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SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT OF 2006

Public Law 109–347
109th Congress

An Act

Oct. 13, 2006
[H.R. 4954]

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Security and Accountability For Every Port Act of 2006.
6 USC 901 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Security and Accountability For Every Port Act of 2006" or the "SAFE Port Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

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Sec. 102. Requirements relating to maritime facility security plans.
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Sec. 202. Post-incident resumption of trade.
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6 USC 901.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided, the term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Finance of the Senate;

(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

(E) the Committee on Appropriations of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives;

(G) the Committee on Transportation and Infrastructure of the House of Representatives;

(H) the Committee on Ways and Means of the House of Representatives; and

(I) other congressional committees, as appropriate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) COMMERCIAL SEAPORT PERSONNEL.—The term "commercial seaport personnel" includes any person engaged in an activity relating to the loading or unloading of cargo or passengers, the movement or tracking of cargo, the maintenance and repair of intermodal equipment, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when a vessel is made fast or let go in the United States.

(4) COMMISSIONER.—The term "Commissioner" means the Commissioner responsible for the United States Customs and Border Protection of the Department of Homeland Security.

(5) CONTAINER.—The term "container" has the meaning given the term in the International Convention for Safe Containers, with annexes, done at Geneva, December 2, 1972 (29 UST 3707).

(6) CONTAINER SECURITY DEVICE.—The term "container security device" means a device, or system, designed, at a minimum, to identify positively a container, to detect and record the unauthorized intrusion of a container, and to secure a container against tampering throughout the supply chain. Such a device, or system, shall have a low false alarm rate as determined by the Secretary.

(7) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

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(8) EXAMINATION.—The term "examination" means an inspection of cargo to detect the presence of misdeclared, restricted, or prohibited items that utilizes nonintrusive imaging and detection technology.

(9) INSPECTION.—The term "inspection" means the comprehensive process used by the United States Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws. The process may include screening, conducting an examination, or conducting a search.

(10) INTERNATIONAL SUPPLY CHAIN.—The term "international supply chain" means the end-to-end process for shipping goods to or from the United States beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

(11) RADIATION DETECTION EQUIPMENT.—The term "radiation detection equipment" means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(12) SCAN.—The term "scan" means utilizing nonintrusive imaging equipment, radiation detection equipment, or both, to capture data, including images of a container.

(13) SCREENING.—The term "screening" means a visual or automated review of information about goods, including manifest or entry documentation accompanying a shipment being imported into the United States, to determine the presence of misdeclared, restricted, or prohibited items and assess the level of threat posed by such cargo.

(14) SEARCH.—The term "search" means an intrusive examination in which a container is opened and its contents are devanned and visually inspected for the presence of misdeclared, restricted, or prohibited items.

(15) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(16) TRANSPORTATION DISRUPTION.—The term "transportation disruption" means any significant delay, interruption, or stoppage in the flow of trade caused by a natural disaster, heightened threat level, an act of terrorism, or any transportation security incident (as defined in section 70101(6) of title 46, United States Code).

(17) TRANSPORTATION SECURITY INCIDENT.—The term "transportation security incident" has the meaning given the term in section 70101(6) of title 46, United States Code.

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

SEC. 101. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (E), by striking "and" after the semicolon;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) include a salvage response plan—

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

"(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident; and".

SEC. 102. REQUIREMENTS RELATING TO MARITIME FACILITY SECURITY PLANS.

Section 70103(c) of title 46, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (C)(ii), by striking "facility" and inserting "facility, including access by persons engaged in the surface transportation of intermodal containers in or out of a port facility";

(B) in subparagraph (F), by striking "and" at the end;

(C) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

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

(2) by adding at the end the following:

Citizenship.

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

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

SEC. 103. UNANNOUNCED INSPECTIONS OF MARITIME FACILITIES.

Section 70103(c)(4)(D) of title 46, United States Code, is amended to read as follows:

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

SEC. 104. TRANSPORTATION SECURITY CARD.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended by adding at the end the following:

"(g) APPLICATIONS FOR MERCHANT MARINERS' DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46,

United States Code, and an application from that individual for a transportation security card under this section.

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

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

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

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

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

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

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

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

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

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

"(k) DEPLOYMENT OF TRANSPORTATION SECURITY CARD READERS.—

"(1) PILOT PROGRAM.—

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

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

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

"(2) CORRELATION WITH TRANSPORTATION SECURITY CARDS.—

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

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

Deadline.
Notice.
Public comment.

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

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

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

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

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

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

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

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

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

(b) CLARIFICATION OF ELIGIBILITY FOR TRANSPORTATION SECURITY CARDS.—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (E), by striking "and" at the end;

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

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

(2) in subsection (c)(2), by inserting "subparagraph (A), (B), or (D)" before "paragraph (1)".

(c) DEADLINE FOR SECTION 70105 REGULATIONS.—Not later than January 1, 2007, the Secretary shall promulgate final regulations implementing the requirements for issuing transportation security cards under section 70105 of title 46, United States Code. The regulations shall include a background check process to enable newly hired workers to begin working unless the Secretary makes an initial determination that the worker poses a security risk. Such process shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government. 46 USC 70105 note.

SEC. 105. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out for the Department that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study, including—

(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

SEC. 106. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO PERSONS CONVICTED OF CERTAIN FELONIES. 46 USC 70105 note.

The Secretary, in issuing a final rule pursuant to section 70105 of title 46, United States Code, shall provide for the disqualification of individuals who have been found guilty or have been found not guilty by reason of insanity of a felony, involving—

(1) treason, or conspiracy to commit treason;

(2) espionage, or conspiracy to commit espionage;

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

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

SEC. 107. LONG-RANGE VESSEL TRACKING.

(a) REGULATIONS.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking "The Secretary" and inserting "Not later than April 1, 2007, the Secretary".

(b) VOLUNTARY PROGRAM.—The Secretary may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued under such section. 46 USC 70105 note.

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SEC. 108. ESTABLISHMENT OF INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70107 the following:

"§ 70107A. Interagency operational centers for port security

Deadline.

"(a) IN GENERAL.—The Secretary shall establish interagency operational centers for port security at all high-priority ports not later than 3 years after the date of the enactment of the SAFE Port Act.

"(b) CHARACTERISTICS.—The interagency operational centers established under this section shall—

"(1) utilize, as appropriate, the compositional and operational characteristics of existing centers, including—

"(A) the pilot project interagency operational centers for port security in Miami, Florida; Norfolk/Hampton Roads, Virginia; Charleston, South Carolina; and San Diego, California; and

"(B) the virtual operation center of the Port of New York and New Jersey;

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

"(3) in addition to the Coast Guard, provide, as the Secretary determines appropriate, for participation by representatives of the United States Customs and Border Protection, the United States Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption; and

"(4) be incorporated in the implementation and administration of—

"(A) maritime transportation security plans developed under section 70103;

"(B) maritime intelligence activities under section 70113 and information sharing activities consistent with section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 485) and the Homeland Security Information Sharing Act (6 U.S.C. 481 et seq.);

"(C) short- and long-range vessel tracking under sections 70114 and 70115;

"(D) protocols under section 201(b)(10) of the SAFE Port Act;

"(E) the transportation security incident response plans required by section 70104; and

"(F) other activities, as determined by the Secretary.

"(c) SECURITY CLEARANCES.—The Secretary shall sponsor and expedite individuals participating in interagency operational centers in gaining or maintaining their security clearances. Through the Captain of the Port, the Secretary may identify key individuals who should participate. The port or other entities may appeal to the Captain of the Port for sponsorship.

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"(d) SECURITY INCIDENTS.—During a transportation security incident on or adjacent to waters subject to the jurisdiction of the United States, the Coast Guard Captain of the Port designated by the Commandant of the Coast Guard in a maritime security command center described in subsection (a) shall act as the incident commander, unless otherwise directed by the President.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the normal command and control procedures for operational entities in the Department, unless so directed by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for each of the fiscal years 2007 through 2012 to carry out this section.".

(b) REPORT REQUIREMENT.—Nothing in this section or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293; 118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section. 46 USC 70107A note.

(c) BUDGET AND COST-SHARING ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the appropriate congressional committees a proposed budget analysis for implementing section 70107A of title 46, United States Code, as added by subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers to be established under such section. Deadline.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70107 the following:

"70107A. Interagency operational centers for port security".

SEC. 109. NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF. 33 USC 1223 note.

(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall update and finalize the rulemaking on notice of arrival for foreign vessels on the Outer Continental Shelf. Deadline. Regulations.

(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to subsection (a) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

SEC. 110. ENHANCED CREWMEMBER IDENTIFICATION.

Section 70111 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "The" and inserting "Not later than 1 year after the date of enactment of the SAFE Port Act, the"; and

(2) in subsection (b) by striking "The" and inserting "Not later than 1 year after the date of enactment of the SAFE Port Act, the".

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Subtitle B—Port Security Grants; Training and Exercise Programs

46 USC 70103 note.

SEC. 111. RISK ASSESSMENT TOOL.

In updating Area Maritime Security Plans required under section 70103(b)(2)(F) of title 46, United States Code, and in applying for grants under section 70107 of such title, the Secretary of the Department in which the Coast Guard is operating shall make available, and Area Maritime Security Committees may use a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard.

SEC. 112. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "for making a fair and equitable allocation of funds" and inserting "for the allocation of funds based on risk".

(b) ELIGIBLE USES.—Section 70107(b) of title 46, United States Code, is amended—

(1) in paragraph (2), by inserting after "crewmembers." the following: "Grants awarded under this section may not be used to construct buildings or other physical facilities, except those which are constructed under terms and conditions consistent with the requirements under section 611(j)(8) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121(j)(8)), including those facilities in support of this paragraph, and specifically approved by the Secretary. Costs eligible for funding under this paragraph may not exceed the greater of—

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

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

(2) by adding at the end the following:

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

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

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

(c) MULTIPLE-YEAR PROJECTS, ETC.—Section 70107 of title 46, United States Code, is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (d) the following:

"(e) MULTIPLE-YEAR PROJECTS.—

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

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

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

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

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

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

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

(2) in subsection (i)(1), as redesignated, by striking "program" and inserting "Secretary".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 70107(l) of title 46, United States Code, as redesignated, is amended to read as follows:

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

(e) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "national economic and strategic defense concerns" and inserting "national economic, energy, and strategic defense concerns based upon the most current risk assessments available".

SEC. 113. PORT SECURITY TRAINING PROGRAM.

6 USC 911.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, shall establish a Port Security Training Program (referred to in this section as the "Training Program") for the purpose of enhancing the capabilities of each facility required to submit a plan under section 70103(c) of title 46, United States Code, to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism, natural disasters, and other emergencies.

