

§§ 402(c)(1), 408(d)(1), Dec. 4, 2018, 132 Stat. 4264, 4268, was based on section 7(c) of Pub. L. 92-340, as added by Pub. L. 104-324, title III, §302, Oct. 19, 1996, 110 Stat. 3917.

#### AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-254, §1805(d)(2)(A), substituted “The” for “Not later than April 1, 2005, the”.

Subsec. (a)(2)(K). Pub. L. 115-254, §1805(d)(2)(B), added subpar. (K).

Subsec. (b)(2)(H), (I). Pub. L. 115-254, §1805(d)(2)(C), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (c)(3)(v), (vi). Pub. L. 115-254, §1805(d)(2)(D), added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (c)(4)(D). Pub. L. 115-254, §1806, amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “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.”

Subsec. (f). Pub. L. 115-282, §§402(c)(2), 408(d)(2), amended subsec. (f) identically, substituting “this chapter” for “this Act”.

Pub. L. 115-282, §§402(c)(1), 408(d)(1), amended section identically, redesignating and transferring subsec. (c) of section 7 of Pub. L. 92-340 as subsec. (f) of this section. See Codification note above.

2010—Subsec. (b)(2)(E) to (H). Pub. L. 111-281, §826, added subpar. (E) and redesignated former subpars. (E) to (G) as (F) to (H), respectively.

Subsec. (e). Pub. L. 111-281, §812(c), added subsec.(e). 2009—Subsec. (d). Pub. L. 111-83 amended subsec. (d) generally. Prior to amendment, text read as follows: “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.”

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”.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment of section by section 1805(d) of Pub. L. 115-254 applicable to assessments or security plans, or updates to such assessments or plans, submitted after the date that the cybersecurity risk assessment model is developed under subsection 1805(a) of Pub. L. 115-254, set out as a note under section 70112 of this title, see section 1805(d)(3) of Pub. L. 115-254, set out as a note under section 70102 of this title.

#### 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.

#### SEAMEN’S SHORESIDE ACCESS

Pub. L. 111-281, title VIII, §811, Oct. 15, 2010, 124 Stat. 2995, provided that: “Each facility security plan approved under section 70103(c) of title 46, United States Code, shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen’s welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.”

#### 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 allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(C) a vessel pilot;

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(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;

(G) a member of the Armed Forces who—

(i) is undergoing separation, discharge, or release from the Armed Forces under honorable conditions;

(ii) applies for a transportation security card; and

(iii) is otherwise eligible for such a card; and

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

(3) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.

(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).