

ducted under any other program conducted by the Secretary. Nothing in this section shall be construed to mean that implementation of the random sampling plan precludes additional searches of containers not inspected pursuant to the plan.

(Pub. L. 109-347, title I, § 123, Oct. 13, 2006, 120 Stat. 1899.)

§ 924. Threat assessment screening of port truck drivers

Not later than 90 days after October 13, 2006, the Secretary shall implement a threat assessment screening, including name-based checks against terrorist watch lists and immigration status check, for all port truck drivers with access to secure areas of a port who have a commercial driver's license but do not have a current and valid hazardous materials endorsement issued in accordance with section 1572¹ of title 49, Code of Federal Regulations, that is the same as the threat assessment screening required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG-2006-24189 (Federal Register, Vol. 71, No. 82, Friday, April 28, 2006).

(Pub. L. 109-347, title I, § 125, Oct. 13, 2006, 120 Stat. 1900.)

§ 925. Border Patrol unit for United States Virgin Islands

(a) In general

The Secretary may establish at least 1 Border Patrol unit for the United States Virgin Islands.

(b) Report

Not later than 180 days after October 13, 2006, the Secretary shall submit a report to the appropriate congressional committees that includes the schedule, if any, for carrying out subsection (a).

(Pub. L. 109-347, title I, § 126, Oct. 13, 2006, 120 Stat. 1900.)

§ 926. Center of Excellence for Maritime Domain Awareness

(a) Establishment

The Secretary shall establish a university-based Center for Excellence for Maritime Domain Awareness following the merit-review processes and procedures that have been established by the Secretary for selecting university program centers of excellence.

(b) Duties

The Center established under subsection (a) shall—

- (1) prioritize its activities based on the “National Plan To Improve Maritime Domain Awareness” published by the Department in October 2005;
- (2) recognize the extensive previous and ongoing work and existing competence in the field of maritime domain awareness at numerous academic and research institutions, such as the Naval Postgraduate School;
- (3) leverage existing knowledge and continue development of a broad base of expertise with-

in academia and industry in maritime domain awareness; and

- (4) provide educational, technical, and analytical assistance to Federal agencies with responsibilities for maritime domain awareness, including the Coast Guard, to focus on the need for interoperability, information sharing, and common information technology standards and architecture.

(Pub. L. 109-347, title I, § 128, Oct. 13, 2006, 120 Stat. 1900.)

SUBCHAPTER II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

PART A—GENERAL PROVISIONS

§ 941. Strategic plan to enhance the security of the international supply chain

(a) Strategic plan

The Secretary, in consultation with appropriate Federal, State, local, and tribal government agencies and private sector stakeholders responsible for security matters that affect or relate to the movement of containers through the international supply chain, shall develop, implement, and update, triennially, a strategic plan to enhance the security of the international supply chain.

(b) Requirements

The strategic plan required under subsection (a) shall—

- (1) describe the roles, responsibilities, and authorities of Federal, State, local, and tribal government agencies and private-sector stakeholders that relate to the security of the movement of containers through the international supply chain;
- (2) identify and address gaps and unnecessary overlaps in the roles, responsibilities, or authorities described in paragraph (1);
- (3) identify and make recommendations regarding legislative, regulatory, and organizational changes necessary to improve coordination among the entities or to enhance the security of the international supply chain;
- (4) provide measurable goals, including objectives, mechanisms, and a schedule, for furthering the security of commercial operations from point of origin to point of destination;
- (5) build on available resources and consider costs and benefits;
- (6) provide incentives for additional voluntary measures to enhance cargo security, as recommended by the Commissioner;
- (7) consider the impact of supply chain security requirements on small- and medium-sized companies;
- (8) include a process for sharing intelligence and information with private-sector stakeholders to assist in their security efforts;
- (9) identify a framework for prudent and measured response in the event of a transportation security incident involving the international supply chain;
- (10) provide protocols for the expeditious resumption of the flow of trade in accordance with section 942 of this title;
- (11) consider the linkages between supply chain security and security programs within

¹ So in original. Probably should be “part 1572”.

other systems of movement, including travel security and terrorism finance programs; and

(12) expand upon and relate to existing strategies and plans, including the National Response Plan, the National Maritime Transportation Security Plan, the National Strategy for Maritime Security, and the 8 supporting plans of the Strategy, as required by Homeland Security Presidential Directive 13.

(c) Consultation

In developing protocols under subsection (b)(10), the Secretary shall consult with Federal, State, local, and private sector stakeholders, including the National Maritime Security Advisory Committee and the Commercial Operations Advisory Committee.

(d) Communication

To the extent practicable, the strategic plan developed under subsection (a) shall provide for coordination with, and lines of communication among, appropriate Federal, State, local, and private-sector stakeholders on law enforcement actions, intermodal rerouting plans, and other strategic infrastructure issues resulting from a transportation security incident or transportation disruption.

(e) Utilization of Advisory Committees

As part of the consultations described in subsection (a), the Secretary shall, to the extent practicable, utilize the Homeland Security Advisory Committee, the National Maritime Security Advisory Committee, and the Commercial Operations Advisory Committee to review, as necessary, the draft strategic plan and any subsequent updates to the strategic plan.

(f) International standards and practices

In furtherance of the strategic plan required under subsection (a), the Secretary is encouraged to consider proposed or established standards and practices of foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, the International Labor Organization, and the International Organization for Standardization, as appropriate, to establish standards and best practices for the security of containers moving through the international supply chain.

(g) Reports

(1) Initial report

Not later than 270 days after October 13, 2006, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

(2) Updates

Not later than 270 days after October 5, 2018, and triennially thereafter, the Secretary shall submit to the appropriate congressional committees a report that contains any updates to the strategic plan under subsection (a) since the prior report.

(Pub. L. 109-347, title II, §201, Oct. 13, 2006, 120 Stat. 1901; Pub. L. 115-254, div. J, §1804, Oct. 5, 2018, 132 Stat. 3533.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-254, §1804(1), substituted “triennially” for “as appropriate”.

Subsec. (g). Pub. L. 115-254, §1804(2)(A), substituted “Reports” for “Report” in heading.

