1 year after transmittal of the report required

by paragraph (1) until October 1, 2009, the Secretary shall transmit an unclassified annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on progress in achieving compliance with the correction of Coast Guard identified vulnerabilities in port security and compliance with Area Maritime Transportation Security Plans and facility security plans that—

(A) identifies any modifications necessary in funding to ensure the correction of Coast Guard identified vulnerabilities and ensure compliance with Area Maritime Transportation Security Plans and facility security plans;

(B) includes an assessment of progress in implementing the grant program established by subsection (a);

(C) includes any recommendations the Secretary may make to improve these programs; and

(D) with respect to a port selected by the Secretary, describes progress and enhancements of applicable Area Maritime Transportation Security Plans and facility security plans and how the Maritime Transportation Security Act of 2002 has improved security at that port.

(*l*) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

(m) INVESTIGATIONS.—

(1) IN GENERAL.—The Secretary shall conduct investigations, fund pilot programs, and award grants, to examine or develop—

(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

(B) equipment to detect accurately explosives, chemical, or biological agents that could be used in a transportation security incident against the United States;

(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including sensors that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential transportation security incidents that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

(F) tools to mitigate the consequences of a transportation security incident on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a transportation security incident;

(G) applications to apply existing technologies from other areas or industries to increase overall port security;

(H) improved container design, including blast-resistant containers; and

(I) methods to improve security and sustainability of port facilities in the event of a maritime transportation security incident, including specialized inspection facilities.

(2) IMPLEMENTATION OF TECHNOLOGY.—

(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Secretary may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

(i) testing of new detection and screening technologies;

(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

(iii) tools for responding to a transportation security incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2005 through 2009 to carry out this subsection.

(3) NATIONAL PORT SECURITY CENTERS.—

(A) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements with eligible nonprofit institutions of higher learning to conduct investigations in collaboration with ports and the maritime transportation industry focused on enhancing security of the Nation's ports in accordance with this subsection through National Port Security Centers.

(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, a nonprofit institution of higher learning, or a consortium of such institutions, shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(C) COMPETITIVE SELECTION PROCESS.—The Secretary shall select grant recipients under this paragraph through a competitive process on the basis of the following criteria:

(i) Whether the applicant can demonstrate that personnel, laboratory, and organizational resources will be available to the applicant to carry out the investigations authorized in this paragraph.

(ii) The applicant's capability to provide leadership in making national and regional contributions to the solution of immediate and long-range port and maritime transportation security and risk mitigation problems.

(iii) Whether the applicant can demonstrate that is[2] has an established, nationally recognized program in disciplines that contribute directly to maritime transportation safety and education.

(iv) Whether the applicant's investigations will involve major United States ports on the East Coast, the Gulf Coast, and the West Coast, and Federal agencies and other entities with expertise in port and maritime transportation.

(v) Whether the applicant has a strategic plan for carrying out the proposed investigations under the grant.

(4) ADMINISTRATIVE PROVISIONS.—

(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary shall coordinate with other Federal agencies to ensure the grant will not duplicate work already being conducted with Federal funding.

(B) ACCOUNTING.—The Secretary shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the department in which the Coast Guard is operating and the Secretary for audit and examination.

(5) ANNUAL REVIEW AND REPORT.—The Inspector General of the department in which the Coast Guard is operating shall annually review the programs established under this subsection to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided, and report the findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2075; amended Pub. L. 108–293, title VIII, §§ 804(a), (b), 808(a), Aug. 9, 2004, 118 Stat. 1081, 1083; Pub. L. 109–347, title I, § 112, Oct. 13, 2006, 120 Stat. 1894.)

REFERENCES IN TEXT

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

The date of enactment of this Act, referred to in subsec. (k)(1), probably means the date of enactment of Pub. L. 107–295, which enacted this section and was approved Nov. 25, 2002.

This Act, referred to in subsec. (k)(1)(B)(iii), probably means the Maritime Transportation Security Act of 2002, which enacted this subtitle, see note below.

The Maritime Transportation Security Act of 2002, referred to in subsec. (k)(3)(D), is Pub. L. 107–295, Nov. 25, 2002, 116 Stat. 2064. For complete classification of this Act to the Code, see Tables.

[2] So in original. Probably should be ''the applicant''.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–347, § 112(a), (e), substituted ''for the allocation of funds based on risk'' for ''for making a fair and equitable allocation of funds'' and ''national economic, energy, and strategic defense concerns based upon the most current risk assessments available'' for ''national economic and strategic defense concerns''.

Subsec. (b)(2). Pub. L. 109–347, § 112(b)(1), inserted at end ''Grants awarded under this section may not be used to construct buildings or other physical facilities, except those which are constructed under terms and conditions consistent with the requirements under section 611(j)(8) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121(j)(8)), including those facilities in support of this paragraph, and specifically approved by the Secretary. Costs eligible for funding under this paragraph may not exceed the greater of—'' and subpars. (A) and (B).

Subsec. (b)(5) to (7). Pub. L. 109–347, § 112(b)(2), added pars. (5) to (7).

Subsecs. (e) to (i). Pub. L. 109–347, § 112(c)(1), added subsecs. (e) to (h). Former subsecs. (e) to (i) redesignated (i) to (m), respectively.