(b) REQUIREMENTS.—The Training Program shall provide validated training that—

(1) reaches multiple disciplines, including Federal, State, and local government officials, commercial seaport personnel and management, and governmental and nongovernmental emergency response providers;

(2) provides training at the awareness, performance, and management and planning levels;

(3) utilizes multiple training mediums and methods;

(4) addresses port security topics, including—

(A) facility security plans and procedures, including how security plans and procedures are adjusted when threat levels increase;

(B) facility security force operations and management;

(C) physical security and access control at facilities;

(D) methods of security for preventing and countering cargo theft;

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(E) container security;

(F) recognition and detection of weapons, dangerous substances, and devices;

(G) operation and maintenance of security equipment and systems;

(H) security threats and patterns;

(I) security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers; and

(J) evacuation procedures;

(5) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(6) is evaluated against clear and consistent performance measures;

(7) addresses security requirements under facility security plans; and

(8) educates, trains, and involves individuals in neighborhoods around facilities required to submit a plan under section 70103(c) of title 46, United States Code, on how to observe and report security risks.

(c) VESSEL AND FACILITY SECURITY PLANS.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by redesignating subparagraphs (F), (G), and (H) (as added by section 102(1)(D)) as subparagraphs (G), (H), and (I), respectively; and

(2) by inserting after subparagraph (E) the following:

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

(d) CONSULTATION.—The Secretary shall ensure that, in carrying out the Program, the Office of Grants and Training shall consult with commercial seaport personnel and management.

(e) TRAINING PARTNERS.—In developing and delivering training under the Training Program, the Secretary, in coordination with the Maritime Administration of the Department of Transportation, and consistent with section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note), shall—

(1) work with government training facilities, academic institutions, private organizations, employee organizations, and other entities that provide specialized, state-of-the-art training for governmental and nongovernmental emergency responder providers or commercial seaport personnel and management; and

(2) utilize, as appropriate, government training facilities, courses provided by community colleges, public safety academies, State and private universities, and other facilities.

6 USC 912.

SEC. 114. PORT SECURITY EXERCISE PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, shall establish a Port Security Exercise Program (referred to in this section as the "Exercise Program") for the purpose of testing and evaluating the capabilities of Federal, State, local, and foreign governments, commercial seaport personnel

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and management, governmental and nongovernmental emergency response providers, the private sector, or any other organization or entity, as the Secretary determines to be appropriate, to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism, natural disasters, and other emergencies at facilities required to submit a plan under section 70103(c) of title 46, United States Code.

(b) REQUIREMENTS.—The Secretary shall ensure that the Exercise Program—

(1) conducts, on a periodic basis, port security exercises at such facilities that are—

(A) scaled and tailored to the needs of each facility;

(B) live, in the case of the most at-risk facilities;

(C) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(D) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(E) evaluated against clear and consistent performance measures;

(F) assessed to learn best practices, which shall be shared with appropriate Federal, State, and local officials, commercial seaport personnel and management, governmental and nongovernmental emergency response providers, and the private sector; and

(G) followed by remedial action in response to lessons learned; and

(2) assists State and local governments and facilities in designing, implementing, and evaluating exercises that—

(A) conform to the requirements of paragraph (1); and

(B) are consistent with any applicable Area Maritime Transportation Security Plan and State or Urban Area Homeland Security Plan.

(c) IMPROVEMENT PLAN.—The Secretary shall establish a port security exercise improvement plan process to—

(1) identify and analyze each port security exercise for lessons learned and best practices;

(2) disseminate lessons learned and best practices to participants in the Exercise Program;

(3) monitor the implementation of lessons learned and best practices by participants in the Exercise Program; and

(4) conduct remedial action tracking and long-term trend analysis.

SEC. 115. FACILITY EXERCISE REQUIREMENTS.

6 USC 913.

The Secretary of the Department in which the Coast Guard is operating shall require each high risk facility to conduct live or full-scale exercises described in section 105.220(c) of title 33, Code of Federal Regulations, not less frequently than once every 2 years, in accordance with the facility security plan required under section 70103(c) of title 46, United States Code.

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Subtitle C—Port Operations

6 USC 921.

SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.

Deadline.

(a) SCANNING CONTAINERS.—Subject to section 1318 of title 19, United States Code, not later than December 31, 2007, all containers entering the United States through the 22 ports through which the greatest volume of containers enter the United States by vessel shall be scanned for radiation. To the extent practicable, the Secretary shall deploy next generation radiation detection technology.

(b) STRATEGY.—The Secretary shall develop a strategy for the deployment of radiation detection capabilities that includes—

(1) a risk-based prioritization of ports of entry at which radiation detection equipment will be deployed;

(2) a proposed timeline of when radiation detection equipment will be deployed at each port of entry identified under paragraph (1);

(3) the type of equipment to be used at each port of entry identified under paragraph (1), including the joint deployment and utilization of radiation detection equipment and nonintrusive imaging equipment;

(4) standard operating procedures for examining containers with such equipment, including sensor alarming, networking, and communications and response protocols;

(5) operator training plans;

(6) an evaluation of the environmental health and safety impacts of nonintrusive imaging technology and a radiation risk reduction plan, in consultation with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, that seeks to minimize radiation exposure of workers and the public to levels as low as reasonably achievable;

(7) the policy of the Department for using nonintrusive imaging equipment in tandem with radiation detection equipment; and

(8) a classified annex that—

(A) details plans for covert testing; and

(B) outlines the risk-based prioritization of ports of entry identified under paragraph (1).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit the strategy developed under subsection (b) to the appropriate congressional committees.

Deadline.

(d) UPDATE.—Not later than 180 days after the date of the submission of the report under subsection (c), the Secretary shall provide a more complete evaluation under subsection (b)(6).

Deadline. Reports.

(e) OTHER WEAPONS OF MASS DESTRUCTION THREATS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the feasibility of, and a strategy for, the development of equipment to detect and prevent shielded nuclear and radiological threat material and chemical, biological, and other weapons of mass destruction from entering the United States.

Publication.

(f) STANDARDS.—The Secretary, acting through the Director for Domestic Nuclear Detection and in collaboration with the

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National Institute of Standards and Technology, shall publish technical capability standards and recommended standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in the United States. Such standards and procedures—

(1) should take into account relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies; and

(2) shall not be designed so as to endorse specific companies or create sovereignty conflicts with participating countries.

(g) IMPLEMENTATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall fully implement the strategy developed under subsection (b).

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a); and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)), Deadline.

but not later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

(i) INTERMODAL RAIL RADIATION DETECTION TEST CENTER.—

(1) ESTABLISHMENT.—In accordance with subsection (b), and in order to comply with this section, the Secretary shall establish an Intermodal Rail Radiation Detection Test Center (referred to in this subsection as the "Test Center").

(2) PROJECTS.—The Secretary shall conduct multiple, concurrent projects at the Test Center to rapidly identify and test concepts specific to the challenges posed by on-dock rail.

(3) LOCATION.—The Test Center shall be located within a public port facility at which a majority of the containerized cargo is directly laden from (or unladen to) on-dock, intermodal rail.

SEC. 122. INSPECTION OF CAR FERRIES ENTERING FROM ABROAD. Deadline. 6 USC 922.

Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, and in coordination with the Secretary of State and in cooperation with ferry operators and appropriate foreign government officials, shall seek to develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States facility required to submit a plan under section 70103(c) of title 46, United States Code.

SEC. 123. RANDOM SEARCHES OF CONTAINERS. Deadline. 6 USC 923.

Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop and implement a plan, utilizing best practices for empirical scientific

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research design and random sampling, to conduct random searches of containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted 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.

SEC. 124. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) of title 46, United States Code, is amended by adding at the end the following: "In this paragraph, the term 'economic disruption' does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employee-employer dispute.".

Deadline.
6 USC 924.

SEC. 125. THREAT ASSESSMENT SCREENING OF PORT TRUCK DRIVERS.

Not later than 90 days after the date of the enactment of this Act, 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 1572 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).

6 USC 925.

SEC. 126. 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 the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that includes the schedule, if any, for carrying out subsection (a).

SEC. 127. REPORT ON ARRIVAL AND DEPARTURE MANIFESTS FOR CERTAIN COMMERCIAL VESSELS IN THE UNITED STATES VIRGIN ISLANDS.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the impact of implementing the requirements of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221) (relating to providing United States border officers with arrival and departure manifests) with respect to commercial vessels that are fewer than 300 gross tons and operate exclusively between the territorial waters of the United States Virgin Islands and the territorial waters of the British Virgin Islands.

6 USC 926.

SEC. 128. 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.

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(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 within 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.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A—General Provisions

SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN. 6 USC 941.

(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, as appropriate, 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 202;

(11) consider the linkages between supply chain security and security programs within 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) REPORT.—

(1) INITIAL REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

(2) FINAL REPORT.—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.

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SEC. 202. POST-INCIDENT RESUMPTION OF TRADE. 6 USC 942.

(a) IN GENERAL.—The Secretary shall develop and update, as necessary, protocols for the resumption of trade in accordance with section 201(b)(10) 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, United States Code), 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, United States Code, 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, United States Code; 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 201, the Commandant of the Coast Guard, Commissioner, and other appropriate

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Federal officials, shall promptly communicate any revised procedures or instructions intended for the private sector following a maritime disruption or maritime transportation security incident.

6 USC 943.

SEC. 203. 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), 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

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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.

SEC. 204. CONTAINER SECURITY STANDARDS AND PROCEDURES. 6 USC 944.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to the United States. Deadline.

(2) INTERIM RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1). Deadline.

(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.—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) 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

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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.

6 USC 945.

SEC. 205. 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, United States Code;

(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—

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(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 designated 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 Secretary to deny entry of any cargo into the United States.

(l) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2007, 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—

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

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

(C) 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;

(D) 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;

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

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

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

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

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(2) UPDATED REPORT.—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).

(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.

Subtitle B—Customs–Trade Partnership Against Terrorism

SEC. 211. ESTABLISHMENT. 6 USC 961.

(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.

SEC. 212. ELIGIBLE ENTITIES. 6 USC 962.

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.

SEC. 213. MINIMUM REQUIREMENTS. 6 USC 963.

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.

6 USC 964.

SEC. 214. 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.

Deadline.

(b) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, 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.

6 USC 965.

SEC. 215. 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.

Deadline.

(c) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, 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.

6 USC 966.

SEC. 216. 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 215.

(b) CRITERIA.—The Secretary, acting through the Commissioner, shall designate criteria for validating a C–TPAT participant

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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 215 of this Act 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 the date of the enactment of this Act, 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).

SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.

6 USC 967.

(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 subtitle, the Commissioner may deny the participant benefits otherwise available under this subtitle, 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 subtitle, 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.—

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(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.

Deadlines.

6 USC 968.

SEC. 218. 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.

Deadline. Reports.

(b) CONSULTATIONS.—Not later than 120 days after the date of the enactment of this Act, 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.—

Deadline.

(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—

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(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.

SEC. 219. REVALIDATION. 6 USC 969.

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

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(C) the number of participants that will be revalidated during the following year.

6 USC 970.

SEC. 220. NONCONTAINERIZED CARGO.

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

6 USC 971.

SEC. 221. 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 paricipant, including certifications, validations, and revalidations.

Procedures.

(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.

6 USC 972.

SEC. 222. 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.

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SEC. 223. AUTHORIZATION OF APPROPRIATIONS. 6 USC 973.

(a) C–TPAT.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of sections 211 through 221 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 222, 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.

Subtitle C—Miscellaneous Provisions

SEC. 231. PILOT INTEGRATED SCANNING SYSTEM. 6 USC 981.

(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this Act, 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. Deadline.