Subsec. (g)(2). Pub. L. 115-254, §1804(2)(B), amended par. (2) generally. Prior to amendment, text read as follows: “Not later than 3 years after the date on which the strategic plan is submitted under paragraph (1), the Secretary shall submit a report to the appropriate congressional committees that contains an update of the strategic plan.”

§ 942. Post-incident resumption of trade

(a) In general

The Secretary shall develop and update, as necessary, protocols for the resumption of trade in accordance with section 941(b)(10) of this title in the event of a transportation disruption or a transportation security incident. The protocols shall include—

(1) the identification of the appropriate initial incident commander, if the Commandant of the Coast Guard is not the appropriate person, and lead departments, agencies, or offices to execute such protocols;

(2) a plan to redeploy resources and personnel, as necessary, to reestablish the flow of trade;

(3) a plan to provide training for the periodic instruction of personnel of the United States Customs and Border Protection, the Coast Guard, and the Transportation Security Administration in trade resumption functions and responsibilities; and

(4) appropriate factors for establishing prioritization of vessels and cargo determined by the President to be critical for response and recovery, including factors relating to public health, national security, and economic need.

(b) Vessels

In determining the prioritization of vessels accessing facilities (as defined under section 70101 of title 46), the Commandant of the Coast Guard may, to the extent practicable and consistent with the protocols and plans required under this section to ensure the safe and secure transit of vessels to ports in the United States after a transportation security incident, give priority to a vessel—

(1) that has an approved security plan under section 70103(c) of title 46 or a valid international ship security certificate, as provided under part 104 of title 33, Code of Federal Regulations;

(2) that is manned by individuals who are described in section 70105(b)(2)(B) of title 46; and

(3) that is operated by validated participants in the Customs-Trade Partnership Against Terrorism program.

(c) Cargo

In determining the prioritization of the resumption of the flow of cargo and consistent with the protocols established under this section, the Commissioner may give preference to cargo—

(1) entering a port of entry directly from a foreign seaport designated under the Container Security Initiative;

(2) from the supply chain of a validated C-TPAT participant and other private sector entities, as appropriate; or

(3) that has undergone—

(A) a nuclear or radiological detection scan;

(B) an x-ray, density, or other imaging scan; and

(C) a system to positively identify the container at the last port of departure prior to arrival in the United States, which data has been evaluated and analyzed by personnel of the United States Customs and Border Protection.

(d) Coordination

The Secretary shall ensure that there is appropriate coordination among the Commandant of the Coast Guard, the Commissioner, and other Federal officials following a maritime disruption or maritime transportation security incident in order to provide for the resumption of trade.

(e) Communication

Consistent with section 941 of this title, the Commandant of the Coast Guard, Commissioner, and other appropriate Federal officials, shall promptly communicate any revised procedures or instructions intended for the private sector following a maritime disruption or maritime transportation security incident.

(Pub. L. 109-347, title II, §202, Oct. 13, 2006, 120 Stat. 1903.)

§ 943. Automated Targeting System

(a) In general

The Secretary, acting through the Commissioner, shall—

(1) identify and seek the submission of data related to the movement of a shipment of cargo through the international supply chain; and

(2) analyze the data described in paragraph (1) to identify high-risk cargo for inspection.

(b) Requirement

The Secretary, acting through the Commissioner, shall require the electronic transmission to the Department of additional data elements for improved high-risk targeting, including appropriate security elements of entry data, as determined by the Secretary, to be provided as advanced information with respect to cargo destined for importation into the United States prior to loading of such cargo on vessels at foreign seaports.

(c) Consideration

The Secretary, acting through the Commissioner, shall—

(1) consider the cost, benefit, and feasibility of—

(A) requiring additional nonmanifest documentation;

(B) reducing the time period allowed by law for revisions to a container cargo manifest;

(C) reducing the time period allowed by law for submission of certain elements of entry data, for vessel or cargo; and

(D) such other actions the Secretary considers beneficial for improving the information relied upon for the Automated Targeting System and any successor targeting system in furthering the security and integrity of the international supply chain; and

(2) consult with stakeholders, including the Commercial Operations Advisory Committee, and identify to them the need for such information, and the appropriate timing of its submission.

(d) Regulations

The Secretary shall promulgate regulations to carry out this section. In promulgating such regulations, the Secretary shall adhere to the parameters applicable to the development of regulations under section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note),¹ including provisions relating to consultation, technology, analysis, use of information, confidentiality, and timing requirements.

(e) System improvements

The Secretary, acting through the Commissioner, shall—

(1) conduct, through an independent panel, a review of the effectiveness and capabilities of the Automated Targeting System;

(2) consider future iterations of the Automated Targeting System, which would incorporate smart features, such as more complex algorithms and real-time intelligence, instead of relying solely on rule sets that are periodically updated;

(3) ensure that the Automated Targeting System has the capability to electronically compare manifest and other available data for cargo entered into or bound for the United States to detect any significant anomalies between such data and facilitate the resolution of such anomalies;

(4) ensure that the Automated Targeting System has the capability to electronically identify, compile, and compare select data elements for cargo entered into or bound for the United States following a maritime transportation security incident, in order to efficiently identify cargo for increased inspection or expeditious release; and

(5) develop a schedule to address the recommendations of the Comptroller General of the United States, the Inspector General of the Department of the Treasury, and the Inspector General of the Department with respect to the operation of the Automated Targeting System.

(f) Secure transmission of certain information

All information required by the Department from supply chain partners shall be transmitted in a secure fashion, as determined by the Secretary, so as to protect the information from unauthorized access.

(g) Authorization of appropriations

There are authorized to be appropriated to the United States Customs and Border Protection to carry out the Automated Targeting System for identifying high-risk oceanborne container cargo for inspection—

¹ See References in Text note below.

- (1) \$33,200,000 for fiscal year 2008;
- (2) \$35,700,000 for fiscal year 2009; and
- (3) \$37,485,000 for fiscal year 2010.

(Pub. L. 109-347, title II, §203, Oct. 13, 2006, 120 Stat. 1904.)

Editorial Notes

REFERENCES IN TEXT

Section 343(a) of the Trade Act of 2002, referred to in subsec. (d), is section 343(a) of Pub. L. 107-210, which was set out as a note under section 2071 of Title 19, Customs Duties, prior to editorial transfer to section 1415(a) of Title 19.