Subsec. (i)(1). Pub. L. 109–347, § 112(c)(2), substituted ''Secretary shall require'' for ''program shall require''.

Subsecs. (j), (k). Pub. L. 109–347, § 112(c)(1), redesignated subsecs. (f) and (g) as (j) and (k), respectively.

Subsec. (*l*). Pub. L. 109–347, § 112(d), amended subsec. (*l*) generally. Prior to amendment, subsec. (*l*) read as 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 relat-

ing 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.

### § 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) utilize, as appropriate, the compositional and operational characteristics of existing centers, including—

(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;

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

(3) 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

(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) 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.

(f) 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.)

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.

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) the Secretary of the Treasury;

(3) appropriate authorities of foreign governments; and

(4) operators of vessels.

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

(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.)

AMENDMENTS

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

### § 70109. Notifying foreign authorities

(a) IN GENERAL.—If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain 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.)

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

(a) IN GENERAL.—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary—

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

(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 shall take effect—

(1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port 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.

(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port 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.

(e) ASSISTANCE FOR FOREIGN PORTS 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 security antiterrorism measures in foreign countries and territories of the United States. The Secretary shall establish a program to utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries and territories of the United States that the Secretary finds to lack effective 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 implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

(A) the strategic location of such ports between South America and the United States;

(B) the relative openness of such ports; and

(C) the significant number of shipments of narcotics to the United States that are moved through such ports.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2080; amended Pub. L. 109–347, title II, § 233(b), Oct. 13, 2006, 120 Stat. 1917.)

AMENDMENTS

2006—Pub. L. 109–347, § 233(b)(1), substituted ''Actions and assistance for foreign ports and United States territories'' for ''Actions when foreign ports not maintaining effective antiterrorism measures'' in section catchline.

Subsec. (e). Pub. L. 109–347, § 233(b)(2), added subsec. (e).

### § 70111. Enhanced crewmember identification

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of the SAFE Port Act, the Secretary, in consultation with the Attorney General and the Secretary of State, shall require crewmembers on vessels calling at United States ports to carry and present on demand any identification that the Secretary decides is necessary.

(b) FORMS AND PROCESS.—Not later than 1 year after the date of enactment of the SAFE Port Act, the Secretary, in consultation with the Attorney General and the Secretary of State, shall establish the proper forms and process that shall be used for identification and verification of crewmembers.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2080; amended Pub. L. 109–347, title I, § 110, Oct. 13, 2006, 120 Stat. 1893.)

REFERENCES IN TEXT

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

AMENDMENTS

2006—Subsecs. (a), (b). Pub. L. 109–347 substituted ''Not later than 1 year after the date of enactment of the SAFE Port Act, the'' for ''The''.

INTERNATIONAL SEAFARER IDENTIFICATION

Pub. L. 107–295, title I, § 103, Nov. 25, 2002, 116 Stat. 2084, provided that:

''(a) TREATY INITIATIVE.—The Secretary of the department in which the Coast Guard is operating is encouraged to negotiate an international agreement, or an amendment to an international agreement, that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and another country to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.

''(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete a negotiation process undertaken under subsection (a) within 24 months after the date of enactment of this Act [Nov. 25, 2002], the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.''

[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.]

### § 70112. Maritime Security Advisory Committees

(a) ESTABLISHMENT OF COMMITTEES.—(1) The Secretary shall establish a National Maritime Security Advisory Committee. The Committee—

(A) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security matters;

(B) may make available to the Congress recommendations that the Committee makes to the Secretary; and

(C) shall meet at the call of—

(i) the Secretary, who shall call such a meeting at least once during each calendar year; or

(ii) a majority of the Committee.

(2)(A) The Secretary may—

(i) establish an Area Maritime Security Advisory Committee for any port area of the United States; and

(ii) request such a committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.

(B) A committee established under this paragraph for an area—

(i) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;

(ii) may make available to the Congress recommendations that the committee makes to the Secretary; and

(iii) shall meet at the call of—

(I) the Secretary, who shall call such a meeting at least once during each calendar year; or

(II) a majority of the committee.

(b) MEMBERSHIP.—(1) Each of the committees established under subsection (a) shall consist of not less than 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

(2) The term of each member shall be for a period of not more than 5 years, specified by the Secretary.

(3) Before appointing an individual to a position on such a committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the committee.

(4) The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee.

(5) The membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—(1) Each committee established under subsection (a) shall elect 1 of its members as the Chairman and 1 of its members as the Vice Chairperson.

(2) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

(d) OBSERVERS.—(1) The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with the Committee.

(2) The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and rec-

ommendations of the Committee in formulating policy regarding matters affecting maritime security.

(f) COMPENSATION AND EXPENSES.—(1) A member of a committee established under this section, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5 including travel time; and

(B) travel or transportation expenses under section 5703 of title 5.

(2) A member of such a committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

(g) FACA; TERMINATION.—(1) The Federal Advisory Committee Act (5 U.S.C. App.)—

(A) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 2008; and

(B) does not apply to Area Maritime Security Advisory Committees established under this section.

(2) Not later than September 30, 2006, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2081; amended Pub. L. 108–293, title VIII, § 806, Aug. 9, 2004, 118 Stat. 1082; Pub. L. 109–241, title IX, § 901(m), July 11, 2006, 120 Stat. 565.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsecs. (d)(2) and (g)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (b)(5). Pub. L. 109–241 realigned margins.
2004—Subsec. (b)(5). Pub. L. 108–293 added par. (5).