(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 the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated scanning system at the ports designated under subsection (a), which— Deadline.

(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

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(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.

6 USC 982.

SEC. 232. 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.—The Secretary, in coordination with the Secretary of Energy and foreign partners, as appropriate, shall ensure integrated scanning systems are fully deployed

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to scan, using nonintrusive imaging equipment and radiation detection equipment, all containers entering the United States before such containers arrive in the United States as soon as possible, but not before the Secretary determines that the integrated scanning system—

(1) meets the requirements set forth in section 231(c);

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

(3) is capable of being deployed and operated at ports overseas;

(4) is capable of integrating, as necessary, with existing systems;

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

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

(c) REPORT.—Not later than 6 months after the submission of a report under section 231(d), 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.

SEC. 233. INTERNATIONAL COOPERATION AND COORDINATION. 6 USC 983.

(a) INSPECTION TECHNOLOGY AND TRAINING.—

(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.

(b) ACTIONS AND ASSISTANCE FOR FOREIGN PORTS AND UNITED STATES TERRITORIES.—Section 70110 of title 46, United States Code, is amended—

(1) by striking the section header and inserting the following:

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

and

(2) by adding at the end the following:

"(e) ASSISTANCE FOR FOREIGN PORTS AND UNITED STATES TERRITORIES.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, and the

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Secretary of Energy, shall identify assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries and territories of the United States. The Secretary shall establish a program to utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries and territories of the United States that the Secretary finds to lack effective antiterrorism measures.

"(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of American States and the Commandant of the Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

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

"(B) the relative openness of such ports; and

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

(c) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the security of ports in the Caribbean Basin.

(2) CONTENTS.—The report submitted under paragraph (1)—

(A) shall include—

(i) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

(ii) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007;

(iii) an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

(iv) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

(B) may be submitted in both classified and redacted formats.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

"70110. Actions and assistance for foreign ports and United States territories.".

SEC. 234. FOREIGN PORT ASSESSMENTS.

Section 70108 of title 46, United States Code, is amended by adding at the end the following:

"(d) PERIODIC REASSESSMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described

under subsection (a) and of procedures described in subsection (b) not less than once every 3 years.".

SEC. 235. PILOT PROGRAM TO IMPROVE THE SECURITY OF EMPTY CONTAINERS. 6 USC 984.

(a) IN GENERAL.—The Secretary shall conduct a 1-year pilot program to assess the risk posed by and improve the security of empty containers at United States seaports to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers. The pilot program shall include the use of visual searches of empty containers at United States seaports.

(b) REPORT.—Not later than 90 days after the completion of the pilot program under paragraph (1), the Secretary shall prepare and submit to the appropriate congressional committees a report that contains—

(1) the results of the pilot program; and

(2) the determination of the Secretary on whether to expand the pilot program.

SEC. 236. INFORMATION SHARING RELATING TO SUPPLY CHAIN SECURITY COOPERATION. 6 USC 985.

(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 information 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.

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TITLE III—ADMINISTRATION

SEC. 301. OFFICE OF CARGO SECURITY POLICY.

(a) ESTABLISHMENT.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:

6 USC 239.

"SEC. 431. OFFICE OF CARGO SECURITY POLICY.

"(a) ESTABLISHMENT.—There is established within the Department an Office of Cargo Security Policy (referred to in this section as the 'Office').

"(b) PURPOSE.—The Office shall—

"(1) coordinate all Department policies relating to cargo security; and

"(2) consult with stakeholders and coordinate with other Federal agencies in the establishment of standards and regulations and to promote best practices.

"(c) DIRECTOR.—

"(1) APPOINTMENT.—The Office shall be headed by a Director, who shall—

"(A) be appointed by the Secretary; and

"(B) report to the Assistant Secretary for Policy.

"(2) RESPONSIBILITIES.—The Director shall—

"(A) advise the Assistant Secretary for Policy in the development of Department-wide policies regarding cargo security;

"(B) coordinate all policies relating to cargo security among the agencies and offices within the Department relating to cargo security; and

"(C) coordinate the cargo security policies of the Department with the policies of other executive agencies.".

6 USC 1001.

(b) 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.

6 USC 239 note.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect—

(1) the authorities, functions, or capabilities of the Coast Guard to perform its missions; or

(2) the requirement under section 888 of the Homeland Security Act (6 U.S.C. 468) that those authorities, functions, and capabilities be maintained intact.

(d) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 430 the following:

"Sec. 431. Office of Cargo Security Policy.".

SEC. 302. REAUTHORIZATION OF HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 311(j) of the Homeland Security Act of 2002 (6 U.S.C. 191(j)) is amended by striking "3 years after the effective date of this Act" and inserting "on December 31, 2008".

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(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted on the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.). 6 USC 191 note.

(c) 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. 6 USC 1002.

SEC. 303. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION EFFORTS IN FURTHERANCE OF MARITIME AND CARGO SECURITY. 6 USC 1003.

(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, 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.

TITLE IV—AGENCY RESOURCES AND OVERSIGHT

SEC. 401. TRADE AND CUSTOMS REVENUE FUNCTIONS OF THE DEPARTMENT. 6 USC 115.

(a) TRADE AND CUSTOMS REVENUE FUNCTIONS.—

(1) DESIGNATION OF APPROPRIATE OFFICIAL.—The Secretary shall designate an appropriate senior official in the office of the Secretary who shall—

(A) ensure that the trade and customs revenue functions of the Department are coordinated within the Department and with other Federal departments and agencies, and that the impact on legitimate trade is taken into account in any action impacting the functions; and

(B) monitor and report to Congress on the Department's mandate to ensure that the trade and customs revenue functions of the Department are not diminished, including how spending, operations, and personnel related to these functions have kept pace with the level of trade entering the United States.

(2) DIRECTOR OF TRADE POLICY.—There shall be a Director of Trade Policy (in this subsection referred to as the "Director"),

who shall be subject to the direction and control of the official designated pursuant to paragraph (1). The Director shall—

(A) advise the official designated pursuant to paragraph (1) regarding all aspects of Department policies relating to the trade and customs revenue functions of the Department;

(B) coordinate the development of Department-wide policies regarding trade and customs revenue functions and trade facilitation; and

(C) coordinate the trade and customs revenue-related policies of the Department with the policies of other Federal departments and agencies.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating the extent to which the Department of Homeland Security is meeting its obligations under section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) with respect to the maintenance of customs revenue functions.

(2) ANALYSIS.—The study shall include an analysis of—

(A) the extent to which the customs revenue functions carried out by the former United States Customs Service have been consolidated with other functions of the Department (including the assignment of noncustoms revenue functions to personnel responsible for customs revenue collection), discontinued, or diminished following the transfer of the United States Customs Service to the Department;

(B) the extent to which staffing levels or resources attributable to customs revenue functions have decreased since the transfer of the United States Customs Service to the Department; and

(C) the extent to which the management structure created by the Department ensures effective trade facilitation and customs revenue collection.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report on the results of the study conducted under subsection (a).

Deadline.

(4) MAINTENANCE OF FUNCTIONS.—Not later than September 30, 2007, the Secretary shall ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding implementation of this paragraph.

(5) DEFINITION.—In this section, the term "customs revenue functions" means the functions described in section 412(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)(2)).

(c) CONSULTATION ON TRADE AND CUSTOMS REVENUE FUNCTIONS.—

(1) BUSINESS COMMUNITY CONSULTATIONS.—The Secretary shall consult with representatives of the business community involved in international trade, including seeking the advice and recommendations of the Commercial Operations Advisory Committee, on Department policies and actions that have a

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significant impact on international trade and customs revenue functions.

(2) CONGRESSIONAL CONSULTATION AND NOTIFICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall notify the appropriate congressional committees not later than 30 days prior to the finalization of any Department policies, initiatives, or actions that will have a major impact on trade and customs revenue functions. Such notifications shall include a description of the proposed policies, initiatives, or actions and any comments or recommendations provided by the Commercial Operations Advisory Committee and other relevant groups regarding the proposed policies, initiatives, or actions.

(B) EXCEPTION.—If the Secretary determines that it is important to the national security interest of the United States to finalize any Department policies, initiatives, or actions prior to the consultation described in subparagraph (A), the Secretary shall—

(i) notify and provide any recommendations of the Commercial Operations Advisory Committee received to the appropriate congressional committees not later than 45 days after the date on which the policies, initiatives, or actions are finalized; and

(ii) to the extent appropriate, modify the policies, initiatives, or actions based upon the consultations with the appropriate congressional committees.

(d) NOTIFICATION OF REORGANIZATION OF CUSTOMS REVENUE FUNCTIONS.—

(1) IN GENERAL.—Not less than 45 days prior to any change in the organization of any of the customs revenue functions of the Department, the Secretary shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred as part of such reorganization, and the reason for such transfer. The notification shall also include—

(A) an explanation of how trade enforcement functions will be impacted by the reorganization;

(B) an explanation of how the reorganization meets the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) that the Department not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

(C) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

(2) ANALYSIS.—Any congressional committee referred to in paragraph (1) may request that the Commercial Operations Advisory Committee provide a report to the committee analyzing the impact of the reorganization and providing any recommendations for modifying the reorganization.

(3) REPORT.—Not later than 1 year after any reorganization referred to in paragraph (1) takes place, the Secretary, in

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consultation with the Commercial Operations Advisory Committee, shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

SEC. 402. OFFICE OF INTERNATIONAL TRADE; OVERSIGHT.

Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), is amended by adding at the end the following:

"(d) OFFICE OF INTERNATIONAL TRADE.—

"(1) ESTABLISHMENT.—There is established within the United States Customs and Border Protection an Office of International Trade that shall be headed by an Assistant Commissioner.

"(2) TRANSFER OF ASSETS, FUNCTIONS, AND PERSONNEL; ELIMINATION OF OFFICES.—

Abolished.
Deadline.

"(A) OFFICE OF STRATEGIC TRADE.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the SAFE Port Act, the Commissioner shall transfer the assets, functions, and personnel of the Office of Strategic Trade to the Office of International Trade established pursuant to paragraph (1) and the Office of Strategic Trade shall be abolished.

"(ii) LIMITATION ON FUNDS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Strategic Trade, to an office other than the office established pursuant to paragraph (1) of this subsection.

Abolished.
Deadline.

"(B) OFFICE OF REGULATIONS AND RULINGS.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the SAFE Port Act, the Commissioner shall transfer the assets, functions, and personnel of the Office of Regulations and Rulings to the Office of International Trade established pursuant to paragraph (1) and the Office of Regulations and Rulings shall be abolished.

"(ii) LIMITATION ON FUNDS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Regulations and Rulings, to an office other than the office established pursuant to paragraph (1) of this subsection.

"(C) OTHER TRANSFERS.—The Commissioner is authorized to transfer any other assets, functions, or personnel within the United States Customs and Border Protection to the Office of International Trade established pursuant to paragraph (1). Not less than 45 days prior to each such transfer, the Commissioner shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred,

Notification.