§ 944. Container security standards and procedures

(a) Establishment

(1) In general

Not later than 90 days after October 13, 2006, the Secretary shall initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to the United States.

(2) Interim rule

Not later than 180 days after October 13, 2006, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1).

(3) Missed deadline

If the Secretary is unable to meet the deadline established pursuant to paragraph (2), the Secretary shall submit a letter to the appropriate congressional committees explaining why the Secretary is unable to meet that deadline and describing what must be done before such minimum standards and procedures can be established.

(4) Deadline for enforcement

(A) Enforcement of rule

Not later than 2 years after the date on which the standards and procedures are established pursuant to paragraph (1), all containers bound for ports of entry in the United States shall meet such standards and procedures.

(B) Interim requirement

If the interim final rule described in paragraph (2) is not issued by April 1, 2008, then—

- (i) effective not later than October 15, 2008, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers; and
- (ii) the requirements of this subparagraph shall cease to be effective upon the effective date of the interim final rule issued pursuant to this subsection.

(b) Review and enhancement

The Secretary shall regularly review and enhance the standards and procedures established pursuant to subsection (a), as appropriate, based on tests of technologies as they become commercially available to detect container intrusion

and the highest consequence threats, particularly weapons of mass destruction.

(c) International cargo security standards

The Secretary, in consultation with the Secretary of State, the Secretary of Energy, and other Federal Government officials, as appropriate, and with the Commercial Operations Advisory Committee, the Homeland Security Advisory Committee, and the National Maritime Security Advisory Committee, is encouraged to promote and establish international standards for the security of containers moving through the international supply chain with foreign governments and international organizations, including the International Maritime Organization, the International Organization for Standardization, the International Labor Organization, and the World Customs Organization.

(d) International trade and other obligations

In carrying out this section, the Secretary shall consult with appropriate Federal departments and agencies and private sector stakeholders and ensure that actions under this section do not violate international trade obligations or other international obligations of the United States.

(Pub. L. 109-347, title II, §204, Oct. 13, 2006, 120 Stat. 1905; Pub. L. 110-53, title XVII, §1701(b), Aug. 3, 2007, 121 Stat. 491.)

Editorial Notes

AMENDMENTS

2007—Subsec. (a)(4). Pub. L. 110-53, which directed amendment of par. (4) by substituting “(1) Deadline for enforcement” and subpar. (A) designation and heading for “(1) Deadline for enforcement”, was executed by inserting the subpar. (A) designation and heading before “Not later than” and making no change in the par. designation or heading, to reflect the probable intent of Congress.

Subsec. (a)(4)(B). Pub. L. 110-53, §1701(b)(2), added subpar. (B).

§ 945. Container Security Initiative

(a) Establishment

The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section as the “Container Security Initiative” or “CSI”) to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.

(b) Assessment

The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—

- (1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;
- (2) the volume of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;
- (3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46;

(4) the commitment of the government of the country in which the foreign seaport is located to cooperating with the Department in sharing critical data and risk management information and to maintain programs to ensure employee integrity; and

(5) the potential for validation of security practices at the foreign seaport by the Department.

(c) Notification

The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.

(d) Negotiations

The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.

(e) Overseas inspections

(1) Requirements and procedures

The Secretary shall—

(A) establish minimum technical capability criteria and standard operating procedures for the use of nonintrusive inspection and nuclear and radiological detection systems in conjunction with CSI;

(B) require each port designated under CSI to operate nonintrusive inspection and nuclear and radiological detection systems in accordance with the technical capability criteria and standard operating procedures established under subparagraph (A);

(C) continually monitor the technologies, processes, and techniques used to inspect cargo at ports designated under CSI to ensure adherence to such criteria and the use of such procedures; and

(D) consult with the Secretary of Energy in establishing the minimum technical capability criteria and standard operating procedures established under subparagraph (A) pertaining to radiation detection technologies to promote consistency in detection systems at foreign ports designated under CSI.

(2) Constraints

The criteria and procedures established under paragraph (1)(A)—

(A) shall be consistent, as practicable, with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;

(B) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy; and

(C) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport des-

ignated under the Container Security Initiative is located.

(f) Savings provision

The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States.

(g) Coordination

The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy's Second Line of Defense Program and Megaports Initiative; or

(2) work with the private sector or host governments, when possible, to obtain radiation detection equipment that meets the Department's and the Department of Energy's technical specifications for such equipment.

(h) Staffing

The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.

(i) Annual discussions

The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.

(j) Lesser risk port

The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.

(k) Prohibition

(1) In general

The Secretary shall issue a "do not load" order, using existing authorities, to prevent the onload of any cargo loaded at a port designated under CSI that has been identified as high risk, including by the Automated Targeting System, unless the cargo is determined to no longer be high risk through—

(A) a scan of the cargo with nonintrusive imaging equipment and radiation detection equipment;

(B) a search of the cargo; or

(C) additional information received by the Department.

(2) Rule of construction

Nothing in this subsection shall be construed to interfere with the ability of the Sec-

retary to deny entry of any cargo into the United States.

(l) Report

Not later than 270 days after October 5, 2018, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit a report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—

(1) a description of the technical assistance delivered to, as well as needed at, each designated seaport;

(2) a description of the human capital management plan at each designated seaport;

(3) a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of cargo at designated seaports, and whether each such request was granted or denied by the foreign government;

(4) an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;

(5) a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative;

(6) the rationale for the continuance of each port designated under CSI;

(7) a description of the potential for remote targeting to decrease the number of personnel who are deployed at foreign ports under CSI; and

(8) a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.

(m) Authorization of appropriations

There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of this section—

- (1) \$144,000,000 for fiscal year 2008;
- (2) \$146,000,000 for fiscal year 2009; and
- (3) \$153,300,000 for fiscal year 2010.

(Pub. L. 109-347, title II, § 205, Oct. 13, 2006, 120 Stat. 1906; Pub. L. 115-254, div. J, § 1812, Oct. 5, 2018, 132 Stat. 3539.)