### § 70113. Maritime intelligence

(a) IN GENERAL.—The Secretary shall implement a system to collect, integrate, and analyze information concerning vessels operating on or bound for waters subject to the jurisdiction of the United States, including information related to crew, passengers, cargo, and intermodal shipments. The system may include a vessel risk profiling component that assigns incoming vessels a terrorism risk rating.

(b) CONSULTATION.—In developing the information system under subsection (a), the Secretary shall consult with the Transportation Security Oversight Board and other departments and agencies, as appropriate.

(c) INFORMATION INTEGRATION.—To deter a transportation security incident, the Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2082; amended Pub. L. 108–293, title VIII, § 803(a), Aug. 9, 2004, 118 Stat. 1080.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–293 inserted at end ''The system may include a vessel risk profiling component that assigns incoming vessels a terrorism risk rating.''

### § 70114. Automatic identification systems

(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

(A) A self-propelled commercial vessel of at least 65 feet overall in length.

(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

(C) A towing vessel of more than 26 feet overall in length and 600 horsepower.

(D) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

(2) The Secretary may—

(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary if the Secretary finds that automatic identification systems are not needed for safe navigation on those waters.

(b) REGULATIONS.—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2082.)

EFFECTIVE DATE

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

''(1) SCHEDULE.—Section 70114 of title 46, United States Code, as enacted by this Act, shall apply as follows:

''(A) On and after January 1, 2003, to any vessel built after that date.

''(B) On and after July 1, 2003, to any vessel built before the date referred to in subparagraph (A) that is—

''(i) a passenger vessel required to carry a certificate under the International Convention for the Safety of Life at Sea, 1974 (SOLAS) [see 33 U.S.C. 1602 and notes thereunder];

''(ii) a tanker; or

''(iii) a towing vessel engaged in moving a tank vessel.

''(C) On and after December 31, 2004, to all other vessels built before the date referred to in subparagraph (A).

''(2) DEFINITION.—The terms in this subsection have the same meaning as those terms have under section 2101 [now also 115] of title 46, United States Code.''

### § 70115. Long-range vessel tracking system

Not later than April 1, 2007, the Secretary shall, consistent with international treaties, conventions, and agreements to which the United States is a party, develop and implement a long-range automated vessel tracking system for all vessels in United States waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The system shall be designed to provide the Secretary the capability of receiving information on vessel positions at interval positions appropriate to deter transportation security incidents. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2083; amended Pub. L. 108–293, title VIII, § 803(b), Aug. 9, 2004, 118 Stat. 1080; Pub. L. 109–347, title I, § 107(a), Oct. 13, 2006, 120 Stat. 1891.)

AMENDMENTS

2006—Pub. L. 109–347, in first sentence, substituted ''Not later than April 1, 2007, the Secretary'' for ''The Secretary''.

2004—Pub. L. 108–293, in first sentence, substituted ''shall, consistent with international treaties, conventions, and agreements to which the United States is a party,'' for ''may''.

REGULATIONS

Pub. L. 109–347, title I, § 107(b), Oct. 13, 2006, 120 Stat. 1891, provided that: ''The Secretary [of Homeland Security] may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued under such section.''

LONG-RANGE VESSEL TRACKING SYSTEM

Pub. L. 109–241, title IV, § 404, July 11, 2006, 120 Stat. 535, provided that:

''(a) PILOT PROJECT.—The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, shall conduct a 3-year pilot program for long-range tracking of up to 2,000 vessels using satellite systems with a nonprofit maritime organization that has a demonstrated capability of operating a variety of satellite communications systems providing data to vessel tracking software and hardware that provides long-range vessel information to the Coast Guard to aid maritime security and response to maritime emergencies.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $4,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out subsection (a).''

### § 70116. Secure systems of transportation

(a) IN GENERAL.—The Secretary, in consultation with the Transportation Security Oversight Board, shall establish a program to evaluate and certify secure systems of international intermodal transportation.

(b) ELEMENTS OF PROGRAM.—The program shall include—

(1) establishing standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

(2) establishing standards and procedures for securing cargo and monitoring that security while in transit;

(3) developing performance standards to enhance the physical security of shipping containers, including standards for seals and locks;

(4) establishing standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

(5) any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2083.)

REPORT ON SECURE SYSTEM OF TRANSPORTATION PROGRAM

Pub. L. 107–295, title I, § 110(c), Nov. 25, 2002, 116 Stat. 2092, provided that:

''Within 1 year after the secure system of transportation program is implemented under section 70116 of title 46, United States Code, as amended by this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committees on Commerce, Science, and Transportation and Finance and the House of Representatives Committees on Transportation and Infrastructure and Ways and Means that—

''(1) evaluates the secure system of transportation program and its components;

''(2) states the Secretary's view as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than requiring imported goods to clear customs under existing procedures and for the requirements of the National Maritime Security Plan for reopening of United States ports to commerce;

''(3) states the Secretary's view as to the integrity of the procedures, technology, or systems evaluated as part of the program;

''(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for preclearance of imports of waterborne goods and for the requirements of the National Maritime Security Plan for the reopening of United States ports to Commerce;

''(5) describes the impact of the program on staffing levels at the department in which the Coast Guard is operating, and the Customs Service; and

''(6) states the Secretary's views as to whether there is a method by which the United States could validate foreign ports so that cargo from those ports is preapproved for entry into the United States and for the purpose of the requirements of the National Maritime Security Plan for the reopening of United States ports to commerce.''