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and the reason for such transfer. Such notification shall also include—

"(i) an explanation of how trade enforcement functions will be impacted by the reorganization;

"(ii) an explanation of how the reorganization meets the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) that the Department of Homeland Security not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

"(iii) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

"(D) REPORT.—Not later than 1 year after any reorganization pursuant to subparagraph (C) takes place, the Commissioner, in consultation with the Commercial Operations Advisory Committee, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

"(E) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of law, the Commissioner shall not transfer any assets, functions, or personnel from United States ports of entry, associated with the enforcement of laws relating to trade in textiles and apparel, to the Office of International Trade established pursuant to paragraph (1), until the following conditions are met:

"(i) The Commissioner submits the initial Resource Allocation Model required by section 301(h) of the Customs and Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) and includes in such Resource Allocation Model a section addressing the allocation of assets, functions, and personnel associated with the enforcement of laws relating to trade in textiles and apparel.

"(ii) The Commissioner consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding any subsequent transfer of assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, not less than 45 days prior to such transfer.

"(F) LIMITATION ON APPROPRIATIONS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, before the Commissioner consults with the congressional committees pursuant to subparagraph (E)(ii).

"(e) INTERNATIONAL TRADE COMMITTEE.—

"(1) ESTABLISHMENT.—The Commissioner shall establish an International Trade Committee, to be chaired by the Commissioner, and to include the Deputy Commissioner, the Assistant Commissioner in the Office of Field Operations, the Assistant Commissioner in the Office of Finance, the Assistant

Commissioner in the Office of International Affairs, the Assistant Commissioner in the Office of International Trade, the Director of the Office of Trade Relations, and any other official determined by the Commissioner to be important to the work of the Committee.

"(2) RESPONSIBILITIES.—The International Trade Committee shall—

"(A) be responsible for advising the Commissioner with respect to the commercial customs and trade facilitation functions of the United States Customs and Border Protection;

"(B) assist the Commissioner in coordinating with the Secretary regarding commercial customs and trade facilitation functions; and

"(C) oversee the operation of all programs and systems that are involved in the assessment and collection of duties, bonds, and other charges or penalties associated with the entry of cargo into the United States, or the export of cargo from the United States, including the administration of duty drawback and the collection of antidumping and countervailing duties.

"(3) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the International Trade Committee shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The report shall—

"(A) detail the activities of the International Trade Committee during the preceding fiscal year; and

"(B) identify the priorities of the International Trade Committee for the fiscal year in which the report is filed.

"(f) DEFINITION.—In this section:

"(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.

"(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term 'Commercial Operations Advisory Committee' means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.".

SEC. 403. RESOURCES.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended by adding at the end the following:

"(h) RESOURCE ALLOCATION MODEL.—

Deadlines.

"(1) RESOURCE ALLOCATION MODEL.—Not later than June 30, 2007, and every 2 years thereafter, the Commissioner shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a Resource Allocation Model to determine the optimal staffing levels required to carry out the commercial operations of United States Customs and Border Protection, including commercial inspection and release of cargo and the revenue functions described in section 412(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)(2)). The Model shall comply with the requirements of section 412(b)(1) of such Act and shall take into account previous staffing models, historic

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and projected trade volumes, and trends. The Resource Allocation Model shall apply both risk-based and random sampling approaches for determining adequate staffing needs for priority trade functions, including— Applicability.

"(A) performing revenue functions;

"(B) enforcing antidumping and countervailing duty laws;

"(C) protecting intellectual property rights;

"(D) enforcing provisions of law relating to trade in textiles and apparel;

"(E) conducting agricultural inspections;

"(F) enforcing fines, penalties, and forfeitures; and

"(G) facilitating trade.

"(2) PERSONNEL.—

"(A) IN GENERAL.—Not later than September 30, 2007, the Commissioner shall ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the implementation of this subparagraph. Deadline. Reports.

"(B) CUSTOMS AND BORDER PROTECTION OFFICERS.—The initial Resource Allocation Model required pursuant to paragraph (1) shall provide for the hiring of a minimum of 200 additional Customs and Border Protection Officers per year for each of the fiscal years 2008 through 2012. The Commissioner shall hire such additional Officers subject to the appropriation of funds to pay for the salaries and expenses of such Officers. In assigning the 1,000 additional Officers authorized by this subparagraph, the Commissioner shall—

"(i) consider the volume of trade and the incidence of nonvoluntarily disclosed customs and trade law violations in addition to security priorities among United States ports of entry; and

"(ii) before October 1, 2010, assign at least 10 additional Officers among each service port and the ports of entry serviced by such service port, except as provided in subparagraph (C). Deadline.

"(C) ASSIGNMENT.—In assigning such Officers pursuant to subparagraph (B), the Commissioner shall consult with the port directors of each service port and the other ports of entry serviced by such service port. The Commissioner shall not assign an Officer to a port of entry pursuant to subparagraph (B)(ii) if the port director of the service port that services such port of entry certifies to the Commissioner that an additional Officer is not needed at such port of entry.

"(D) REPORT.—Not later than 60 days after the beginning of each of the fiscal years 2008 through 2012, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives, that describes how the additional Officers authorized under subparagraph (B) will be allocated

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among the ports of entry in the United States in accordance with subparagraph (C).

"(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any monies hereafter appropriated to United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the requirements of paragraph (2)(B), to remain available until expended—

"(A) $36,000,000 for fiscal year 2008;
"(B) $75,000,000 for fiscal year 2009;
"(C) $118,000,000 for fiscal year 2010;
"(D) $165,000,000 for fiscal year 2011; and
"(E) $217,000,000 for fiscal year 2012.

"(4) REPORT.—Not later than 30 days after the end of each fiscal year, the Commissioner shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources directed to commercial and trade facilitation functions within the Office of Field Operations for the preceding fiscal year. Such information shall be reported for each category of personnel within the Office of Field Operations.

Deadline.

"(5) REGULATIONS TO IMPLEMENT TRADE AGREEMENTS.—Not later than 30 days after the date of the enactment of the SAFE Port Act, the Commissioner shall designate and maintain not less than 5 attorneys within the Office of International Trade established pursuant to section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), with responsibility for the prompt development and promulgation of regulations necessary to implement any trade agreement entered into by the United States, in addition to any other responsibilities assigned by the Commissioner.

"(6) DEFINITION.—In this subsection, the term 'Commissioner' means the Commissioner responsible for United States Customs and Border Protection in the Department of Homeland Security.".

SEC. 404. NEGOTIATIONS.

Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended by adding at the end the following:

"(h) CUSTOMS PROCEDURES AND COMMITMENTS.—

"(1) IN GENERAL.—The Secretary of Homeland Security, the United States Trade Representative, and other appropriate Federal officials shall work through appropriate international organizations including the World Customs Organization (WCO), the World Trade Organization (WTO), the International Maritime Organization, and the Asia-Pacific Economic Cooperation, to align, to the extent practicable, customs procedures, standards, requirements, and commitments in order to facilitate the efficient flow of international trade.

"(2) UNITED STATES TRADE REPRESENTATIVE.—

"(A) IN GENERAL.—The United States Trade Representative shall seek commitments in negotiations in the WTO regarding the articles of GATT 1994 that are described in subparagraph (B) that make progress in achieving—

"(i) harmonization of import and export data collected by WTO members for customs purposes, to the extent practicable;

"(ii) enhanced procedural fairness and transparency with respect to the regulation of imports and exports by WTO members;

"(iii) transparent standards for the efficient release of cargo by WTO members, to the extent practicable; and

"(iv) the protection of confidential commercial data.

"(B) ARTICLES DESCRIBED.—The articles of the GATT 1994 described in this subparagraph are the following:

"(i) Article V (relating to transit).

"(ii) Article VIII (relating to fees and formalities associated with importation and exportation).

"(iii) Article X (relating to publication and administration of trade regulations).

"(C) GATT 1994.—The term 'GATT 1994' means the General Agreement on Tariff and Trade annexed to the WTO Agreement.

"(3) CUSTOMS.—The Secretary of Homeland Security, acting through the Commissioner and in consultation with the United States Trade Representative, shall work with the WCO to facilitate the efficient flow of international trade, taking into account existing international agreements and the negotiating objectives of the WTO. The Commissioner shall work to—

"(A) harmonize, to the extent practicable, import data collected by WCO members for customs purposes;

"(B) automate and harmonize, to the extent practicable, the collection and storage of commercial data by WCO members;

"(C) develop, to the extent practicable, transparent standards for the release of cargo by WCO members;

"(D) develop and harmonize, to the extent practicable, standards, technologies, and protocols for physical or non-intrusive examinations that will facilitate the efficient flow of international trade; and

"(E) ensure the protection of confidential commercial data.

"(4) DEFINITION.—In this subsection, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.".

SEC. 405. INTERNATIONAL TRADE DATA SYSTEM.

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

"(d) INTERNATIONAL TRADE DATA SYSTEM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury (in this subsection, referred to as the 'Secretary') shall oversee the establishment of an electronic trade data interchange system to be known as the 'International Trade Data System' (ITDS). The ITDS shall be implemented not later than the date that the Automated Commercial Environment (commonly referred to as 'ACE') is fully implemented. Deadline.

"(B) PURPOSE.—The purpose of the ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing

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a single portal system, operated by the United States Customs and Border Protection, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

"(C) PARTICIPATION.—

"(i) IN GENERAL.—All Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo shall participate in the ITDS.

"(ii) WAIVER.—The Director of the Office of Management and Budget may waive, in whole or in part, the requirement for participation for any Federal agency based on the vital national interest of the United States.

"(D) CONSULTATION.—The Secretary shall consult with and assist the United States Customs and Border Protection and other agencies in the transition from paper to electronic format for the submission, issuance, and storage of documents relating to data required to enter cargo into the United States. In so doing, the Secretary shall also consult with private sector stakeholders, including the Commercial Operations Advisory Committee, in developing uniform data submission requirements, procedures, and schedules, for the ITDS.

"(E) COORDINATION.—The Secretary shall be responsible for coordinating the operation of the ITDS among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

"(2) DATA ELEMENTS.—

"(A) IN GENERAL.—The Interagency Steering Committee (established under paragraph (3)) shall, in consultation with the agencies participating in the ITDS, define the standard set of data elements to be collected, stored, and shared in the ITDS, consistent with laws applicable to the collection and protection of import and export information. The Interagency Steering Committee shall periodically review the data elements in order to update the standard set of data elements, as necessary.

"(B) COMMITMENTS AND OBLIGATIONS.—The Interagency Steering Committee shall ensure that the ITDS data requirements are compatible with the commitments and obligations of the United States as a member of the World Customs Organization (WCO) and the World Trade Organization (WTO) for the entry and movement of cargo.

Estabishment.

"(3) INTERAGENCY STEERING COMMITTEE.—There is established an Interagency Steering Committee (in this section, referred to as the 'Committee'). The members of the Committee shall include the Secretary (who shall serve as the chairperson of the Committee), the Director of the Office of Management and Budget, and the head of each agency participating in the ITDS. The Committee shall assist the Secretary in overseeing the implementation of, and participation in, the ITDS.

President.

"(4) REPORT.—The President shall submit a report before the end of each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Each report shall include information on—

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"(A) the status of the ITDS implementation;

"(B) the extent of participation in the ITDS by Federal agencies;

"(C) the remaining barriers to any agency's participation;

"(D) the consistency of the ITDS with applicable standards established by the World Customs Organization and the World Trade Organization;

"(E) recommendations for technological and other improvements to the ITDS; and

"(F) the status of the development, implementation, and management of the Automated Commercial Environment within the United States Customs and Border Protection.