Editorial Notes

AMENDMENTS

2018—Subsec. (l). Pub. L. 115-254 struck out par. (1) designation and heading, substituted “Not later than 270 days after October 5, 2018,” for “Not later than September 30, 2007,” in introductory provisions, redesignated subpars. (A) to (H) of former par. (1) as pars. (1) to (8), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit

an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).”

Statutory Notes and Related Subsidiaries

INTERNATIONAL PORT AND FACILITY INSPECTION COORDINATION

Pub. L. 111-281, title VIII, § 825, Oct. 15, 2010, 124 Stat. 3004, as amended by Pub. L. 114-120, title III, § 320, Feb. 8, 2016, 130 Stat. 66, provided that:

“(a) COORDINATION.—The Secretary of Homeland Security shall, to the extent practicable, conduct the assessments required by the following provisions of law concurrently, or develop a process by which the assessments are coordinated between the Coast Guard and Customs and Border Protection:

“(1) Section 205 of the SAFE Port Act (6 U.S.C. 945).

“(2) Section 213 of that Act (6 U.S.C. 964 [963]).

“(3) Section 70108 of title 46, United States Code.

“(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect or diminish the Secretary’s authority or discretion—

“(1) to conduct an assessment of a foreign port at any time;

“(2) to compel the Secretary to conduct an assessment of a foreign port so as to ensure that 2 or more assessments are conducted concurrently; or

“(3) to cancel an assessment of a foreign port if the Secretary is unable to conduct 2 or more assessments concurrently.

“(c) MULTIPLE ASSESSMENT REPORT.—The Secretary shall provide written notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives whenever the Secretary conducts 2 or more assessments of the same port within a 3-year period.”

PART B—CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM

§ 961. Establishment

(a) Establishment

The Secretary, acting through the Commissioner, is authorized to establish a voluntary government-private sector program (to be known as the “Customs-Trade Partnership Against Terrorism” or “C-TPAT”) to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C-TPAT shall include Tier 1 participants, Tier 2 participants, and Tier 3 participants.

(b) Minimum security requirements

The Secretary, acting through the Commissioner, shall review the minimum security requirements of C-TPAT at least once every year and update such requirements as necessary.

(Pub. L. 109-347, title II, § 211, Oct. 13, 2006, 120 Stat. 1909.)

§ 962. Eligible entities

Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply

chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C-TPAT.

(Pub. L. 109-347, title II, §212, Oct. 13, 2006, 120 Stat. 1909.)

§ 963. Minimum requirements

An applicant seeking to participate in C-TPAT shall—

(1) demonstrate a history of moving cargo in the international supply chain;

(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—

(A) business partner requirements;

(B) container security;

(C) physical security and access controls;

(D) personnel security;

(E) procedural security;

(F) security training and threat awareness; and

(G) information technology security;

(3) implement and maintain security measures and supply chain security practices meeting security criteria established by the Commissioner; and

(4) meet all other requirements established by the Commissioner, in consultation with the Commercial Operations Advisory Committee.

(Pub. L. 109-347, title II, §213, Oct. 13, 2006, 120 Stat. 1909.)

§ 964. Tier 1 participants in C-TPAT

(a) Benefits

The Secretary, acting through the Commissioner, shall offer limited benefits to a Tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high-risk threshold established by the Secretary.

(b) Guidelines

Not later than 180 days after October 13, 2006, the Secretary, acting through the Commissioner, shall update the guidelines for certifying a C-TPAT participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and extensive documentation review.

(c) Timeframe

To the extent practicable, the Secretary, acting through the Commissioner, shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in C-TPAT.

(Pub. L. 109-347, title II, §214, Oct. 13, 2006, 120 Stat. 1910.)

§ 965. Tier 2 participants in C-TPAT

(a) Validation

The Secretary, acting through the Commissioner, shall validate the security measures and

supply chain security practices of a Tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-site assessments at appropriate foreign locations utilized by the Tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a Tier 1 participant.

(b) Benefits

The Secretary, acting through the Commissioner, shall extend benefits to each C-TPAT participant that has been validated as a Tier 2 participant under this section, which may include—

(1) reduced scores in the Automated Targeting System;

(2) reduced examinations of cargo; and

(3) priority searches of cargo.

(c) Guidelines

Not later than 180 days after October 13, 2006, the Secretary, acting through the Commissioner, shall develop a schedule and update the guidelines for validating a participant's security measures and supply chain security practices under this section.

(Pub. L. 109-347, title II, §215, Oct. 13, 2006, 120 Stat. 1910.)

§ 966. Tier 3 participants in C-TPAT

(a) In general

The Secretary, acting through the Commissioner, shall establish a third tier of C-TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in C-TPAT under section 965 of this title.

(b) Criteria

The Secretary, acting through the Commissioner, shall designate criteria for validating a C-TPAT participant as a Tier 3 participant under this section. Such criteria may include—

(1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 965 of this title for validating a C-TPAT participant as a Tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;

(2) submission of additional information regarding cargo prior to loading, as determined by the Secretary;

(3) utilization of container security devices, technologies, policies, or practices that meet standards and criteria established by the Secretary; and

(4) compliance with any other cargo requirements established by the Secretary.

(c) Benefits

The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C-TPAT participant that has been validated as a Tier 3 participant under this section, which may include—

(1) the expedited release of a Tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;

(2) further reduction in examinations of cargo;

(3) priority for examinations of cargo; and

(4) further reduction in the risk score assigned pursuant to the Automated Targeting System; and

(5) inclusion in joint incident management exercises, as appropriate.

(d) Deadline

Not later than 2 years after October 13, 2006, the Secretary, acting through the Commissioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated Tier 3 participants pursuant to subsection (c).

(Pub. L. 109-347, title II, §216, Oct. 13, 2006, 120 Stat. 1910.)

§ 967. Consequences for lack of compliance

(a) In general

If at any time a C-TPAT participant's security measures and supply chain security practices fail to meet any of the requirements under this part, the Commissioner may deny the participant benefits otherwise available under this part, in whole or in part. The Commissioner shall develop procedures that provide appropriate protections to C-TPAT participants before benefits are revoked. Such procedures may not limit the ability of the Commissioner to take actions to protect the national security of the United States.