[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.]

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.''

[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.]

### § 70117. Firearms, arrests, and seizure of property

Subject to guidelines approved by the Secretary, members of the Coast Guard may, in the performance of official duties—

(1) carry a firearm; and

(2) while at a facility—

(A) make an arrest without warrant for any offense against the United States committed in their presence; and

(B) seize property as otherwise provided by law.

(Added Pub. L. 108–293, title VIII, § 801(a), Aug. 9, 2004, 118 Stat. 1078, § 70118; renumbered § 70117, Pub. L. 109–241, title IX, § 901(*l*)(1), July 11, 2006, 120 Stat. 565; Pub. L. 109–304, § 15(33)(A), Oct. 6, 2006, 120 Stat. 1705; Pub. L. 110–181, div. C, title XXXV, § 3529(c)(1), Jan. 28, 2008, 122 Stat. 603.)

PRIOR PROVISIONS

A prior section 70117 was renumbered section 70120 of this title.

Another prior section 70117 was renumbered section 70119 of this title.

AMENDMENTS

2008—Pub. L. 110–181 repealed Pub. L. 109–304, § 15(33)(A). See 2006 Amendment note below.

2006—Pub. L. 109–304, § 15(33)(A), which directed renumbering identical to that made by Pub. L. 109–241, was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241 renumbered section 70118 of this title, as added by Pub. L. 108–293, § 801(a), as this section.

CONSTRUCTION OF 2006 AMENDMENT

Provisions of Pub. L. 109–304 repealed by section 3529(c)(1) of Pub. L. 110–181 to be treated as if never enacted, see section 3529(c)(2) of Pub. L. 110–181, set out as a note under section 9504 of Title 26, Internal Revenue Code.

### § 70118. Enforcement by State and local officers

(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

(1) such violation is a felony; and

(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.

(Added Pub. L. 108–293, title VIII, § 801(a), Aug. 9, 2004, 118 Stat. 1078, § 70119; renumbered § 70118, Pub. L. 109–241, title IX, § 901(*l*)(1), July 11, 2006, 120 Stat. 565; Pub. L. 109–304, § 15(33)(A), Oct. 6, 2006, 120 Stat. 1705; Pub. L. 110–181, div. C, title XXXV, § 3529(c)(1), Jan. 28, 2008, 122 Stat. 603.)

PRIOR PROVISIONS

A prior section 70118 was renumbered section 70117 of this title.

Another prior section 70118 was renumbered section 70121 of this title.

AMENDMENTS

2008—Pub. L. 110–181 repealed Pub. L. 109–304, § 15(33)(A). See 2006 Amendment note below.

2006—Pub. L. 109–304, § 15(33)(A), which directed renumbering identical to that made by Pub. L. 109–241, was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241 renumbered section 70119 of this title, as added by Pub. L. 108–293, § 801(a), as this section.

CONSTRUCTION OF 2006 AMENDMENT

Provisions of Pub. L. 109–304 repealed by section 3529(c)(1) of Pub. L. 110–181 to be treated as if never enacted, see section 3529(c)(2) of Pub. L. 110–181, set out as a note under section 9504 of Title 26, Internal Revenue Code.

### § 70119. Civil penalty

(a) IN GENERAL.—Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than $25,000 for each day during which the violation continues.

(b) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this section shall not exceed $50,000.

(Added Pub. L. 107–295, title I, § 102(a), Nov. 25, 2002, 116 Stat. 2084, § 70117; renumbered § 70119, Pub. L. 108–293, title VIII, § 802(a)(1), Aug. 9, 2004, 118 Stat. 1078; amended Pub. L. 109–241, title III, § 306(a), July 11, 2006, 120 Stat. 528.)

CODIFICATION

Another section 70119 was renumbered section 70118 of this title.

AMENDMENTS

2006—Pub. L. 109–241 designated existing provisions as subsec. (a), inserted heading, substituted ''day during which the violation continues'' for ''violation'', and added subsec. (b).

### § 70120. In rem liability for civil penalties and certain costs

(a) CIVIL PENALTIES.—Any vessel operated in violation of this chapter or any regulations prescribed under this chapter shall be liable in rem for any civil penalty assessed pursuant to section 70119 for such violation, and may be proceeded against for such liability in the United States district court for any district in which the vessel may be found.

(b) REIMBURSABLE COSTS OF SERVICE PROVIDERS.—A vessel shall be liable in rem for the reimbursable costs incurred by any service provider related to implementation and enforcement of this chapter and arising from a violation by the operator of the vessel of this chapter or any regulations prescribed under this chapter, and may be proceeded against for such liability in the United States district court for any district in which such vessel may be found.

(c) DEFINITIONS.—In this subsection—

(1) the term ''reimbursable costs'' means costs incurred by any service provider acting in conformity with a lawful order of the Federal government or in conformity with the instructions of the vessel operator; and

(2) the term ''service provider'' means any port authority, facility or terminal operator, shipping agent, Federal, State, or local government agency, or other person to whom the management of the vessel at the port of supply is entrusted, for—

(A) services rendered to or in relation to vessel crew on board the vessel, or in transit to or from the vessel, including accommodation, detention, transportation, and medical expenses; and

(B) required handling of cargo or other items on board the vessel.