"(5) SENSE OF CONGRESS.—It is the sense of Congress that agency participation in the ITDS is an important priority of the Federal Government and that the Secretary shall coordinate the operation of the ITDS closely among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

"(6) CONSTRUCTION.—Nothing in this section shall be construed as amending or modifying subsection (g) of section 301 of title 13, United States Code.

"(7) DEFINITION.—The term 'Commercial Operations Advisory Committee' means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.".

SEC. 406. IN-BOND CARGO.

Title IV of the Tariff Act of 1930 is amended by inserting after section 553 the following:

"SEC. 553A. REPORT ON IN-BOND CARGO. 19 USC 1553–1.

"(a) REPORT.—Not later than June 30, 2007, the Commissioner shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that includes—

"(1) a plan for closing in-bond entries at the port of arrival;

"(2) an assessment of the personnel required to ensure 100 percent reconciliation of in-bond entries between the port of arrival and the port of destination or exportation;

"(3) an assessment of the status of investigations of overdue in-bond shipments and an evaluation of the resources required to ensure adequate investigation of overdue in-bond shipments;

"(4) a plan for tracking in-bond cargo within the Automated Commercial Environment (ACE);

"(5) an assessment of whether any particular technologies should be required in the transport of in-bond cargo;

"(6) an assessment of whether ports of arrival should require any additional information regarding shipments of in-bond cargo;

"(7) an evaluation of the criteria for targeting and examining in-bond cargo; and

"(8) an assessment of the feasibility of reducing the transit time for in-bond shipments, including an assessment of the impact of such a change on domestic and international trade.

"(b) DEFINITION.—In this section, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.".

SEC. 407. SENSE OF THE SENATE.

It is the sense of the Senate that nothing in sections 111 through 114, 121, and 201 through 236, or the amendments made by such sections, shall be construed to affect the jurisdiction of any Standing Committee of the Senate.

TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE

SEC. 501. ESTABLISHMENT OF DOMESTIC NUCLEAR DETECTION OFFICE.

(a) ESTABLISHMENT OF OFFICE.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

6 USC 591.

"SEC. 1801. DOMESTIC NUCLEAR DETECTION OFFICE.

"(a) ESTABLISHMENT.—There shall be established in the Department a Domestic Nuclear Detection Office (referred to in this title as the 'Office'). The Secretary may request that the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Attorney General, the Nuclear Regulatory Commission, and the directors of other Federal agencies, including elements of the Intelligence Community, provide for the reimbursable detail of personnel with relevant expertise to the Office.

President.

"(b) DIRECTOR.—The Office shall be headed by a Director for Domestic Nuclear Detection, who shall be appointed by the President.

6 USC 592.

"SEC. 1802. MISSION OF OFFICE.

"(a) MISSION.—The Office shall be responsible for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

"(1) serve as the primary entity of the United States Government to further develop, acquire, and support the deployment of an enhanced domestic system to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

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"(2) enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

"(3) establish, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Energy, additional protocols and procedures for use within the United States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretary, the Secretary of Defense, the Secretary of Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities;

"(4) develop, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of State, the Secretary of Defense, and the Secretary of Energy, an enhanced global nuclear detection architecture with implementation under which—

"(A) the Office will be responsible for the implementation of the domestic portion of the global architecture;

"(B) the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and

"(C) the Secretary of State, the Secretary of Defense, and the Secretary of Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements;

"(5) ensure that the expertise necessary to accurately interpret detection data is made available in a timely manner for all technology deployed by the Office to implement the global nuclear detection architecture;

"(6) conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational program of research and development to generate and improve technologies to detect and prevent the illicit entry, transport, assembly, or potential use within the United States of a nuclear explosive device or fissile or radiological material, and coordinate with the Under Secretary for Science and Technology on basic and advanced or transformational research and development efforts relevant to the mission of both organizations;

"(7) carry out a program to test and evaluate technology for detecting a nuclear explosive device and fissile or radiological material, in coordination with the Secretary of Defense and the Secretary of Energy, as appropriate, and establish performance metrics for evaluating the effectiveness of individual detectors and detection systems in detecting such devices or material—

"(A) under realistic operational and environmental conditions; and

"(B) against realistic adversary tactics and countermeasures;

"(8) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism

community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;

"(9) further enhance and maintain continuous awareness by analyzing information from all Office mission-related detection systems; and

"(10) perform other duties as assigned by the Secretary.

6 USC 593.

"SEC. 1803. HIRING AUTHORITY.

"In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note). The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

6 USC 594.

"SEC. 1804. TESTING AUTHORITY.

"(a) IN GENERAL.—The Director shall coordinate with the responsible Federal agency or other entity to facilitate the use by the Office, by its contractors, or by other persons or entities, of existing Government laboratories, centers, ranges, or other testing facilities for the testing of materials, equipment, models, computer software, and other items as may be related to the missions identified in section 1802. Any such use of Government facilities shall be carried out in accordance with all applicable laws, regulations, and contractual provisions, including those governing security, safety, and environmental protection, including, when applicable, the provisions of section 309. The Office may direct that private sector entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use.

"(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available shall be confidential and shall not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

"(c) FEES.—Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

"(d) USE OF FEES.—Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

6 USC 595.

"SEC. 1805. RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.

"The authority of the Director under this title shall not affect the authorities or responsibilities of any officer of the Department or of any officer of any other department or agency of the United States with respect to the command, control, or direction of the functions, personnel, funds, assets, and liabilities of any entity within the Department or any Federal department or agency.

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"SEC. 1806. CONTRACTING AND GRANT MAKING AUTHORITIES. 6 USC 596.

"The Secretary, acting through the Director for Domestic Nuclear Detection, in carrying out the responsibilities under paragraphs (6) and (7) of section 1802(a), shall—

"(1) operate extramural and intramural programs and distribute funds through grants, cooperative agreements, and other transactions and contracts;

"(2) ensure that activities under paragraphs (6) and (7) of section 1802(a) include investigations of radiation detection equipment in configurations suitable for deployment at seaports, which may include underwater or water surface detection equipment and detection equipment that can be mounted on cranes and straddle cars used to move shipping containers; and

"(3) have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues and carry out other responsibilities under this title.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) in section 103(d) (6 U.S.C. 113(d)), by adding at the end the following:

"(5) A Director for Domestic Nuclear Detection.";

(2) in section 302 (6 U.S.C. 182)—

(A) in paragraph (2), by striking "radiological, nuclear"; and

(B) in paragraph (5)(A), by striking "radiological, nuclear"; and

(3) in the table of contents, by adding at the end the following:

"TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

"Sec. 1801. Domestic Nuclear Detection Office.
"Sec. 1802. Mission of Office.
"Sec. 1803. Hiring authority.
"Sec. 1804. Testing authority.
"Sec. 1805. Relationship to other Department entities and Federal agencies.
"Sec. 1806. Contracting and grant making authorities.".

SEC. 502. TECHNOLOGY RESEARCH AND DEVELOPMENT INVESTMENT STRATEGY FOR NUCLEAR AND RADIOLOGICAL DETECTION. 6 USC 592a.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary, the Secretary of Energy, the Secretary of Defense, and the Director of National Intelligence shall submit to Congress a research and development investment strategy for nuclear and radiological detection. Deadline.

(b) CONTENTS.—The strategy under subsection (a) shall include—

(1) a long term technology roadmap for nuclear and radiological detection applicable to the mission needs of the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence;

(2) budget requirements necessary to meet the roadmap; and

(3) documentation of how the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence will execute this strategy.

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(c) INITIAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on—

(1) the impact of this title, and the amendments made by this title, on the responsibilities under section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182); and

(2) the efforts of the Department to coordinate, integrate, and establish priorities for conducting all basic and applied research, development, testing, and evaluation of technology and systems to detect, prevent, protect, and respond to chemical, biological, radiological, and nuclear terrorist attacks.

(d) ANNUAL REPORT.—The Director for Domestic Nuclear Detection and the Under Secretary for Science and Technology shall jointly and annually notify Congress that the strategy and technology road map for nuclear and radiological detection developed under subsections (a) and (b) is consistent with the national policy and strategic plan for identifying priorities, goals, objectives, and policies for coordinating the Federal Government's civilian efforts to identify and develop countermeasures to terrorist threats from weapons of mass destruction that are required under section 302(2) of the Homeland Security Act of 2002 (6 U.S.C. 182(2)).

Warning, Alert, and Response Network Act.

TITLE VI—COMMERCIAL MOBILE SERVICE ALERTS

42 USC 1201 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Warning, Alert, and Response Network Act".

42 USC 1201.

SEC. 602. FEDERAL COMMUNICATIONS COMMISSION DUTIES.

Deadline.

(a) COMMERCIAL MOBILE SERVICE ALERT REGULATIONS.—Within 180 days after the date on which the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), transmits recommendations to the Federal Communications Commission, the Commission shall complete a proceeding to adopt relevant technical standards, protocols, procedures, and other technical requirements based on the recommendations of such Advisory Committee necessary to enable commercial mobile service alerting capability for commercial mobile service providers that voluntarily elect to transmit emergency alerts. The Commission shall consult with the National Institute of Standards and Technology regarding the adoption of technical standards under this subsection.

(b) COMMERCIAL MOBILE SERVICE ELECTION.—

Deadline.

(1) AMENDMENT OF COMMERCIAL MOBILE SERVICE LICENSE.—Within 120 days after the date on which the Federal Communications Commission adopts relevant technical standards and other technical requirements pursuant to subsection (a), the Commission shall complete a proceeding—

(A) to allow any licensee providing commercial mobile service (as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1))) to transmit emergency alerts to subscribers to, or users of, the commercial mobile service provided by such licensee;

(B) to require any licensee providing commercial mobile service that elects, in whole or in part, under paragraph (2) not to transmit emergency alerts to provide clear and

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conspicuous notice at the point of sale of any devices with which its commercial mobile service is included, that it will not transmit such alerts via the service it provides for the device; and

(C) to require any licensee providing commercial mobile service that elects under paragraph (2) not to transmit emergency alerts to notify its existing subscribers of its election.

(2) ELECTION.—

(A) IN GENERAL.—Within 30 days after the Commission issues its order under paragraph (1), each licensee providing commercial mobile service shall file an election with the Commission with respect to whether or not it intends to transmit emergency alerts. Deadline.

(B) TRANSMISSION STANDARDS; NOTIFICATION.—If a licensee providing commercial mobile service elects to transmit emergency alerts via its commercial mobile service, the licensee shall—

(i) notify the Commission of its election; and

(ii) agree to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission.

(C) NO FEE FOR SERVICE.—A commercial mobile service licensee that elects to transmit emergency alerts may not impose a separate or additional charge for such transmission or capability.

(D) WITHDRAWAL; LATE ELECTION.—The Commission shall establish a procedure— Procedures.