(b) False or misleading information

If a C-TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this part, the Commissioner shall suspend or expel the participant from C-TPAT for an appropriate period of time. The Commissioner, after the completion of the process under subsection (c), may publish in the Federal Register a list of participants who have been suspended or expelled from C-TPAT pursuant to this subsection, and may make such list available to C-TPAT participants.

(c) Right of appeal

(1) In general

A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

(2) Appeals of other decisions

A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

(Pub. L. 109-347, title II, §217, Oct. 13, 2006, 120 Stat. 1911.)

§ 968. Third party validations

(a) Plan

The Secretary, acting through the Commissioner, shall develop a plan to implement a 1-year voluntary pilot program to test and assess the feasibility, costs, and benefits of using third party entities to conduct validations of C-TPAT participants.

(b) Consultations

Not later than 120 days after October 13, 2006, after consulting with private sector stakeholders, including the Commercial Operations Advisory Committee, the Secretary shall submit a report to the appropriate congressional committees on the plan described in subsection (a).

(c) Pilot program

(1) In general

Not later than 1 year after the consultations described in subsection (b), the Secretary shall carry out the 1-year pilot program to conduct validations of C-TPAT participants using third party entities described in subsection (a).

(2) Authority of the Secretary

The decision to validate a C-TPAT participant is solely within the discretion of the Secretary, or the Secretary's designee.

(d) Certification of third party entities

The Secretary shall certify a third party entity to conduct validations under subsection (c) if the entity—

(1) demonstrates to the satisfaction of the Secretary that the entity has the ability to perform validations in accordance with standard operating procedures and requirements designated by the Secretary; and

(2) agrees—

(A) to perform validations in accordance with such standard operating procedures and requirements (and updates to such procedures and requirements); and

(B) to maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary; and

(3) signs an agreement to protect all proprietary information of C-TPAT participants with respect to which the entity will conduct validations.

(e) Information for establishing limits of liability insurance

A third party entity seeking a certificate under subsection (d) shall submit to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under this Act.

(f) Additional requirements

The Secretary shall ensure that—

(1) any third party entity certified under this section does not have—

(A) any beneficial interest in or any direct or indirect control over the C-TPAT participant for which the validation services are performed; or

(B) any other conflict of interest with respect to the C-TPAT participant; and

(2) the C-TPAT participant has entered into a contract with the third party entity under which the C-TPAT participant agrees to pay all costs associated with the validation.

(g) Monitoring

(1) In general

The Secretary shall regularly monitor and inspect the operations of a third party entity conducting validations under subsection (c) to ensure that the entity is meeting the minimum standard operating procedures and requirements for the validation of C-TPAT participants established by the Secretary and all other applicable requirements for validation services.

(2) Revocation

If the Secretary determines that a third party entity is not meeting the minimum standard operating procedures and requirements designated by the Secretary under subsection (d)(1), the Secretary shall—

- (A) revoke the entity's certificate of conformance issued under subsection (d)(1); and
- (B) review any validations conducted by the entity.

(h) Limitation on authority

The Secretary may only grant a C-TPAT validation by a third party entity pursuant to subsection (c) if the C-TPAT participant voluntarily submits to validation by such third party entity.

(i) Report

Not later than 30 days after the completion of the pilot program conducted pursuant to subsection (c), the Secretary shall submit a report to the appropriate congressional committees that contains—

- (1) the results of the pilot program, including the extent to which the pilot program ensured sufficient protection for proprietary commercial information;
- (2) the cost and efficiency associated with validations under the pilot program;
- (3) the impact of the pilot program on the rate of validations conducted under C-TPAT;
- (4) any impact on national security of the pilot program; and
- (5) any recommendations by the Secretary based upon the results of the pilot program.

(Pub. L. 109-347, title II, §218, Oct. 13, 2006, 120 Stat. 1912.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is Pub. L. 109-347, Oct. 13, 2006, 120 Stat. 1884, known as the Security and Accountability For Every Port Act of 2006 or the SAFE Port Act. For complete classification of this Act to the Code, see Tables.

§ 969. Revalidation

The Secretary, acting through the Commissioner, shall develop and implement—

- (1) a revalidation process for Tier 2 and Tier 3 participants;
- (2) a framework based upon objective criteria for identifying participants for periodic

revalidation not less frequently than once during each 4-year period following the initial validation; and

(3) an annual plan for revalidation that includes—

- (A) performance measures;
- (B) an assessment of the personnel needed to perform the revalidations; and
- (C) the number of participants that will be revalidated during the following year.

(Pub. L. 109-347, title II, §219, Oct. 13, 2006, 120 Stat. 1913.)

§ 970. Noncontainerized cargo

The Secretary, acting through the Commissioner, shall consider the potential for participation in C-TPAT by importers of noncontainerized cargoes that otherwise meet the requirements under this part.

(Pub. L. 109-347, title II, §220, Oct. 13, 2006, 120 Stat. 1914.)

§ 971. C-TPAT program management

(a) In general

The Secretary, acting through the Commissioner, shall establish sufficient internal quality controls and record management to support the management systems of C-TPAT. In managing the program, the Secretary shall ensure that the program includes:

(1) Strategic plan

A 5-year plan to identify outcome-based goals and performance measures of the program.

(2) Annual plan

An annual plan for each fiscal year designed to match available resources to the projected workload.

(3) Standardized work program

A standardized work program to be used by agency personnel to carry out the certifications, validations, and revalidations of participants. The Secretary shall keep records and monitor staff hours associated with the completion of each such review.

(b) Documentation of reviews

The Secretary, acting through the Commissioner, shall maintain a record management system to document determinations on the reviews of each C-TPAT participant, including certifications, validations, and revalidations.

(c) Confidential information safeguards

In consultation with the Commercial Operations Advisory Committee, the Secretary, acting through the Commissioner, shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, and revalidation processes.

(d) Resource management staffing plan

The Secretary, acting through the Commissioner, shall—

- (1) develop a staffing plan to recruit and train staff (including a formalized training

program) to meet the objectives identified in the strategic plan of the C-TPAT program; and

(2) provide cross-training in postincident trade resumption for personnel who administer the C-TPAT program.