(Added Pub. L. 108–293, title VIII, § 802(a)(2), Aug. 9, 2004, 118 Stat. 1078, § 70117; renumbered § 70120 and amended Pub. L. 109–241, title IX, § 901(*l*)(2), (3), July 11, 2006, 120 Stat. 565; Pub. L. 109–304, § 15(33)(B), (C), Oct. 6, 2006, 120 Stat. 1705; Pub. L. 110–181, div. C, title XXXV, § 3529(c)(1), Jan. 28, 2008, 122 Stat. 603.)

AMENDMENTS

2008—Pub. L. 110–181 repealed Pub. L. 109–304, § 15(33)(B), (C). See 2006 Amendment notes below.

2006—Pub. L. 109–304, § 15(33)(B), which directed renumbering identical to that made by Pub. L. 109–241, § 901(*l*)(2), was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241, § 901(*l*)(2), renumbered section 70117 of this title, as added by Pub. L. 108–293, § 802(a)(2), as this section.

Subsec. (a). Pub. L. 109–304, § 15(33)(C), which directed amendment identical to that made by Pub. L. 109–241, § 901(*l*)(3), was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241, § 901(*l*)(3), substituted ''section 70119'' for ''section 70120''.

CONSTRUCTION OF 2006 AMENDMENT

Provisions of Pub. L. 109–304 repealed by section 3529(c)(1) of Pub. L. 110–181 to be treated as if never enacted, see section 3529(c)(2) of Pub. L. 110–181, set out as a note under section 9504 of Title 26, Internal Revenue Code.

### § 70121. Withholding of clearance

(a) REFUSAL OR REVOCATION OF CLEARANCE.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 60105 of this title.

(b) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.

(Added Pub. L. 108–293, title VIII, § 802(a)(2), Aug. 9, 2004, 118 Stat. 1079, § 70118; renumbered § 70121 and amended Pub. L. 109–241, title IX, § 901(*l*)(2), (4), July 11, 2006, 120 Stat. 565; Pub. L. 109–304, § 15(33)(B), (D), Oct. 6, 2006, 120 Stat. 1705; Pub. L. 110–181, div. C, title XXXV, § 3529(c)(1), Jan. 28, 2008, 122 Stat. 603.)

AMENDMENTS

2008—Pub. L. 110–181 repealed Pub. L. 109–304, § 15(33)(B), (D)(i). See 2006 Amendment notes below.

2006—Pub. L. 109–304, § 15(33)(B), which directed renumbering identical to that made by Pub. L. 109–241, § 901(*l*)(2), was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241, § 901(*l*)(2), renumbered section 70118 of this title, as added by Pub. L. 108–293, § 802(a)(2), as this section.

Subsec. (a). Pub. L. 109–304, § 15(33)(D)(ii), substituted ''section 60105 of this title'' for ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)''.

Pub. L. 109–304, § 15(33)(D)(i), which directed amendment identical to that made by Pub. L. 109–241, § 901(*l*)(4), was repealed by Pub. L. 110–181. See Amendment note and Construction of 2006 Amendment note below.

Pub. L. 109–241, § 901(*l*)(4), substituted ''section 70119'' for ''section 70120''.

CONSTRUCTION OF 2006 AMENDMENT

Provisions of Pub. L. 109–304 repealed by section 3529(c)(1) of Pub. L. 110–181 to be treated as if never enacted, see section 3529(c)(2) of Pub. L. 110–181, set out as a note under section 9504 of Title 26, Internal Revenue Code.

## CHAPTER 703—MARITIME SECURITY

Sec.
70301. Definitions.
70302. International measures for seaport and vessel security.
70303. Security standards at foreign ports.
70304. Travel advisories on security at foreign ports.
70305. Suspension of passenger services.
70306. Report on terrorist threats.

### § 70301. Definitions

In this chapter:

(1) COMMON CARRIER.—The term ''common carrier'' has the meaning given that term in section 40102 of this title.

(2) PASSENGER VESSEL.—The term ''passenger vessel'' has the meaning given that term in section 2101 of this title.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1683.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70301 ..... | 46 App.:1807. | Pub. L. 99–399, title IX, § 911, Aug. 27, 1986, 100 Stat. 892. |

In paragraph (2), the term ''vessel of the United States'' is omitted because the definition of that term in 46 U.S.C. 2101 is being moved to chapter 1 of the revised title and will apply generally throughout the title.

In paragraph (3), the definition of ''Secretary'' is new. The functions of the Secretary of Transportation under this chapter were carried out by the Coast Guard, and its functions have been transferred to the Department of Homeland Security (except when operating as a service in the Navy) by section 888 of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2249).

### § 70302. International measures for seaport and vessel security

Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

(1) seaport screening of cargo and baggage similar to that done at airports;

(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; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1683.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70302 ..... | 46 App.:1801. | Pub. L. 99–399, title IX, § 902, Aug. 27, 1986, 100 Stat. 889. |

The word ''vessel'' is substituted for ''shipboard'' for consistency in the revised title. The words ''and commends him on his efforts to date'' are omitted as unnecessary.