(i) for a commercial mobile service licensee that has elected to transmit emergency alerts to withdraw its election without regulatory penalty or forfeiture upon advance written notification of the withdrawal to its affected subscribers;

(ii) for a commercial mobile service licensee to elect to transmit emergency alerts at a date later than provided in subparagraph (A); and

(iii) under which a subscriber may terminate a subscription to service provided by a commercial mobile service licensee that withdraws its election without penalty or early termination fee.

(E) CONSUMER CHOICE TECHNOLOGY.—Any commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President. Within 2 years after the Commission completes the proceeding under paragraph (1), the Commission shall examine the issue of whether a commercial mobile service provider should continue to be permitted to offer its subscribers such capability. The Commission shall submit a report with its recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Deadline. Reports.

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Deadline.

(c) DIGITAL TELEVISION TRANSMISSION TOWERS RETRANSMISSION CAPABILITY.—Within 90 days after the date on which the Commission adopts relevant technical standards based on recommendations of the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), the Commission shall complete a proceeding to require licensees and permittees of noncommercial educational broadcast stations or public broadcast stations (as those terms are defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6))) to install necessary equipment and technologies on, or as part of, any broadcast television digital signal transmitter to enable the distribution of geographically targeted alerts by commercial mobile service providers that have elected to transmit emergency alerts under this section.

(d) FCC REGULATION OF COMPLIANCE.—The Federal Communications Commission may enforce compliance with this title but shall have no rulemaking authority under this title, except as provided in subsections (a), (b), (c), and (f).

(e) LIMITATION OF LIABILITY.—

(1) IN GENERAL.—Any commercial mobile service provider (including its officers, directors, employees, vendors, and agents) that transmits emergency alerts and meets its obligations under this title shall not be liable to any subscriber to, or user of, such person's service or equipment for—

(A) any act or omission related to or any harm resulting from the transmission of, or failure to transmit, an emergency alert; or

(B) the release to a government agency or entity, public safety, fire service, law enforcement official, emergency medical service, or emergency facility of subscriber information used in connection with delivering such an alert.

(2) ELECTION NOT TO TRANSMIT ALERTS.—The election by a commercial mobile service provider under subsection (b)(2)(A) not to transmit emergency alerts, or to withdraw its election to transmit such alerts under subsection (b)(2)(D) shall not, by itself, provide a basis for liability against the provider (including its officers, directors, employees, vendors, and agents).

Regulations.

(f) TESTING.—The Commission shall require by regulation technical testing for commercial mobile service providers that elect to transmit emergency alerts and for the devices and equipment used by such providers for transmitting such alerts.

47 USC 1202.

SEC. 603. COMMERCIAL MOBILE SERVICE ALERT ADVISORY COMMITTEE.

Deadline.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the chairman of the Federal Communications Commission shall establish an advisory committee, to be known as the Commercial Mobile Service Alert Advisory Committee (referred to in this section as the "Advisory Committee").

(b) MEMBERSHIP.—The chairman of the Federal Communications Commission shall appoint the members of the Advisory Committee, as soon as practicable after the date of enactment of this Act, from the following groups:

(1) STATE AND LOCAL GOVERNMENT REPRESENTATIVES.—Representatives of State and local governments and representatives of emergency response providers, selected from among

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individuals nominated by national organizations representing such governments and personnel.

(2) TRIBAL GOVERNMENTS.—Representatives from Federally recognized Indian tribes and National Indian organizations.

(3) SUBJECT MATTER EXPERTS.—Individuals who have the requisite technical knowledge and expertise to serve on the Advisory Committee in the fulfillment of its duties, including representatives of—

(A) communications service providers;

(B) vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of communications services;

(C) third-party service bureaus;

(D) technical experts from the broadcasting industry;

(E) the national organization representing the licensees and permittees of noncommercial broadcast television stations;

(F) national organizations representing individuals with special needs, including individuals with disabilities and the elderly; and

(G) other individuals with relevant technical expertise.

(4) QUALIFIED REPRESENTATIVES OF OTHER STAKEHOLDERS AND INTERESTED PARTIES.—Qualified representatives of such other stakeholders and interested and affected parties as the chairman deems appropriate.

(c) DEVELOPMENT OF SYSTEM-CRITICAL RECOMMENDATIONS.—Within 1 year 1after the date of enactment of this Act, the Advisory Committee shall develop and submit to the Federal Communications Commission recommendations— Deadline.

(1) for protocols, technical capabilities, and technical procedures through which electing commercial mobile service providers receive, verify, and transmit alerts to subscribers;

(2) for the establishment of technical standards for priority transmission of alerts by electing commercial mobile service providers to subscribers;

(3) for relevant technical standards for devices and equipment and technologies used by electing commercial mobile service providers to transmit emergency alerts to subscribers;

(4) for the technical capability to transmit emergency alerts by electing commercial mobile providers to subscribers in languages in addition to English, to the extent practicable and feasible;

(5) under which electing commercial mobile service providers may offer subscribers the capability of preventing the subscriber's device from receiving emergency alerts, or classes of such alerts, (other than an alert issued by the President), consistent with section 602(b)(2)(E);

(6) for a process under which commercial mobile service providers can elect to transmit emergency alerts if—

(A) not all of the devices or equipment used by such provider are capable of receiving such alerts; or

(B) the provider cannot offer such alerts throughout the entirety of its service area; and

(7) as otherwise necessary to enable electing commercial mobile service providers to transmit emergency alerts to subscribers.

(d) MEETINGS.—

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Deadline.

(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 60 days after the date of the enactment of this Act.

(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the chair.

(3) NOTICE; OPEN MEETINGS.—Any meetings held by the Advisory Committee shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) RULES.—

(1) QUORUM.—One-third of the members of the Advisory Committee shall constitute a quorum for conducting business of the Advisory Committee.

(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts as deemed necessary.

(3) ADDITIONAL RULES.—The Advisory Committee may adopt other rules as needed.

(f) FEDERAL ADVISORY COMMITTEE ACT.—Neither the Federal Advisory Committee Act (5 U.S.C. App.) nor any rule, order, or regulation promulgated under that Act shall apply to the Advisory Committee.

(g) CONSULTATION WITH NIST.—The Advisory Committee shall consult with the National Institute of Standards and Technology in its work on developing recommendations under paragraphs (2) and (3) of subsection (c).

47 USC 1203.

SEC. 604. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Science and Technology, in consultation with the director of the National Institute of Standards and Technology and the chairman of the Federal Communications Commission, shall establish a research, development, testing, and evaluation program based on the recommendations of the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), to support the development of technologies to increase the number of commercial mobile service devices that can receive emergency alerts.

(b) FUNCTIONS.—The program established under subsection (a) shall—

(1) fund research, development, testing, and evaluation at academic institutions, private sector entities, government laboratories, and other appropriate entities; and

(2) ensure that the program addresses, at a minimum—

(A) developing innovative technologies that will transmit geographically targeted emergency alerts to the public; and

(B) research on understanding and improving public response to warnings.

47 USC 1204.

SEC. 605. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT SYSTEMS.

Deadline.

(a) GRANT PROGRAM.—The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of Homeland Security, shall establish a program under which grants may be made to provide for outdoor alerting technologies in remote communities effectively unserved by commercial mobile service (as determined by the Federal Communications Commission within

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180 days after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive emergency alerts.

(b) APPLICATIONS AND CONDITIONS.—In conducting the program, the Under Secretary—

(1) shall establish a notification and application procedure; and Procedures.

(2) may establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program.

(c) SUNSET.—The Under Secretary may not make grants under subsection (a) more than 5 years after the date of enactment of this Act.

(d) LIMITATION.—The sum of the amounts awarded for all fiscal years as grants under this section may not exceed $10,000,000.

SEC. 606. FUNDING. 47 USC 1205.

(a) IN GENERAL.—In addition to any amounts provided by appropriation Acts, funding for this title shall be provided from the Digital Transition and Public Safety Fund in accordance with section 3010 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

(b) COMPENSATION.—The Assistant Secretary of Commerce for7Communications and Information shall compensate any such broadcast station licensee or permittee for reasonable costs incurred in complying with the requirements imposed pursuant to section 602(c) from funds made available under this section. The Assistant Secretary shall ensure that sufficient funds are made available to effectuate geographically targeted alerts.

(c) CREDIT.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Commerce for Oceans and Atmosphere, may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $106,000,000, to implement this title. The Assistant Secretary of Commerce for Communications and Information shall ensure that the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Commerce for Oceans and Atmosphere are provided adequate funds to carry out their responsibilities under sections 604 and 605 of this title. The Treasury shall be reimbursed, without interest, from amounts in the Digital Television Transition and Public Safety Fund as funds are deposited into the Fund. Effective date. Reimbursement.

SEC. 607. ESSENTIAL SERVICES DISASTER ASSISTANCE.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

"SEC. 425. ESSENTIAL SERVICE PROVIDERS. 42 USC 5189e.

"(a) DEFINITION.—In this section, the term 'essential service provider' means an entity that—

"(1) provides—

"(A) telecommunications service;

"(B) electrical power;

"(C) natural gas;

"(D) water and sewer services; or

"(E) any other essential service, as determined by the President;

"(2) is—

"(A) a municipal entity;

"(B) a nonprofit entity; or

"(C) a private, for profit entity; and

"(3) is contributing to efforts to respond to an emergency or major disaster.

"(b) AUTHORIZATION FOR ACCESSIBILITY.—Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

"(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

"(2) impede the restoration or repair of the services described in subsection (a)(1).

"(c) IMPLEMENTATION.—In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.".

SEC. 608. COMMUNITY DISASTER LOANS.

Section 417(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184(b)) is amended—

(1) by striking "exceed 25 per centum" and inserting the following: "exceed—

"(1) 25 percent"; and

(2) by striking the period at the end and inserting the following: "; or

"(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000.".

SEC. 609. PUBLIC FACILITIES.

Section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) is amended—

(1) in subparagraph (A), by striking "75" and inserting "90";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 610. EXPEDITED PAYMENTS.

Section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) is amended by adding at the end the following:

"(e) EXPEDITED PAYMENTS.—

President. "(1) GRANT ASSISTANCE.—In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President's initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).

Deadlines. "(2) DATE OF PAYMENT.—Not later than 60 days after the date of the estimate described in paragraph (1) and not later

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than 90 days after the date on which the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.".

SEC. 611. USE OF LOCAL CONTRACTING.

Section 307(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by the Post-Katrina Emergency Management Reform Act of 2006, is amended by adding at the end the following:

"(3) FORMULATION OF REQUIREMENTS.—The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.".

SEC. 612. FEMA PROGRAMS. 6 USC 314a.

Effective date.

Notwithstanding any other provision of Federal law, as of April 1, 2007, the Director of the Federal Emergency Management Agency shall be responsible for the radiological emergency preparedness program and the chemical stockpile emergency preparedness program.

SEC. 613. HOMELAND SECURITY DEFINITION.

Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting "governmental and nongovernmental" after "local".

TITLE VII—OTHER MATTERS

SEC. 701. SECURITY PLAN FOR ESSENTIAL AIR SERVICE AND SMALL COMMUNITY AIRPORTS.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall submit to Congress a security plan for— Deadline.

(1) Essential Air Service airports in the United States; and

(2) airports whose community or consortia of communities receive assistance under the Small Community Air Service Development Program authorized under section 41743 of title 49, United States Code, and maintain, resume, or obtain scheduled passenger air carrier service with assistance from that program in the United States.