(e) Report to Congress

In connection with the President's annual budget submission for the Department, the Secretary shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, and revalidate C-TPAT participants. Such report shall be due on the same date that the President's budget is submitted to the Congress.

(Pub. L. 109-347, title II, §221, Oct. 13, 2006, 120 Stat. 1914.)

§ 972. Additional personnel

For fiscal years 2008 and 2009, the Commissioner shall increase by not less than 50 the number of full-time personnel engaged in the validation and revalidation of C-TPAT participants (over the number of such personnel on the last day of the previous fiscal year), and shall provide appropriate training and support to such additional personnel.

(Pub. L. 109-347, title II, §222, Oct. 13, 2006, 120 Stat. 1914.)

§ 973. Authorization of appropriations

(a) C-TPAT

There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of sections 961 through 971 of this title to remain available until expended—

- (1) \$65,000,000 for fiscal year 2008;
- (2) \$72,000,000 for fiscal year 2009; and
- (3) \$75,600,000 for fiscal year 2010.

(b) Additional personnel

In addition to any amounts otherwise appropriated to the United States Customs and Border Protection, there are authorized to be appropriated for the purpose of meeting the staffing requirement provided for in section 972 of this title, to remain available until expended—

- (1) \$8,500,000 for fiscal year 2008;
- (2) \$17,600,000 for fiscal year 2009;
- (3) \$19,000,000 for fiscal year 2010;
- (4) \$20,000,000 for fiscal year 2011; and
- (5) \$21,000,000 for fiscal year 2012.

(Pub. L. 109-347, title II, §223, Oct. 13, 2006, 120 Stat. 1915.)

PART C—MISCELLANEOUS PROVISIONS

§ 981. Pilot integrated scanning system

(a) Designations

Not later than 90 days after October 13, 2006, the Secretary shall designate 3 foreign seaports through which containers pass or are transshipped to the United States for the establishment of pilot integrated scanning systems that couple nonintrusive imaging equipment and radiation detection equipment. In making the designations under this subsection, the Secretary

shall consider 3 distinct ports with unique features and differing levels of trade volume.

(b) Coordination

The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment through the Department of Energy's Second Line of Defense and Megaports programs; or

(2) work with the private sector or, when possible, host governments to obtain radiation detection equipment that meets both the Department's and the Department of Energy's technical specifications for such equipment.

(c) Pilot system implementation

Not later than 1 year after October 13, 2006, the Secretary shall achieve a full-scale implementation of the pilot integrated scanning system at the ports designated under subsection (a), which—

(1) shall scan all containers destined for the United States that are loaded in such ports;

(2) shall electronically transmit the images and information to appropriate United States Government personnel in the country in which the port is located or in the United States for evaluation and analysis;

(3) shall resolve every radiation alarm according to established Department procedures;

(4) shall utilize the information collected to enhance the Automated Targeting System or other relevant programs;

(5) shall store the information for later retrieval and analysis; and

(6) may provide an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) Report

Not later than 180 days after achieving full-scale implementation under subsection (c), the Secretary, in consultation with the Secretary of State and, as appropriate, the Secretary of Energy, shall submit a report to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot system implemented under this subsection;

(2) an analysis of the efficacy of the Automated Targeting System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of the effectiveness of the integrated scanning system in detecting shielded and unshielded nuclear and radiological material;

(4) an evaluation of software and other technologies that are capable of automatically identifying potential anomalies in scanned containers; and

(5) an analysis of the need and feasibility of expanding the integrated scanning system to other container security initiative ports, including—

(A) an analysis of the infrastructure requirements;

(B) a projection of the effect on current average processing speed of containerized cargo;

(C) an evaluation of the scalability of the system to meet both current and future forecasted trade flows;

(D) the ability of the system to automatically maintain and catalog appropriate data for reference and analysis in the event of a transportation disruption;

(E) an analysis of requirements, including costs, to install and maintain an integrated scanning system;

(F) the ability of administering personnel to efficiently manage and utilize the data produced by a nonintrusive scanning system;

(G) the ability to safeguard commercial data generated by, or submitted to, a nonintrusive scanning system; and

(H) an assessment of the reliability of currently available technology to implement an integrated scanning system.

(Pub. L. 109-347, title II, § 231, Oct. 13, 2006, 120 Stat. 1915.)

§ 981a. Pilot integrated scanning system

(a) Designations

(1) In general

Not later than 90 days after October 4, 2006, the Secretary of Homeland Security (referred to in this section as the “Secretary”) shall designate three foreign seaports through which containers pass or are transshipped to the United States to pilot an integrated scanning system that couples nonintrusive imaging equipment and radiation detection equipment, which may be provided by the Megaports Initiative of the Department of Energy. In making designations under this subsection, the Secretary shall consider three distinct ports with unique features and differing levels of trade volume.

(2) Collaboration and cooperation

The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and host foreign government to implement the pilot program under this subsection.

(b) Implementation

Not later than one year after October 4, 2006, the Secretary shall achieve a full-scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the terminal;

(2) electronically transmit the images and information to the container security initiative personnel in the host country and/or Customs and Border Protection personnel in the United States for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) Evaluation

The Secretary shall evaluate the pilot program in subsection (b) to determine whether such a system—

(1) has a sufficiently low false alarm rate for use in the supply chain;

(2) is capable of being deployed and operated at ports overseas, including consideration of cost, personnel, and infrastructure required to operate the system;

(3) is capable of integrating, where necessary, with existing systems;

(4) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(5) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) Report

Not later than 120 days after achieving full-scale implementation under subsection (b), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report, to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot program implemented under this section;

(2) an analysis of the efficacy of the Automated Targeted System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers; and

(4) a plan and schedule to expand the integrated scanning system developed under this section to other container security initiative ports.

(e) Implementation

If the Secretary determines the available technology meets the criteria outlined in subsection (c), the Secretary, in cooperation with the Secretary of State, shall seek to secure the cooperation of foreign governments to initiate and maximize the use of such technology at foreign ports to scan all cargo bound for the United States as quickly as possible.

(Pub. L. 109-295, title V, § 558, Oct. 4, 2006, 120 Stat. 1392.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2007, and not as part of the Security and Accountability For Every Port Act of 2006, also known as the SAFE Port Act, which comprises this chapter.

