

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the SAFE Port Act, referred to in subssecs. (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”.

Statutory Notes and Related Subsidiaries

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) NATIONAL MARITIME SECURITY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established a National Maritime Security Advisory Committee (in this subsection referred to as the “Committee”).

(2) FUNCTION.—The Committee shall advise the Secretary on matters relating to national maritime security, including on enhancing the sharing of information related to cybersecurity risks that may cause a transportation security incident, between relevant Federal agencies and—

- (A) State, local, and tribal governments;
- (B) relevant public safety and emergency response agencies;
- (C) relevant law enforcement and security organizations;
- (D) maritime industry;
- (E) port owners and operators; and
- (F) terminal owners and operators.

(3) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of at least 8 members, but not more than 21 members, appointed by the Secretary in accordance with this subsection and section 15109 of this title.

(B) EXPERTISE.—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(C) REPRESENTATION.—Each of the following shall be represented by at least 1 member of the Committee:

- (i) Port authorities.
- (ii) Facilities owners and operators.
- (iii) Terminal owners and operators.
- (iv) Vessel owners and operators.
- (v) Maritime labor organizations.
- (vi) The academic community.
- (vii) State and local governments.
- (viii) The maritime industry.

(D) DISTRIBUTION.—If the Committee consists of at least 8 members who, together, satisfy the minimum representation requirements of subparagraph (C), the Secretary shall, based on the needs of the Coast Guard, determine the number of additional members of the Committee who represent each entity specified in that subparagraph. Neither this subparagraph nor any other provision of law shall be construed to require an equal distribution of members representing each entity specified in subparagraph (C).

(4) ADMINISTRATION.—For purposes of section 15109 of this title, the Committee shall be treated as a committee established under chapter 151 of such title.

(b) AREA MARITIME SECURITY ADVISORY COMMITTEES.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—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) ADDITIONAL FUNCTIONS AND MEETINGS.—A committee established under this subsection 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.

(2) MEMBERSHIP.—

(A) IN GENERAL.—Each committee established under this subsection shall consist of at least 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

(B) TERMS.—The term of each member of a committee established under this subsection shall be for a period of not more than 5 years, specified by the Secretary.

(C) NOTICE.—Before appointing an individual to a position on a committee established under this subsection, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the committee.

(D) BACKGROUND EXAMINATIONS.—The Secretary may require an individual to have passed an appropriate security background examination before appointment to a committee established under this subsection.

(E) REPRESENTATION.—Each committee established under this subsection shall be composed of individuals who represent the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.

(3) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) IN GENERAL.—Each committee established under this subsection shall elect 1 of the committee's members as the Chairperson and 1 of the committee's members as the Vice Chairperson.

(B) VICE CHAIRPERSON ACTING AS CHAIRPERSON.—The Vice Chairperson shall act as Chairperson in the absence or incapacity of the Chairperson, or in the event of a vacancy in the office of the Chairperson.

(4) OBSERVERS.—

(A) IN GENERAL.—The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with a committee established under this subsection.

(B) ROLE.—The Secretary's designated representative to a committee established under this subsection shall act as the executive secretary of the committee and shall perform the duties set forth in section 1009(c) of title 5.

(5) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of each committee established under this subsection in formulating policy regarding matters affecting maritime security.

(6) COMPENSATION AND EXPENSES.—

(A) IN GENERAL.—A member of a committee established under this subsection, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

(i) 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

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

(B) STATUS.—A member of a committee established under this subsection shall not be considered to be an officer or employee of the United States for any purpose based on the receipt of any payment under this paragraph.

(7) CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 does not apply to a committee established under this subsection.

(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; Pub. L. 111-281, title VIII, §810, Oct. 15, 2010, 124 Stat. 2995; Pub. L. 115-254, div. J, §1805(c)(1), Oct. 5, 2018, 132 Stat. 3534; Pub. L. 115-282, title VI, §602(a), Dec. 4, 2018, 132 Stat. 4290; Pub. L. 117-286, §4(a)(294), (295), Dec. 27, 2022, 136 Stat. 4338.)

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AMENDMENTS

2022—Subsec. (b)(4)(B). Pub. L. 117-286, §4(a)(294), substituted “section 1009(c) of title 5.” for “section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).”

Subsec. (b)(7). Pub. L. 117-286, §4(a)(295), substituted “Chapter 10 of title 5” for “FACA” in heading and “Chapter 10 of title 5” for “The Federal Advisory Committee Act (5 U.S.C. App.)” in text.