### § 70303. Security standards at foreign ports

(a) GENERAL REQUIREMENTS.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

(b) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1684.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70303 ..... | 46 App.:1803. | Pub. L. 99–399, title IX, § 907(a), (b), (d), (e), Aug. 27, 1986, 100 Stat. 891. |

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 8 of part II of the Act is classified generally to part VIII (§ 2349aa et seq.) of subchapter II of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

### § 70304. Travel advisories on security at foreign ports

(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1684.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70304 ..... | 46 App.:1804. | Pub. L. 99–399, title IX, § 908, Aug. 27, 1986, 100 Stat. 891; Pub. L. 105–277, div. G, title XXII, § 2224(b), Oct. 21, 1998, 112 Stat. 2681–819. |

In subsection (b), the words ''with respect to which the Secretary of Transportation had made the determination described in section 1803(d) of this Appendix'' are omitted as unnecessary.

### § 70305. Suspension of passenger services

(a) GENERAL AUTHORITY.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

(b) PROHIBITION.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

(c) PENALTIES.—

(1) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1684.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70305 ..... | 46 App.:1805. | Pub. L. 99–399, title IX, § 909, Aug. 27, 1986, 100 Stat. 892. |

### § 70306. Report on terrorist threats

(a) CONTENT.—The Secretary shall submit an annual report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

(b) SUBMISSION.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1685; Pub. L. 109–241, title IX, § 901(q), July 11, 2006, 120 Stat. 566; Pub. L. 110–181, div. C, title XXXV, § 3525(a)(5), (b), Jan. 28, 2008, 122 Stat. 601.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70306(a) ..... | 46 App.:1802. | Pub. L. 99–399, title IX, §§ 905, 913, Aug. 27, 1986, 100 Stat. 890, 892; Pub. L. 107–295, title I, § 110(a), title IV, § 408(c)(3), Nov. 25, 2002, 116 Stat. 2091, 2117. |
| 70306(b) ..... | 46 App.:1809. | |

In subsection (a), the words ''February 28 of each year'' are substituted for ''February 28, 1987, and annually thereafter'' in 46 App. U.S.C. 1802 to eliminate obsolete language. The words ''Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002'' are omitted as obsolete.

In subsection (b), the words ''To the extent practicable, the reports required under sections 903, 905, and 907 [46 App. U.S.C. 1801 note, 1802, 1803] shall be consolidated into a single document before being submitted to the Congress'' in 46 App. U.S.C. 1809(a) are omitted as unnecessary and obsolete because sections 903 and 907 are being omitted from the revised title and repealed as obsolete. The words ''Committee on International Relations'' are substituted for ''Committee on Foreign Affairs'' to reflect changes in committee structure made by the 104th Congress.

REFERENCES IN TEXT

The Maritime Transportation Security Act of 2002, referred to in subsec. (a), is Pub. L. 107–295, Nov. 25, 2002, 116 Stat. 2064. Title I of the Act enacted subtitle VI (now subtitle VII) of this title, amended section 1802 of the former Appendix to this title, sections 661 and 724 of Title 14, Coast Guard, section 1431a of Title 19, Customs Duties, sections 1226, 1501 to 1504, 1507, and 1520 of Title 33, Navigation and Navigable Waters, and sections 192 and 195 of Title 50, War and National Defense, enacted provisions set out as notes under sections 70101, 70103, 70104, 70111, 70114, and 70116 of this title and sections 1226 and 1504 of Title 33, amended provisions set out as a note under section 2071 of Title 19, and repealed provisions set out as a note under section 2071 of Title 19. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2008—Pub. L. 110–181, § 3525(b), repealed Pub. L. 109–241, § 901(q). See 2006 Amendment note below.

Subsec. (a). Pub. L. 110–181, § 3525(a)(5), incorporated the substance of the amendment by Pub. L. 109–241, § 901(q), into this section by substituting ''The Secretary shall submit an annual report'' for ''Not later than February 28 of each year, the Secretary shall submit a report''. See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109–241, § 901(q), which directed the amendment of section 1802 of the former Appendix to this title from which subsec. (a) of this section was derived, was repealed by Pub. L. 110–181, § 3525(b). See 2008 Amendment note for subsec. (a) and Historical and Revision notes above.

## CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

Sec.
70501. Findings and declarations.
70502. Definitions.
70503. Manufacture, distribution, or possession of controlled substances on vessels.
70504. Jurisdiction and venue.
70505. Failure to comply with international law as a defense.
70506. Penalties.
70507. Forfeitures.
70508. Operation of submersible vessel or semi-submersible vessel without nationality[1]

AMENDMENTS

2008—Pub. L. 110–407, title II, § 202(b)(1), Oct. 13, 2008, 122 Stat. 4300, added item 70508.

### § 70501. Findings and declarations

Congress finds and declares that (1) trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States and (2) operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1685; Pub. L. 110–407, title II, § 201, Oct. 13, 2008, 122 Stat. 4299.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70501 ..... | 46 App.:1902. | Pub. L. 96–350, § 2, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–307, § 7, May 19, 1986, 100 Stat. 447; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–95; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3552. |

AMENDMENTS

2008—Pub. L. 110–407 inserted cl. (1) designation after ''declares that'', substituted ''States and'' for ''States.'', and added cl. (2).