§ 982. Screening and scanning of cargo containers

(a) One hundred percent screening of cargo containers and 100 percent scanning of high-risk containers

(1) Screening of cargo containers

The Secretary shall ensure that 100 percent of the cargo containers originating outside the United States and unloaded at a United States seaport undergo a screening to identify high-risk containers.

(2) Scanning of high-risk containers

The Secretary shall ensure that 100 percent of the containers that have been identified as

high-risk under paragraph (1), or through other means, are scanned or searched before such containers leave a United States seaport facility.

(b) Full-scale implementation

(1) In general

A container that was loaded on a vessel in a foreign port shall not enter the United States (either directly or via a foreign port) unless the container was scanned by nonintrusive imaging equipment and radiation detection equipment at a foreign port before it was loaded on a vessel.

(2) Application

Paragraph (1) shall apply with respect to containers loaded on a vessel in a foreign country on or after the earlier of—

(A) July 1, 2012; or

(B) such other date as may be established by the Secretary under paragraph (3).

(3) Establishment of earlier deadline

The Secretary shall establish a date under (2)(B)¹ pursuant to the lessons learned through the pilot integrated scanning systems established under section 981 of this title.

(4) Extensions

The Secretary may extend the date specified in paragraph (2)(A) or (2)(B) for 2 years, and may renew the extension in additional 2-year increments, for containers loaded in a port or ports, if the Secretary certifies to Congress that at least two of the following conditions exist:

(A) Systems to scan containers in accordance with paragraph (1) are not available for purchase and installation.

(B) Systems to scan containers in accordance with paragraph (1) do not have a sufficiently low false alarm rate for use in the supply chain.

(C) Systems to scan containers in accordance with paragraph (1) cannot be purchased, deployed, or operated at ports overseas, including, if applicable, because a port does not have the physical characteristics to install such a system.

(D) Systems to scan containers in accordance with paragraph (1) cannot be integrated, as necessary, with existing systems.

(E) Use of systems that are available to scan containers in accordance with paragraph (1) will significantly impact trade capacity and the flow of cargo.

(F) Systems to scan containers in accordance with paragraph (1) do not adequately provide an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(5) Exemption for military cargo

Notwithstanding any other provision in the section, supplies bought by the Secretary of Defense and transported in compliance section 2631 of title 10 and military cargo of foreign countries are exempt from the requirements of this section.

¹ So in original. Probably should be “paragraph (2)(B)”.

(6) Report on extensions

An extension under paragraph (4) for a port or ports shall take effect upon the expiration of the 60-day period beginning on the date the Secretary provides a report to Congress that—

(A) states what container traffic will be affected by the extension;

(B) provides supporting evidence to support the Secretary’s certification of the basis for the extension; and

(C) explains what measures the Secretary is taking to ensure that scanning can be implemented as early as possible at the port or ports that are the subject of the report.

(7) Report on renewal of extension

If an extension under paragraph (4) takes effect, the Secretary shall, after one year, submit a report to Congress on whether the Secretary expects to seek to renew the extension.

(8) Scanning technology standards

In implementing paragraph (1), the Secretary shall—

(A) establish technological and operational standards for systems to scan containers;

(B) ensure that the standards are consistent with the global nuclear detection architecture developed under the Homeland Security Act of 2002 [6 U.S.C. 101 et seq.]; and

(C) coordinate with other Federal agencies that administer scanning or detection programs at foreign ports.

(9) International trade and other obligations

In carrying out this subsection, the Secretary shall consult with appropriate Federal departments and agencies and private sector stakeholders, and ensure that actions under this section do not violate international trade obligations, and are consistent with the World Customs Organization framework, or other international obligations of the United States.

(c) Report

Not later than 6 months after the submission of a report under section 981(d) of this title, and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection (b) and the cost of deploying the system at each foreign port at which the integrated scanning systems are deployed.

(Pub. L. 109-347, title II, § 232, Oct. 13, 2006, 120 Stat. 1916; Pub. L. 110-53, title XVII, § 1701(a), Aug. 3, 2007, 121 Stat. 489.)

Editorial Notes

REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in subsec. (b)(8)(B), is Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, which is classified principally to chapter 1 (§ 101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-53 reenacted heading without change and amended text of subsec. (b) generally. Prior to amendment, text related to full deployment of an integrated scanning system after the Sec-

retary had determined that such system had met section 981(c) requirements, had a sufficiently low false alarm rate, was capable of being deployed overseas, was capable of integrating with existing systems, would not significantly impact trade flow, and had provided for automated notification of high-risk cargo.

Statutory Notes and Related Subsidiaries

CARGO CONTAINER SCANNING TECHNOLOGY REVIEW

Pub. L. 115-254, div. K, title I, § 1979, Oct. 5, 2018, 132 Stat. 3618, provided that:

“(a) DESIGNATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], and not less frequently than once every 5 years thereafter until the date of full-scale implementation of 100 percent screening of cargo containers and 100 percent scanning of high-risk containers required under section 232 of the SAFE Port Act (6 U.S.C. 982), the Secretary [of Homeland Security] shall solicit proposals for scanning technologies, consistent with the standards under subsection (b)(8) of that section, to improve scanning of cargo at domestic ports.

“(2) EVALUATION.—In soliciting proposals under paragraph (1), the Secretary shall establish measures to assess the performance of the proposed scanning technologies, including—

“(A) the rate of false positives;

“(B) the delays in processing times; and

“(C) the impact on the supply chain.

“(b) PILOT PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary may establish a pilot program to determine the efficacy of a scanning technology referred to in subsection (a).

“(2) APPLICATION PROCESS.—In carrying out the pilot program under this subsection, the Secretary shall—

“(A) solicit applications from domestic ports;

“(B) select up to 4 domestic ports to participate in the pilot program; and

“(C) select ports with unique features and differing levels of trade volume.