2018—Pub. L. 115-282, §602(a), amended section generally. Prior to amendment, section required Secretary to establish a National Maritime Security Advisory Committee and authorized Secretary to establish an Area Maritime Security Advisory Committee for any port area of the United States.

Subsec. (a)(1)(A). Pub. L. 115-254 inserted “, including on enhancing the sharing of information related to cybersecurity risks that may cause a transportation security incident, between relevant Federal agencies and—” in introductory provisions and added cls. (i) to (vi).

2010—Subsec. (b)(5). Pub. L. 111-281, §810(1), amended par. (5) generally. Prior to amendment par. (5) read as follows: “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.”

Subsec. (g)(1)(A). Pub. L. 111-281, §810(2)(A), substituted “2020;” for “2008;”.

Subsec. (g)(2). Pub. L. 111-281, §810(2)(B), substituted “2018” for “2006”.

2006—Subsec. (b)(5). Pub. L. 109-241 realigned margins.

2004—Subsec. (b)(5). Pub. L. 108-293 added par. (5).

Statutory Notes and Related Subsidiaries

TREATMENT OF EXISTING COMMITTEE

Pub. L. 115-282, title VI, §602(b), Dec. 4, 2018, 132 Stat. 4293, provided that: “Notwithstanding any other provision of law—

“(1) an advisory committee substantially similar to the National Maritime Security Advisory Committee established under section 70112(a) of title 46, United States Code, as amended by this section, and that was in force or in effect on the day before the date of enactment of this section [Dec. 4, 2018], may remain in force or in effect for a period of 2 years from the date of enactment of this section, including that the charter, membership, and other aspects of the committee may remain in force or in effect; and

“(2) during the 2-year period referenced in paragraph (1)—

“(A) requirements relating to the National Maritime Security Advisory Committee established under section 70112(a) of title 46, United States Code, as amended by this section, shall be treated as satisfied by the substantially similar advisory committee; and

“(B) the enactment of this section, including the amendments made in this section, shall not be the basis—

“(i) to deem, find, or declare such committee, including the charter, membership, and other aspects thereof, void, not in force, or not in effect;

“(ii) to suspend the activities of such committee; or

“(iii) to bar the members of such committee from meeting.”

CYBERSECURITY INFORMATION SHARING AND
COORDINATION IN PORTS

Pub. L. 115-254, div. J, §1805(a), Oct. 5, 2018, 132 Stat. 3533, provided that:

“(a) MARITIME CYBERSECURITY RISK ASSESSMENT MODEL.—The Secretary of Homeland Security, through the Commandant of the Coast Guard and the Under Secretary responsible for overseeing the critical infrastructure protection, cybersecurity, and other related programs of the Department of Homeland Security, shall—

“(1) not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], coordinate with the National Maritime Security Advisory Committee, the Area Maritime Security Advisory Committees, and other maritime stakeholders, as necessary, to develop and implement a maritime cybersecurity risk assessment model, consistent with the activities described in section 2(e) of the National Institute of Standards and Technology Act (15 U.S.C. 272(e)), to evaluate current and future cybersecurity risks that have the potential to affect the marine transportation system or that would cause a transportation security incident (as defined in section 70101 of title 46, United States Code) in ports; and

“(2) not less than biennially thereafter, evaluate the effectiveness of the cybersecurity risk assessment model established under paragraph (1).”

INFORMATION SHARING

Pub. L. 115-254, div. J, §1805(c)(2), Oct. 5, 2018, 132 Stat. 3534, provided that: “The Commandant of the Coast Guard and the Under Secretary responsible for overseeing the critical infrastructure protection, cybersecurity, and other related programs of the Department of Homeland Security shall—

“(A) ensure there is a process for each Area Maritime Security Advisory Committee established under section 70112 of title 46, United States Code—

“(i) to facilitate the sharing of information related to cybersecurity risks that may cause transportation security incidents;

“(ii) to timely report transportation security incidents to the national level; and

“(iii) to disseminate such reports across the entire maritime transportation system via the National Cybersecurity and Communications Integration Center; and

“(B) issue voluntary guidance for the management of such cybersecurity risks in each Area Maritime Transportation Security Plan and facility security plan required under section 70103 of title 46, United States Code, approved after the date that the cybersecurity risk assessment model is developed under subsection (a) of this section [set out as a note above].”

§ 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.)

Editorial Notes

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.)

Statutory Notes and Related Subsidiaries

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