

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 incor-

¹ See References in Text note below.

porate 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) \$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