“(3) REPORT.—Not later than 1 year after initiating a pilot program under paragraph (1), the Secretary shall submit to the appropriate committees of Congress [Committees on Commerce, Science and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a report on the pilot program, including—

“(A) an evaluation of the scanning technologies proposed to improve security at domestic ports and to meet the full-scale implementation requirement;

“(B) the costs to implement a pilot program;

“(C) the benefits of the proposed scanning technologies;

“(D) the impact of the pilot program on the supply chain; and

“(E) recommendations for implementation of advanced cargo scanning technologies at domestic ports.

“(4) SHARING PILOT PROGRAM TESTING RESULTS.—The results of the pilot testing of advanced cargo scanning technologies shall be shared, as appropriate, with government agencies and private stakeholders whose responsibilities encompass the secure transport of cargo.”

§ 983. Inspection technology and training

(a) In general

The Secretary, in coordination with the Secretary of State, the Secretary of Energy, and appropriate representatives of other Federal agencies, may provide technical assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports

designated under the Container Security Initiative.

(b) Acquisition and training

Unless otherwise prohibited by law, the Secretary may—

(1) lease, loan, provide, or otherwise assist in the deployment of nonintrusive inspection and radiation detection equipment at foreign land and sea ports under such terms and conditions as the Secretary prescribes, including non-reimbursable loans or the transfer of ownership of equipment; and

(2) provide training and technical assistance for domestic or foreign personnel responsible for operating or maintaining such equipment.

(Pub. L. 109-347, title II, § 233(a), Oct. 13, 2006, 120 Stat. 1917; Pub. L. 115-254, div. J, § 1816(e)(1), Oct. 5, 2018, 132 Stat. 3541.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-254, which directed the general amendment of “section 233 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 983)”, was executed by generally amending section 233(a) of the Security and Accountability for Every Port Act of 2006, which comprises this section, to reflect the probable intent of Congress. Prior to amendment, section read as follows:

“(1) IN GENERAL.—The Secretary, in coordination with the Secretary of State, the Secretary of Energy, and appropriate representatives of other Federal agencies, may provide technical assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports designated under the Container Security Initiative.

“(2) ACQUISITION AND TRAINING.—Unless otherwise prohibited by law, the Secretary may—

“(A) lease, loan, provide, or otherwise assist in the deployment of nonintrusive inspection and radiation detection equipment at foreign land and sea ports under such terms and conditions as the Secretary prescribes, including nonreimbursable loans or the transfer of ownership of equipment; and

“(B) provide training and technical assistance for domestic or foreign personnel responsible for operating or maintaining such equipment.”

§ 984. Repealed. Pub. L. 115-254, div. J, § 1816(f), Oct. 5, 2018, 132 Stat. 3541

Section, Pub. L. 109-347, title II, § 235, Oct. 13, 2006, 120 Stat. 1919, related to pilot program to improve the security of empty containers.

§ 985. Information sharing relating to supply chain security cooperation

(a) Purposes

The purposes of this section are—

(1) to establish continuing liaison and to provide for supply chain security cooperation between Department and the private sector; and

(2) to provide for regular and timely interchange of information between the private sector and the Department concerning developments and security risks in the supply chain environment.

(b) System

The Secretary shall develop a system to collect from and share appropriate risk informa-

tion related to the supply chain with the private sector entities determined appropriate by the Secretary.

(c) Consultation

In developing the system under subsection (b), the Secretary shall consult with the Commercial Operations Advisory Committee and a broad range of public and private sector entities likely to utilize the system, including importers, exporters, carriers, customs brokers, and freight forwarders, among other parties.

(d) Independently obtained information

Nothing in this section shall be construed to limit or otherwise affect the ability of a Federal, State, or local government entity, under applicable law, to obtain supply chain security information, including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(e) Authority to issue warnings

The Secretary may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential risks to the supply chain as appropriate. In issuing a warning, the Secretary shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted supply chain security information that forms the basis for the warning; and

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(Pub. L. 109-347, title II, §236, Oct. 13, 2006, 120 Stat. 1919.)

SUBCHAPTER III—ADMINISTRATION

§ 1001. Designation of liaison office of Department of State

The Secretary of State shall designate a liaison office within the Department of State to assist the Secretary, as appropriate, in negotiating cargo security-related international agreements.

(Pub. L. 109-347, title III, §301(b), Oct. 13, 2006, 120 Stat. 1920.)

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Nothing in this section to be construed to affect the authorities, functions, or capabilities of the Coast Guard to perform its missions or the requirement under section 468 of this title that those authorities, functions, and capabilities be maintained intact, see section 301(c) of Pub. L. 109-347, set out as a note under section 239 of this title.

§ 1002. Homeland Security Science and Technology Advisory Committee

The Under Secretary for Science and Technology shall utilize the Homeland Security Science and Technology Advisory Committee, as appropriate, to provide outside expertise in advancing cargo security technology.

(Pub. L. 109-347, title III, §302(c), Oct. 13, 2006, 120 Stat. 1921.)

§ 1003. Research, development, test, and evaluation efforts in furtherance of maritime and cargo security

(a) In general

The Secretary shall—

(1) direct research, development, testing, and evaluation efforts in furtherance of maritime and cargo security;

(2) coordinate with public and private sector entities to develop and test technologies, and process innovations in furtherance of these objectives; and

(3) evaluate such technologies.

(b) Coordination

The Secretary, in coordination with the Under Secretary for Science and Technology, the Assistant Secretary for Policy, the Commandant of the Coast Guard, the Director for Domestic Nuclear Detection,¹ the Chief Financial Officer, and the heads of other appropriate offices or entities of the Department, shall ensure that—

(1) research, development, testing, and evaluation efforts funded by the Department in furtherance of maritime and cargo security are coordinated within the Department and with other appropriate Federal agencies to avoid duplication of efforts; and

(2) the results of such efforts are shared throughout the Department and with other Federal, State, and local agencies, as appropriate.

(Pub. L. 109-347, title III, §303, Oct. 13, 2006, 120 Stat. 1921.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director for Domestic Nuclear Detection deemed to be a reference to the Assistant Secretary for the Countering Weapons of Mass Destruction Office, see section 2(b)(1)(B) of Pub. L. 115-387, set out as a note under section 591 of this title.

CHAPTER 4—TRANSPORTATION SECURITY

SUBCHAPTER I—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

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¹ See Change of Name note below.