### § 70502. Definitions

(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

(b) VESSEL OF THE UNITED STATES.—In this chapter, the term ''vessel of the United States'' means—

(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

(1) IN GENERAL.—In this chapter, the term ''vessel subject to the jurisdiction of the United States'' includes—

(A) a vessel without nationality;

(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

(D) a vessel in the customs waters of the United States;

(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

(i) is entering the United States;

(ii) has departed the United States; or

(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

(A) may be obtained by radio, telephone, or similar oral or electronic means; and

(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

(d) VESSEL WITHOUT NATIONALITY.—

(1) IN GENERAL.—In this chapter, the term ''vessel without nationality'' includes—

(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

[1] So in original. Probably should be followed by a period.

(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

(2) RESPONSE TO CLAIM OF REGISTRY.—The response of a foreign nation to a claim of registry under paragraph (1)(A) or (C) may be made by radio, telephone, or similar oral or electronic means, and is proved conclusively by certification of the Secretary of State or the Secretary's designee.

(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

(2) flying its nation's ensign or flag; or

(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

(f) SEMI-SUBMERSIBLE VESSEL; SUBMERSIBLE VESSEL.—In this chapter:

(1) SEMI-SUBMERSIBLE VESSEL.—The term ''semi-submersible vessel'' means any watercraft constructed or adapted to be capable of operating with most of its hull and bulk under the surface of the water, including both manned and unmanned watercraft.

(2) SUBMERSIBLE VESSEL.—The term ''submersible vessel'' means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1685; Pub. L. 109–241, title III, § 303, July 11, 2006, 120 Stat. 527; Pub. L. 110–181, div. C, title XXXV, § 3525(a)(6), (b), Jan. 28, 2008, 122 Stat. 601; Pub. L. 110–407, title II, § 203, Oct. 13, 2008, 122 Stat. 4300.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70502(a) ..... | 46 App.:1903(i). | Pub. L. 96–350, § 3(b), (c), (i), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–95, 3207–97; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3552, 3554; Pub. L. 100–690, title VII, § 7402(b), Nov. 18, 1988, 102 Stat. 4483; Pub. L. 104–324, § 1138(a)(1)–(3), (b), Oct. 19, 1996, 110 Stat. 3988, 3989; Pub. L. 107–295, title IV, § 418(a), Nov. 25, 2002, 116 Stat. 2123. |
| 70502(b) ..... | 46 App.:1903(b). | |
| 70502(c) ..... | 46 App.:1903(c)(1). | |
| 70502(d) ..... | 46 App.:1903(c)(2). | |
| 70502(e) ..... | 46 App.:1903(c)(3). | |

In subsection (b)(2), before subparagraph (A), the words ''individual who is a citizen of the United States'' are substituted for ''a citizen or national of the United States'' because of the definition of ''citizen of the United States'' in chapter 1 of the revised title. The words ''or a territory, commonwealth, or possession of the United States'' and ''the District of Columbia, or any territory, commonwealth, or possession of the United States'' are omitted as unnecessary because of the definition of ''State'' in chapter 1 of the revised title.

In subsection (b)(3), the words ''placed under foreign registry, or operated under the authority of a foreign nation'' are substituted for ''placed under foreign registry or foreign flag'' because of the definition of ''foreign vessel'' in chapter 1 of the revised title.

In subsection (d)(1)(B), the word ''authorized'' is substituted for ''empowered'' for consistency with subsection (b)(2)(B).

AMENDMENTS

2008—Pub. L. 110–181, § 3525(b), repealed Pub. L. 109–241, § 303. See 2006 Amendment note below.

Subsec. (d)(2). Pub. L. 110–181, § 3525(a)(6), incorporated the substance of the amendment by Pub. L. 109–241, § 303, into this section by amending heading and text of par. (2) generally. Prior to amendment, text read as follows: ''A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim is proved conclusively by certification of the Secretary of State or the Secretary's designee.'' See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

Subsec. (f). Pub. L. 110–407 added subsec. (f).

2006—Pub. L. 109–241, § 303, which directed the amendment of section 1903(c)(2) of the former Appendix to this title from which subsec. (d) of this section was derived, was repealed by Pub. L. 110–181, § 3525(b). See 2008 Amendment note for subsec. (d)(2) and Historical and Revision notes above.

## § 70503. Manufacture, distribution, or possession of controlled substances on vessels

(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

(c) NONAPPLICATION.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1687.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70503(a) ..... | 46 App.:1903(a). | Pub. L. 96–350, § 3(a), (e), (h), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–95, 3207–96, 3207–97; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3552, 3554; Pub. L. 100–690, title VII, § 7402(a), Nov. 18, 1988, 102 Stat. 4483. |
| 70503(b) ..... | 46 App.:1903(h). | |
| 70503(c) ..... | 46 App.:1903(e) (1st sentence). | |
| 70503(d) ..... | 46 App.:1903(e) (last sentence). | |

In subsection (a), before paragraph (1), the words ''may not'' are substituted for ''It is unlawful for'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (b), the words ''applies to'' are substituted for ''is intended to reach'' for clarity and to eliminate unnecessary words.