(b) ELEMENTS OF PLAN.—The security plans required under subsection (a) shall include the following:

(1) Recommendations for improved security measures at such airports.

(2) Recommendations for proper passenger and cargo security screening procedures at such airports.

(3) A timeline for implementation of recommended security measures or procedures at such airports.

(4) Cost analysis for implementation of recommended security measures or procedures at such airports.

SEC. 702. DISCLOSURES REGARDING HOMELAND SECURITY GRANTS. 6 USC 470.

(a) DEFINITIONS.—In this section:

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(1) HOMELAND SECURITY GRANT.—The term "homeland security grant" means any grant made or administered by the Department, including—

(A) the State Homeland Security Grant Program;

(B) the Urban Area Security Initiative Grant Program;

(C) the Law Enforcement Terrorism Prevention Program;

(D) the Citizen Corps; and

(E) the Metropolitan Medical Response System.

(2) LOCAL GOVERNMENT.—The term "local government" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

Deadlines. Reports.

(b) REQUIRED DISCLOSURES.—Each State or local government that receives a homeland security grant shall, not later than 12 months after the later of the date of the enactment of this Act and the date of receipt of such grant, and every 12 months thereafter until all funds provided under such grant are expended, submit a report to the Secretary that contains a list of all expenditures made by such State or local government using funds from such grant.

Deadlines Regulations. 49 USC 31100 note.

SEC. 703. TRUCKING SECURITY.

(a) LEGAL STATUS VERIFICATION FOR LICENSED UNITED STATES COMMERCIAL DRIVERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary, shall issue regulations to implement the recommendations contained in the memorandum of the Inspector General of the Department of Transportation issued on June 4, 2004 (Control No. 2004–054).

(b) COMMERCIAL DRIVER'S LICENSE ANTIFRAUD PROGRAMS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary, shall issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program (MH–2006–037).

(c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE TRAFFIC.—

(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall draft guidelines for Federal, State, and local law enforcement officials, including motor carrier safety enforcement personnel, on how to identify noncompliance with Federal laws uniquely applicable to commercial motor vehicles and commercial motor vehicle operators engaged in cross-border traffic and communicate such noncompliance to the appropriate Federal authorities. Such guidelines shall be coordinated with the training and outreach activities of the Federal Motor Carrier Safety Administration under section 4139 of SAFETEA-LU (Public Law 109–59).

(2) VERIFICATION.—Not later than 18 months after the date of the enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration shall modify the final rule regarding the enforcement of operating authority (Docket No. FMCSA–2002–13015) to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection.

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SEC. 704. AIR AND MARINE OPERATIONS OF THE NORTHERN BORDER AIR WING.

Appropriation authorization.

In addition to any other amounts authorized to be appropriated for Air and Marine Operations of United States Customs and Border Protection for fiscal year 2008, there are authorized to be appropriated such sums as may be necessary for operation expenses and aviation assets, for primary and secondary sites, of the Northern Border Air Wing Branch in Great Falls, Montana.

SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

Alaska.

(a) IN GENERAL.—Notwithstanding section 12105(c) of title 46, United States Code, a foreign-flag vessel may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) until December 31, 2009, if the Secretary of Transportation determines after publishing notice in the Federal Register, that insufficient vessels documented under section 12105(c) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

Deadline. Federal Register, publication.

(2) for an additional 2-year period beginning January 1, 2010, if the Secretary of Transportation determines —

Extension.

(A) as of December 31, 2009, the lessee has entered into a binding agreement to employ an eligible vessel or vessels to be documented under section 12105(c) of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace any vessel or vessels operating under this section; and

(B) after publishing notice in the Federal Register, that insufficient vessels documented under section 12105(c) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

Federal Register, publication.

(b) LESSEE DEFINED.—In this section, the term "lessee" means the holder of a lease (as defined in section 1331(c) of title 43, United States Code).

(c) SAVINGS PROVISION.—Nothing in subsection (a) may be construed to authorize the employment in the coastwise trade of a vessel that does not meet the requirements of section 12106 of title 46, United States Code.

SEC. 706. COAST GUARD PROPERTY IN PORTLAND, MAINE.

Section 347(c) of the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2109) is amended by striking "within 30 months from the date of conveyance" and inserting "by December 31, 2009".

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6 USC 220.

SEC. 707. METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.

(a) COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.—As part of the annual performance plan required in the budget submission of the United States Customs and Border Protection under section 1115 of title 31, United States Code, the Commissioner shall establish performance indicators relating to the seizure of methamphetamine and methamphetamine precursor chemicals in order to evaluate the performance goals of the United States Customs and Border Protection with respect to the interdiction of illegal drugs entering the United States.

(b) STUDY AND REPORT RELATING TO METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.—

(1) ANALYSIS.—The Commissioner shall, on an ongoing basis, analyze the movement of methamphetamine and methamphetamine precursor chemicals into the United States. In conducting the analysis, the Commissioner shall—

(A) consider the entry of methamphetamine and methamphetamine precursor chemicals through ports of entry, between ports of entry, through international mails, and through international courier services;

(B) examine the export procedures of each foreign country where the shipments of methamphetamine and methamphetamine precursor chemicals originate and determine if changes in the country's customs over time provisions would alleviate the export of methamphetamine and methamphetamine precursor chemicals; and

(C) identify emerging trends in smuggling techniques and strategies.

(2) REPORT.—Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner, in the consultation with the Attorney General, United States Immigration and Customs Enforcement, the United States Drug Enforcement Administration, and the United States Department of State, shall submit a report to the Committee on Finance of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on International Relations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives, that includes—

(A) a comprehensive summary of the analysis described in paragraph (1); and

(B) a description of how the Untied States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005 (Public Law 109–177).

(3) AVAILABILITY OF ANALYSIS.—The Commissioner shall ensure that the analysis described in paragraph (1) is made available in a timely manner to the Secretary of State to facilitate the Secretary in fulfilling the Secretary's reporting requirements in section 722 of the Combat Methamphetamine Epidemic Act of 2005.

(c) DEFINITION.—In this section, the term "methamphetamine precursor chemicals" means the chemicals ephedrine,

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pseudoephedrine, or phenylpropanolamine, including each of the salts, optical isomers, and salts of optical isomers of such chemicals.

SEC. 708. AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING PROGRAM.

(a) IMPLEMENTATION STATUS.—Not later than 270 days after the implementation of the Department's aircraft charter customer and lessee prescreening process required under section 44903(j)(2) of title 49, United States Code, the Comptroller General of the United States shall— Deadline.

(1) assess the status and implementation of the program and the use of the program by the general aviation charter and rental community; and

(2) submit a report containing the findings, conclusions, and recommendations, if any, of such assessment to— Reports.

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Homeland Security of the House of Representatives; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 709. PROTECTION OF HEALTH AND SAFETY DURING DISASTERS. 42 USC 300hh–14.

(a) DEFINITIONS.—In this section:

(1) CERTIFIED MONITORING PROGRAM.—The term "certified monitoring program" means a medical monitoring program—

(A) in which a participating responder is a participant as a condition of the employment of such participating responder; and

(B) that the Secretary of Health and Human Services certifies includes an adequate baseline medical screening.

(2) DISASTER AREA.—The term "disaster area" means an area in which the President has declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), during the period of such declaration.

(3) HIGH EXPOSURE LEVEL.—The term "high exposure level" means a level of exposure to a substance of concern that is for such a duration, or of such a magnitude, that adverse effects on human health can be reasonably expected to occur, as determined by the President, acting through the Secretary of Health and Human Services, in accordance with human monitoring or environmental or other appropriate indicators.

(4) INDIVIDUAL.—The term "individual" includes—

(A) a worker or volunteer who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, including—

(i) a police officer;

(ii) a firefighter;

(iii) an emergency medical technician;

(iv) any participating member of an urban search and rescue team; and

(v) any other relief or rescue worker or volunteer that the President, acting through the Secretary of Health and Human Services, determines to be appropriate;

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(B) a worker who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

(C) a person whose place of residence is in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States;

(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States, of the United States; and

(E) any other person that the President, acting through the Secretary of Health and Human Services, determines to be appropriate.

(5) PARTICIPATING RESPONDER.—The term "participating responder" means an individual described in paragraph (4)(A).

(6) PROGRAM.—The term "program" means a program described in subsection (b) that is carried out for a disaster area.

(7) SUBSTANCE OF CONCERN.—The term "substance of concern" means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President, acting through the Secretary of Health and Human Services, and in coordination with the Agency for Toxic Substances and Disease Registry, the Environmental Protection Agency, the Centers for Disease Control and Prevention, the National Institutes of Health, the Federal Emergency Management Agency, the Occupational Health and Safety Administration, and other agencies.

President.

(b) PROGRAM.—

(1) IN GENERAL.—If the President, acting through the Secretary of Health and Human Services, determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area and disrupts the transportation system of the United States, the President, acting through the Secretary of Health and Human Services, may carry out a program for the coordination, protection, assessment, monitoring, and study of the health and safety of individuals with high exposure levels to ensure that—

(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern in a timely manner;

(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

(i) any short- and long-term health impacts of any substance of concern; and

(ii) any mental health impacts;

(C) the individuals receive health care referrals as needed and appropriate; and

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(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

(A) collecting and analyzing environmental exposure data;

(B) developing and disseminating information and educational materials;

(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

(D) establishing and maintaining an exposure registry;

(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

(3) TIMING.—To the maximum extent practicable, activities under any program carried out under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

(A) IN GENERAL.—Participation in any registry or study that is part of a program carried out under paragraph (1) shall be voluntary.

(B) PROTECTION OF PRIVACY.—The President, acting through the Secretary of Health and Human Services, shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

(C) PRIORITY.—

(i) IN GENERAL.—Except as provided in clause (ii), the President, acting through the Secretary of Health and Human Services, shall give priority in any registry or study described in subparagraph (A) to the protection, monitoring and study of the health and safety of individuals with the highest level of exposure to a substance of concern.

(ii) MODIFICATIONS.—Notwithstanding clause (i), the President, acting through the Secretary of Health and Human Services, may modify the priority of a registry or study described in subparagraph (A), if the President, acting through the Secretary of Health and Human Services, determines such modification to be appropriate.

(5) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The President, acting through the Secretary of Health and Human Services, may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

(B) SELECTION CRITERIA.—To the maximum extent practicable, the President, acting through the Secretary of Health and Human Services, shall select, to carry out

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a program under paragraph (1), a medical institution or a consortium of medical institutions that—

(i) is located near—

(I) the disaster area with respect to which the program is carried out; and

(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

(II) conducting long-term health monitoring and epidemiological studies;

(III) conducting long-term mental health studies; and

(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

(6) INVOLVEMENT.—

(A) IN GENERAL.—In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, shall involve interested and affected parties, as appropriate, including representatives of—

(i) Federal, State, and local government agencies;

(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) health care providers;

(v) faith based organizations; and

(vi) other organizations and persons.

(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

(7) PRIVACY.—The President, acting through the Secretary of Health and Human Services, shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

(8) EXISTING PROGRAMS.—In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, may—

(A) include the baseline clinical health examination of a participating responder under a certified monitoring programs; and

(B) substitute the baseline clinical health examination of a participating responder under a certified monitoring program for a baseline clinical health examination under paragraph (1).

(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, acting through the Secretary of Health and Human

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Services, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), may submit a report to the Secretary of Homeland Security, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress describing the programs and studies carried out under the program.

(d) NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.—

Contracts. Reports.

(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(2) PARTICIPATION OF EXPERTS.—The report under paragraph (1) shall be prepared with the participation of individuals who have expertise in—

(A) environmental health, safety, and medicine;
(B) occupational health, safety, and medicine;
(C) clinical medicine, including pediatrics;
(D) environmental toxicology;
(E) epidemiology;
(F) mental health;
(G) medical monitoring and surveillance;
(H) environmental monitoring and surveillance;
(I) environmental and industrial hygiene;
(J) emergency planning and preparedness;
(K) public outreach and education;
(L) State and local health departments;
(M) State and local environmental protection departments;
(N) functions of workers that respond to disasters, including first responders;
(O) public health; and
(P) family services, such as counseling and other disaster-related services provided to families.

(3) CONTENTS.—The report under paragraph (1) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(A) the establishment of protocols for monitoring and responding to chemical or substance releases in a disaster area to protect public health and safety, including—

(i) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(ii) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(iii) chemical- or substance-specific methods of sample analysis;

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(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(v) procedures for providing monitoring results to—

(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and

(III) the public;

(vi) responsibilities of Federal, State, and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

Unlawful Internet Gambling Enforcement Act of 2006.
31 USC 5301 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "Unlawful Internet Gambling Enforcement Act of 2006".

SEC. 802. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT INSTRUMENT FOR UNLAWFUL INTERNET GAMBLING.

(a) IN GENERAL.—Chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

"§ 5361. Congressional findings and purpose

"(a) FINDINGS.—Congress finds the following:

"(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

"(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent such sites.

"(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry.

"(4) New mechanisms for enforcing gambling laws on the Internet are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling

prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.

"(b) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.

"§ 5362. Definitions

"In this subchapter:

"(1) BET OR WAGER.—The term 'bet or wager'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28;

"(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering; and

"(E) does not include—

"(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 for the purchase or sale of securities (as that term is defined in section 3(a)(10) of that Act);

"(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act;

"(iii) any over-the-counter derivative instrument;

"(iv) any other transaction that—

"(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

"(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

"(v) any contract of indemnity or guarantee;

"(vi) any contract for insurance;

"(vii) any deposit or other transaction with an insured depository institution;

"(viii) participation in any game or contest in which participants do not stake or risk anything of value other than—

"(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

"(II) points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

"(ix) participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

"(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

"(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

"(III) No winning outcome is based—

"(aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(2) BUSINESS OF BETTING OR WAGERING.—The term 'business of betting or wagering' does not include the activities of a financial transaction provider, or any interactive computer service or telecommunications service.

"(3) DESIGNATED PAYMENT SYSTEM.—The term 'designated payment system' means any system utilized by a financial transaction provider that the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, jointly determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

"(4) FINANCIAL TRANSACTION PROVIDER.—The term 'financial transaction provider' means a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local payment network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, or other participant in a designated payment system.

"(5) INTERNET.—The term 'Internet' means the international computer network of interoperable packet switched data networks.

"(6) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' has the meaning given the term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

"(7) RESTRICTED TRANSACTION.—The term 'restricted transaction' means any transaction or transmittal involving any

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credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(9) STATE.—The term 'State' means any State of the United States, the District of Columbia, or any commonwealth, territory, or other possession of the United States.

"(10) UNLAWFUL INTERNET GAMBLING.—

"(A) IN GENERAL.—The term 'unlawful Internet gambling' means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.

"(B) INTRASTATE TRANSACTIONS.—The term 'unlawful Internet gambling' does not include placing, receiving, or otherwise transmitting a bet or wager where—

"(i) the bet or wager is initiated and received or otherwise made exclusively within a single State;

"(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and placed in accordance with the laws of such State, and the State law or regulations include—

"(I) age and location verification requirements reasonably designed to block access to minors and persons located out of such State; and

"(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with such State's law or regulations; and

"(iii) the bet or wager does not violate any provision of—

"(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

"(II) chapter 178 of title 28 (commonly known as the 'Professional and Amateur Sports Protection Act');

"(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

"(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

"(C) INTRATRIBAL TRANSACTIONS.—The term 'unlawful Internet gambling' does not include placing, receiving, or otherwise transmitting a bet or wager where—

"(i) the bet or wager is initiated and received or otherwise made exclusively—

"(I) within the Indian lands of a single Indian tribe (as such terms are defined under the Indian Gaming Regulatory Act); or

"(II) between the Indian lands of 2 or more Indian tribes to the extent that intertribal gaming is authorized by the Indian Gaming Regulatory Act;

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"(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and complies with the requirements of—

"(I) the applicable tribal ordinance or resolution approved by the Chairman of the National Indian Gaming Commission; and

"(II) with respect to class III gaming, the applicable Tribal-State Compact;

"(iii) the applicable tribal ordinance or resolution or Tribal-State Compact includes—

"(I) age and location verification requirements reasonably designed to block access to minors and persons located out of the applicable Tribal lands; and

"(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with the applicable tribal ordinance or resolution or Tribal-State Compact; and

"(iv) the bet or wager does not violate any provision of—

"(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

"(II) chapter 178 of title 28 (commonly known as the 'Professional and Amateur Sports Protection Act');

"(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

"(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

"(D) INTERSTATE HORSERACING.—

"(i) IN GENERAL.—The term 'unlawful Internet gambling' shall not include any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

"(ii) RULE OF CONSTRUCTION REGARDING PREEMPTION.—Nothing in this subchapter may be construed to preempt any State law prohibiting gambling.

"(iii) SENSE OF CONGRESS.—It is the sense of Congress that this subchapter shall not change which activities related to horse racing may or may not be allowed under Federal law. This subparagraph is intended to address concerns that this subchapter could have the effect of changing the existing relationship between the Interstate Horseracing Act and other Federal statutes in effect on the date of the enactment of this subchapter. This subchapter is not intended to change that relationship. This subchapter is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes.

"(E) INTERMEDIATE ROUTING.—The intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made.

"(11) OTHER TERMS.—

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"(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms 'credit', 'creditor', 'credit card', and 'card issuer' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

"(B) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer'—

"(i) has the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a), except that the term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

"(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(C) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given the term in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

"(D) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution'—

"(i) has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); and

"(ii) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).

"(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meanings given the terms in section 5330(d) (determined without regard to any regulations prescribed by the Secretary thereunder).

"§ 5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling

"No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

"(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

"(2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

"(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

"(4) the proceeds of any other form of financial transaction, as the Secretary and the Board of Governors of the Federal Reserve System may jointly prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

"§ 5364. Policies and procedures to identify and prevent restricted transactions

Deadline.

"(a) REGULATIONS.—Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate) requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions in any of the following ways:

"(1) The establishment of policies and procedures that—

"(A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

"(B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).

"(2) The establishment of policies and procedures that prevent or prohibit the acceptance of the products or services of the payment system in connection with a restricted transaction.

"(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary and the Board of Governors of the Federal Reserve System shall—

"(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of the products or services with respect to each type of restricted transaction;

"(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting the acceptance of the products or services of the payment system or participant in connection with, restricted transactions;

"(3) exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions; and

"(4) ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or (D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations.

"(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A financial transaction provider shall be considered to be in compliance with the regulations prescribed under subsection (a) if—

"(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

"(A) identify and block restricted transactions; or

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"(B) otherwise prevent or prohibit the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

"(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

"(d) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that identifies and blocks a transaction, prevents or prohibits the acceptance of its products or services in connection with a transaction, or otherwise refuses to honor a transaction—

"(1) that is a restricted transaction;

"(2) that such person reasonably believes to be a restricted transaction; or

"(3) as a designated payment system or a member of a designated payment system in reliance on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under subsection (a),

shall not be liable to any party for such action.

"(e) REGULATORY ENFORCEMENT.—The requirements under this section shall be enforced exclusively by—

"(1) the Federal functional regulators, with respect to the designated payment systems and financial transaction providers subject to the respective jurisdiction of such regulators under section 505(a) of the Gramm-Leach-Bliley Act and section 5g of the Commodities Exchange Act; and

"(2) the Federal Trade Commission, with respect to designated payment systems and financial transaction providers not otherwise subject to the jurisdiction of any Federal functional regulators (including the Commission) as described in paragraph (1).

"§ 5365. Civil remedies

"(a) JURISDICTION.—In addition to any other remedy under current law, the district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain restricted transactions by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

"(b) PROCEEDINGS.—

"(1) INSTITUTION BY FEDERAL GOVERNMENT.—

"(A) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this section to prevent or restrain a restricted transaction.

"(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

"(A) IN GENERAL.—The attorney general (or other appropriate State official) of a State in which a restricted transaction allegedly has been or will be initiated, received, or otherwise made may institute proceedings under this

section to prevent or restrain the violation or threatened violation.

"(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(3) INDIAN LANDS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a restricted transaction that allegedly has been or will be initiated, received, or otherwise made on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

"(i) the United States shall have the enforcement authority provided under paragraph (1); and

"(ii) the enforcement authorities specified in an applicable Tribal-State Compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

"(B) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

"(c) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

"(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating section 5363, or a hypertext link to an online site violating such section, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section under section 5367;

"(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

"(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

"(D) specify the interactive computer service to which it applies; and

"(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

"(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084(d) of title 18, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

"(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful

bets or wagers are offered to be placed, received, or otherwise made; or

"(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

"(d) LIMITATION ON INJUNCTIONS AGAINST REGULATED PERSONS.—Notwithstanding any other provision of this section, and subject to section 5367, no provision of this subchapter shall be construed as authorizing the Attorney General of the United States, or the attorney general (or other appropriate State official) of any State to institute proceedings to prevent or restrain a restricted transaction against any financial transaction provider, to the extent that the person is acting as a financial transaction provider.

"§ 5366. Criminal penalties

"(a) IN GENERAL.—Any person who violates section 5363 shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

"§ 5367. Circumventions prohibited

"Notwithstanding section 5362(2), a financial transaction provider, or any interactive computer service or telecommunications service, may be liable under this subchapter if such person has actual knowledge and control of bets and wagers, and—

"(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

"(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

"5361. Congressional findings and purpose.

"5362. Definitions.

"5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling.

"5364. Policies and procedures to identify and prevent restricted transactions.

"5365. Civil remedies.

"5366. Criminal penalties.

"5367. Circumventions prohibited.".

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31 USC 5361 note.

SEC. 803. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

(a) IN GENERAL.—In deliberations between the United States Government and any foreign country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 4954 (S. 2008) (S. 2459):

HOUSE REPORTS: Nos. 109–447, Pt. 1 (Comm. on Homeland Security) and 109–711 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 152 (2006):

May 4, considered and passed House.

Sept. 7, 8, 11–14, considered and passed Senate, amended.

Sept. 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Oct. 13, Presidential remarks and statement.

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