## § 70504. Jurisdiction and venue

(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

(b) VENUE.—A person violating section 70503 or 70508 of this title shall be tried in the district court of the United States for—

(1) the district at which the person enters the United States; or

(2) the District of Columbia.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 110–407, title II, § 202(b)(2), Oct. 13, 2008, 122 Stat. 4300.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70504 ..... | 46 App.:1903(f). | Pub. L. 96–350, § 3(f), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–97; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 104–324, § 1138(a)(5), Oct. 19, 1996, 110 Stat. 3989. |

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–407 inserted ''or 70508'' after ''70503'' in introductory provisions.

## § 70505. Failure to comply with international law as a defense

A person charged with violating section 70503 of this title, or against whom a civil enforcement proceeding is brought under section 70508, does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 110–407, title II, § 202(b)(3), Oct. 13, 2008, 122 Stat. 4300.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70505 ..... | 46 App.:1903(d). | Pub. L. 96–350, § 3(d), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–96; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3553; Pub. L. 104–324, § 1138(a)(4), Oct. 19, 1996, 110 Stat. 3989. |

AMENDMENTS

2008—Pub. L. 110–407 substituted ''this title, or against whom a civil enforcement proceeding is brought under section 70508,'' for ''this title''.

## § 70506. Penalties

(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1688.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70506(a) ..... | 46 App.:1903(g). | Pub. L. 96–350, § 3(g), (j), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–97; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 101–647, title XII, § 1203, Nov. 29, 1990, 104 Stat. 4830. |
| 70506(b) ..... | 46 App.:1903(j). | |

In subsection (b), the words ''the commission of which was the object of the attempt or conspiracy'' are omitted as unnecessary.

## § 70507. Forfeitures

(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The fol-

lowing indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.

(Pub. L. 109–304, § 10(2), Oct. 6, 2006, 120 Stat. 1688.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 70507 ..... | 46 App.:1904. | Pub. L. 96–350, § 4, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207–97; Pub. L. 99–640, § 17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 107–295, title IV, § 418(b), Nov. 25, 2002, 116 Stat. 2123. |

## § 70508. Operation of submersible vessel or semi-submersible vessel without nationality

(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

(c) DEFENSES.—

(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

(B) classed by and designed in accordance with the rules of a classification society;

(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

(2) PRODUCTION OF DOCUMENTS.—The defenses provided by this subsection are proved conclusively by the production of—

(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

(C) government documents evidencing licensure, regulation, or registration for research or exploration.

(d) CIVIL PENALTY.—A person violating this section shall be liable to the United States for a civil penalty of not more than $1,000,000.

(Added Pub. L. 110–407, title II, § 202(a), Oct. 13, 2008, 122 Stat. 4299.)

## Subtitle VIII—Miscellaneous


| Chapter | | Sec. |
|---|---|---|
| **801.** | **Wrecks and Salvage** | **80101** |
| **803.** | **Ice and Derelicts** | **80301** |
| **805.** | **Safe Containers for International Cargo** | **80501** |


### CHAPTER 801—WRECKS AND SALVAGE


Sec.
80101. Vessel stranded on foreign coast.
[80102. Repealed.]
80103. Property on Florida coast to be taken to port of entry.
80104. Salvaging operations by foreign vessels.
80105. Canadian vessels aiding vessels in United States waters.
80106. International agreement on derelicts.
80107. Salvors of life to share in remuneration.


AMENDMENTS

2008—Pub. L. 110–375, § 1(2), Oct. 8, 2008, 122 Stat. 4055, struck out item 80102 ''License to salvage on Florida coast''.

### § 80101. Vessel stranded on foreign coast

(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

(1) save and secure the vessel and property on the vessel; and

(2) prepare an inventory of the property that is saved.

(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

(Pub. L. 109–304, § 11, Oct. 6, 2006, 120 Stat. 1690.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 80101 ..... | 46 App.:721. | R.S. § 4238. |

In this section, the words ''consular officer'' are substituted for ''Consuls and vice consuls'' and ''consul or vice consul'' for consistency in the revised title.

Subsection (a)(1) is substituted for ''as well for the purpose of saving the vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved'' to eliminate unnecessary words.

### [§ 80102. Repealed. Pub. L. 110–375, § 1(1), Oct. 8, 2008, 122 Stat. 4055]

Section, Pub. L. 109–304, § 11, Oct. 6, 2006, 120 Stat. 1690, related to license to salvage on Florida coast.

### § 80103. Property on Florida coast to be taken to port of entry

(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

(Pub. L. 109–304, § 11, Oct. 6, 2006, 120 Stat. 1690.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 80103 ..... | 46 App.:722.<br>46 App.:723. | R.S. § 4239.<br>R.S. § 4240. |

In subsection (a), the words ''of any description whatsoever'' are omitted as unnecessary.

In subsection (b), the words ''transporting property described in subsection (a) of this section'' are substituted for ''which shall be engaged or employed in carrying or transporting any property whatsoever, taken from any wreck, from the sea, or from any of the keys or shoals, within the jurisdiction of the United States, on the coast of Florida'' to eliminate unnecessary words. The words ''may be seized by, and forfeited to, the United States Government'' are substituted for ''shall . . . be forfeited'' for consistency in the revised title. The words ''together with her tackle, apparel, and furniture'' are omitted as unnecessary. The words ''accrues half to the informer and half to the Government'' are substituted for ''one moiety to the informer and the other to the United States'' to use more commonly understood language.

### § 80104. Salvaging operations by foreign vessels

(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

(2) the Treaty between the United States of America and Mexico to facilitate assistance to